

## Appendix 2

### Guidance to Staff during Stage 2 Investigation of Complaints

This is guidance for staff that may need to be interviewed under the Directorate's Complaints and Representations Procedure.

Investigations can cause anxiety and it is important for staff to familiarise themselves with these notes.

- The Complaints Manager will notify the appropriate Manager of the service being complained about that there is a Stage 2 Complaint.
- It is this manager's responsibility to ensure that the appropriate members of staff are informed, including any staff named by the complainant. The manager will decide how this information is passed to the staff.

The above actions will be undertaken as a priority on receipt of a Stage 2 Complaint by Managers.

- The Investigating Officer will contact the appropriate Manager before arranging to interview staff or examine files.
- This contact will allow the Investigating Officer to check that staff have been made aware that an investigation is in hand and that they are likely to be interviewed.
- It will also give the manager the opportunity to know when visits are likely to take place, thus ensuring that files are available to the Investigating Officer.
- The Investigating Officer will need to look at files prior to interviewing staff and these must be made available. Current files will be accessed at the locality office but back dated files will be requested to be sent to the Customer Services office at County Hall for viewing. Should the Investigating Officer need to remove the files from the locality office they will comply with the locality control procedures.
- Joint Agency files can also be accessed in the same way having had some prior discussion with the health/social services manager. The Investigating team will consider and seek advice on any data protection issues that may arise in these circumstances.
- Staff to be interviewed will then be contacted by the Investigating Officer. As investigations need to be done within limited timescales, interviews will need to be held as quickly as they can be arranged at a mutually convenient time and location, and it is expected by the Directorate that management and staff will give this a high priority.

The Investigating Officer may be accompanied by another person during the interviews. This second person would be either:

The Independent Person where the complaint is being investigated under The Children Act 1989 Representations Procedure (England) Regulations 2006.

Or

Where the complaint is made under The Local Authority Social Services Complaints (England) Regulations 2006 the Investigating Officer may decide that he/she wishes to be accompanied by a second person, particularly if the information is likely to be sensitive, contentious or critical to the heart of the investigation.

- It is acknowledged that staff in the locality will need to be given the appropriate support by their managers during the process of the investigation as it can cause anxiety.

Such support could include:

a) Cover being arranged in order to release staff for interview. Investigations are mandated by timescales and as such there is a need by all staff to make themselves available for interview within reasonable timeframes.

b) Reassurance and discussion about the fact that complaints are made against the Council not individuals. Sometimes an individual is named by a complainant and this causes stress and anxiety.

c) Ensuring that staff are familiar with the Complaints Procedure and what is expected of them.

d) Explanation that this is not a disciplinary investigation. The complaints process is a separate process.

- Any member of staff being interviewed can be accompanied by a friend / supporter, another member of staff or a union representative if they wish to be. However, it is preferred practice that this person is not their line manager with regard to the issues that are the subject of the complaint investigation.
- It is the objective of the interview to clearly establish facts not to apportion blame.
- Staff should be open, honest and objective in their response to the questions asked.
- When contacting staff to be interviewed, the Investigating Officer will ensure that they are inform them of:
  1. Their name and designation.
  2. The area of complaint to be discussed.
  3. The name of the Independent person if that person is to be attending the interview.
  4. That notes will be taken at the interview.
- The notes, which will contain the main elements of the discussion, and will not be verbatim, will be sent to the interviewee within 3 working days for comments and should be returned to the investigating officer again within 3 working days.
- Any amendments needed will be made and then the notes agreed by the interviewee as an accurate representation of the interview.
- These notes will be retained on the Complaint Investigation file.
- At the start of the interview the Investigating Officer will ensure that the member of staff understands that the purpose of the investigation is to determine, as far as possible, the facts surrounding the incident or issue in question.

- Staff being interviewed may be asked about their practice in order to gather information about how particular tasks are/were carried out, but it is not the purpose of the interview to give feedback on individual performance.
- Staff being interviewed can expect that the Investigating Officer will take account of the natural anxiety, worry and stress that any enquiry or investigation causes and will ensure that the interview is conducted in an appropriately sensitive manner whilst recognising that it is part of a formal process and the interview will be on record.
- If at any point during the interview the member of staff needs a break, this will be ok.
- It is the role of the Investigating Officer to gain as much knowledge as possible about the complaint issues and they would welcome any information that the member of staff has to offer either through questioning or free discussion.
- The member of staff will be given the opportunity to raise any other issues they wish that are pertinent to the complaint investigation.
- Ideally, an interview will be concluded within one session, but if it is necessary to reconvene, this will be done at a mutually convenient time and location ensuring that this does not cause unacceptable delays.
- The member of staff being interviewed will be invited to comment about the process of interviewing on a feedback form and to send this confidentially to the Complaints Manager.
- Members of staff being interviewed can expect that acceptable behaviour, equal opportunities and anti-discriminatory practice will be adhered to at all times by the Investigating Officer and Independent Person. The investigating Officer operates within County Council policies at all times.
- Everything that is discussed during the complaints procedure is confidential.
- If staff being interviewed for a complaint investigation indicate that they may wish to use the issues arising in terms of a potential grievance, and raise them with their line manager, then their Unison steward can be provided with an anonymised version of the draft or final report in order for Unison to give best advice to members in terms of the potential grievance.
- Once the Investigating Officer has completed the draft report, it will be shared with all interviewed staff and the complainant. The staff and complainant will then be invited to make factual comment about the report for consideration by the Investigating Officer.
- Once the final report is completed by the Investigating Officer, it will be circulated to Line Management and the staff interviewed for the complaint, at the same time that it is sent to the complainant.

***Note: If any member of staff has a concern about another member of staff's conduct towards a service user, they should be encouraged to discuss this with their line manager. If they feel unable to do so, they should contact the Complaints Manager who will advise on the best course of action. (Staff should also be aware of the County Councils Grievance and Whistle blowing Policies & Procedures).***