
STATUTORY INSTRUMENTS

1991 No. 894

CHILDREN AND YOUNG PERSONS

Representations Procedure (Children) Regulations 1991

<i>Made</i>	- - - -	<i>2nd April 1991</i>
<i>Laid before Parliament</i>		<i>10th April 1991</i>
<i>Coming into force</i>	- -	<i>14th October 1991</i>

The secretary of State for Health, in exercise of the powers conferred by section 24(15) and 26(5) and (6), 59(4) and (5) and 104(4) of, and paragraph 10(2)(1) of Schedule 6 and paragraph 6 of Schedule 7 to, the Children Act 1989⁽¹⁾, and all other powers enabling him in that behalf, hereby makes the following Regulations:—

PART I
INTRODUCTORY

Citation and commencement

1. These Regulations may be cited as the Representations Procedure (Children) Regulations 1991, and shall come into force on 14th October 1991.

Interpretation

2. (1) In these Regulations, unless the context otherwise requires—

“the Act” means the Children Act 1989;

“complainant” means a person qualifying for advice and assistance about the discharge of their functions by a local authority under Part III of the Act in relation to him, or a person specified in section 26(3)(a) to (e) of the Act making any representations;

“independent person” means in relation to representations made to, or treated as being made to, a local authority, a person who is neither a member nor an officer of that authority;

“panel” means a panel of 3 persons;

“representations” means representations referred to in sections 24(14) or 26(3) of the Act.

(1) 1989 c. 41. Section 24(14) and (15) were inserted by paragraph 9 of Schedule 16 to the [Courts and Legal Services Act 1991](#) (c.41).

- (2) Any notice required under these Regulations is to be given in writing and may be sent by post.
- (3) In these Regulations unless the context requires otherwise—
 - (a) any reference to a numbered section is to the section in the Act bearing that number;
 - (b) any reference to a numbered regulation is to the regulation in these Regulations bearing that number, and any reference in a regulation to a numbered paragraph is to the paragraph of that regulation bearing that number.

PART II

REPRESENTATIONS AND THEIR CONSIDERATION

Local authority action

- 3. (1) The local authority shall appoint one of their officers to assist the authority in the co-ordination of all aspects of their consideration of the representations.
- (2) The local authority shall take all reasonable steps to ensure that everyone involved in the handling of the representations, including independent persons, is familiar with the procedure set out in these Regulations.

Preliminaries

- 4. (1) Where a local authority receive representations from any complainant, except from a person to whom section 26(3)(e) may apply, they shall send to the complainant an explanation of the procedure set out in these Regulations, and offer assistance and guidance on the use of the procedure, or give advice on where he may obtain it.
- (2) Where oral representations are made, the authority shall forthwith cause them to be recorded in writing, and sent to the complainant, who shall be given the opportunity to agree that they are accurately recorded in writing.
- (3) For all other purposes of these Regulations the written record to which paragraph (2) refers shall be deemed to be the representations.
- (4) Where a local authority receive representations from a person to whom they consider section 26(3)(e) may apply they shall—
 - (a) forthwith consider whether the person has a sufficient interest in the child's welfare to warrant his representations being considered by them;
 - (b) if they consider that he has a sufficient interest, cause the representations to be dealt with in accordance with the provisions of these Regulations, and send to the complainant an explanation of the procedure set out in the Regulations, and offer assistance and guidance on the use of the procedure, or give advice on where he may obtain it;
 - (c) if they consider that he has not got a sufficient interest they shall notify him accordingly in writing, and inform him that no further action will be taken;
 - (d) if they consider it appropriate to do so having regard to his understanding, they shall notify the child of the result of their consideration.
- (5) Where paragraph (4)(b) applies, the date at which the authority conclude that the person has a sufficient interest shall be treated for the purpose of these Regulations as the date of receipt of the representations.

Appointment of independent person

5. Where the local authority receive representations under regulation 4 they shall appoint an independent person to take part in the consideration of them, unless regulation 4(4)(c) applies.

Consideration by local authority with independent person

6. (1) The local authority shall consider the representations with the independent person and formulate a response within 28 days of their receipt.

(2) The independent person shall take part in any discussions which are held by the local authority about the action (if any) to be taken in relation to the child in the light of the consideration of the representations.

Withdrawal of representations

7. The representations may be withdrawn at any stage by the person making them.

Notification to complainant and reference to panel

8. (1) The local authority shall give notice within the period specified in regulation 6 to—

- (a) the complainant;
- (b) if different, the person on whose behalf the representations were made, unless the local authority consider that he is not of sufficient understanding or it would be likely to cause serious harm to his health or emotional condition;
- (c) the independent person;
- (d) any other person whom the local authority consider has sufficient interest in the case

of the proposed result of their consideration of the representations and the complainant's right to have the matter referred to a panel under paragraph (2).

(2) If the complainant informs the authority in writing within 28 days of the date on which notice is given under paragraph (1) that he is dissatisfied with the proposed result and wishes the matter to be referred to a panel for consideration of the representations, a panel shall be appointed by the local authority for that purpose.

(3) The panel shall include at least one independent person.

(4) The panel shall meet within 28 days of the receipt by the local authority of the complainant's request that the matter be referred to a panel.

(5) At that meeting the panel shall consider—

- (a) any oral or written submissions that the complainant or the local authority wish to make; and
- (b) if the independent person appointed under regulation 5 is different from the independent person on the panel, any oral or written submissions which the independent person appointed under regulation 5 wishes to make.

(6) If the complainant wishes to attend the meeting of the panel he may be accompanied throughout the meeting by another person of his choice, and may nominate that other person to speak on his behalf.

Recommendations

9. (1) When a panel meets under regulation 8, they shall decide on their recommendations and record them with their reasons in writing within 24 hours of the end of the meeting referred to in regulation 8.

- (2) The panel shall give notice of their recommendations to—
- (a) the local authority;
 - (b) the complainant;
 - (c) the independent person appointed under regulation 5 if different from the independent person on the panel;
 - (d) any other person whom the local authority considers has sufficient interest in the case.

(3) The local authority shall, together with the independent person appointed to the panel under regulation 8(3) consider what action if any should be taken in relation to the child in the light of the representation, and that independent person shall take part in any decisions about any such action.

PART III

REVIEW

Monitoring of operation of procedure

10. (1) Each local authority shall monitor the arrangements that they have made with a view to ensuring that they comply with the Regulations by keeping a record of each representation received, the outcome of each representation, and whether there was compliance with the time limits specified in regulations 6(1), 8(4) and 9(1).

(2) For the purposes of such monitoring, each local authority shall, at least once in every period of twelve months, compile a report on the operation in that period of the procedure set out in these Regulations.

(3) The first report referred to in paragraph (2) shall be compiled within twelve months of the date of coming into force of these Regulations.

PART IV

APPLICATION OF REGULATIONS TO VOLUNTARY ORGANISATIONS AND REGISTERED CHILDREN'S HOMES AND IN SPECIAL CASES

Application to voluntary organisations and registered children's homes

11. (1) The provisions of Parts I to III of these Regulations shall apply where accommodation is provided for a child by a voluntary organisation, and he is not looked after by a local authority, as if—

- (a) for references to “local authority” there were substituted references to “voluntary organisation”;
- (b) for the definition in regulation 2(1) of “complainant” there were substituted—

““complainant” means

- (a) any child who is being provided with accommodation by a voluntary organisation;
- (b) any parent of his;
- (c) any person who is not a parent of his but who has parental responsibility for him;

- (d) such other person as the voluntary organisation consider has asufficient interest in the child’s welfare to warrant hisrepresentations being considered by them.”
- (c) for the definition in regulation 2(1) of“independent person” there were substituted—
 - ““independent person” means in relation to representations made to, or treated as beingmade to a voluntary organisation, a person who is not an officer of thatvoluntary organisation nor a person engaged in any way in furthering itsobjects, nor the spouse of any such person;” and
- (d) for the definition in regulation 2(1) of“representations” there were substituted—
 - ““representations” means representations referred to in section 59(4) about thedischarge by the voluntary organisation of any of their functionsrelating to section 61 and any regulations made under it in relation tothe child.”;
- (e) for the reference in regulation 4(1) and (4) to a person to whomsection 26(3)(e) may apply or to whom the local authority considersection 26(3)(e) may apply there was substituted a reference to a personwho may fall within sub-paragraph (d) in the definition of“complainant” in these Regulations.

(2) The provisions of Parts I to III of these Regulations shall applywhere accommodation is provided for a child in a registered children'shome, but where a child is neither looked after by a local authority noraccommodated on behalf of a voluntary organisation, as if—

- (a) for references to“local authority” there were substituted references to“the person carrying on the home”;
- (b) for the definition in regulation 2(1) of“complainant” there were substituted—
 - ““complainant” means
 - (i) any child who is being provided with accommodation in a registeredchildren’s home;
 - (ii) a parent of his;
 - (iii) any person who is not a parent of his but who has parentalresponsibility for him;
 - (iv) such other person as the person carrying on the home considers has asufficient interest in the child’s welfare to warrant hisrepresentations being considered by them;”
- (c) for the definition in regulation 2(1) of“independent person” there were substituted—
 - ““independent person” means in relation to representations made to a person carrying on aregistered children’s home, a person who is neither involved in themanagement or operation of that home nor financially interested in itsoperation, nor the spouse of any such person;”
- (d) for the definition in regulation 2(1) of“representations” there were substituted—
 - ““representations” means any representations (including any complaint) made inrelation to the person carrying on the registered children’s home by acomplainant about the discharge of his functions relating to section64.”;
- (e) for the reference in regulation 4(1) and (4) to a person to whomsection 26(3)(e) may apply or to whom the local authority considersection 26(3)(e) may apply there was substituted a reference to a personwho may fall within sub-paragraph (d) in the definition of“complainant” in these Regulations.

Special cases including application to representations by fosterparents

12. (1) Where representations would fall to be considered by more than one local authority, they shall be considered by the authority which is looking after the child or by the authority within whose area the child is ordinarily resident where no authority has that responsibility.

(2) The provisions of Parts I and III of, and of regulation 12(1) of, these Regulations, shall apply to the consideration by a local authority of any representations (including any complaint) made to them by any person exempted or seeking to be exempted under paragraph 4 of Schedule 7 to the Act (foster parents: limits on numbers of foster children) about the discharge of their functions under that paragraph as if—

- (a) for the definition in regulation 2(1) of “complainant” there were substituted: “a person exempted or seeking to be exempted under paragraph 4 of Schedule 7 to the Act making any representations;”
- (b) for the definition in regulation 2(1) of “representations” there were substituted: “representations referred to in paragraph 6 of Schedule 7 to the Act.”;
- (c) in regulation 4(1) the words “except from a person to whom section 26(3)(e) may apply” were omitted;
- (d) regulation 4(4) and (5) were omitted.

Signed by authority of the Secretary of State for Health.

2nd April 1991

Virginia Bottomley
Minister of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations establish a procedure for considering representations (including complaints) made to local authorities about the discharge by the authority of any of their functions—

- (a) under Part III of the Act in relation to a child looked after by them or in need;
- (b) where section 24(14) of the Act applies (representations concerning advice and assistance for certain children aged 18 to 21);
- (c) under paragraph 4 of Schedule 7 to the Act (foster parents: limit on number of foster children) in relation to exemption from the usual fostering limit.

The Regulations make provision to include consideration of representations by an independent person and for reference of representations to a panel which is to make recommendations to the authority, organisation or person carrying on the home.

The Regulations also make provision for a record to be kept of all representations received and their outcome to monitor the operation of the procedure and for a report on the operation of the procedure to be prepared every twelve months.

The Regulations apply the procedure for considering representations (including complaints) made to voluntary organisations and persons carrying on registered children's homes with modifications.