

Procedure for dealing with complaints about Learning Providers funded by the Learning and Skills Council

Key Principles

- 1 The Learning and Skills Council (LSC) and Learning Providers (Provider) should be receptive to genuine expressions of dissatisfaction.
- 2 Complaints should be dealt with promptly, fairly and proportionately.
- 3 Action taken as a result of complaints should help to improve the quality of post-16 education and training.
- 4 In dealing with complaints, the LSC will take account of its duty to promote equality and diversity.

Learning Providers

- 5 Providers are required to have published procedures for complaints handling. These procedures should contain a process by which a learner or other organisation can make a complaint, have it investigated, reviewed and resolved. The procedure should also outline the process, timescales and named individuals.
- 6 Providers should ensure learners understand all details of the complaints procedure and make complaints information available in other formats (Braille, large print, other languages etc).
- 7 Providers should have an appeals process to deal with any challenges to the decision reached.
- 8 Providers should ensure that learners or other organisations are given relevant information about such procedures and that they are provided with relevant contact details for the LSC when complaints cannot be resolved within the Provider.
- 9 The LSC will not usually investigate complaints until the Provider's procedure, including the appeal, has been exhausted. When the LSC has

reason to believe that the Provider is not dealing with a complaint appropriately or effectively, the LSC may decide to intervene before the Provider's procedure has been exhausted.

Procedure for dealing with complaints about Providers

Who will investigate:

- 10 Complaints about Providers will be investigated by the Regions in which the Provider is located. Where a complaint concerns a national Provider of learning, complaints will be referred to the National Employers Service (NES).
- 11 Complaints about Providers should be addressed to the relevant Regional Office Manager who will refer the matter to the "appropriate officer" for investigation. Please see Annex A for contact details.
- 12 Complaints about specialist colleges providing education and training for learners with learning difficulties or disabilities will be investigated by the Regional LLDD Manager.
- 13 Complaints about the administration of learner support including Education Maintenance Allowances (EMA) will be dealt with by the Learner Support Directorate in the Learning Group.
- 14 If the LSC receives an allegation of fraud or financial irregularity, these will be passed to the LSC's Internal Audit Investigation Unit (IAIU) for investigation.

When the LSC will investigate:

- 15 **We must investigate** all allegations of irregularity (unlawful or unethical conduct, financial malpractice, equality and diversity issues and health and safety risks to staff, learners or the public).

The only exception is complaints that involve the rights of an individual under an employment or other contract or matters for which there is a more appropriate remedy through the courts or other tribunal or body.

- 16 **We can investigate** complaints about:
 - the quality or management of learning provision

- undue delay or non-compliance with published procedures
- poor administration by the Provider
- equality and diversity issues (except where there is a more appropriate mechanism for dealing with the matter through the court or tribunals or other organisations);
- health and safety concerns (unless these are matters for the Health and Safety Executive);
- Although Higher Education (HE) courses in Further Education (FE) colleges are not funded by the LSC, it has been agreed that the LSC will investigate complaints made by learners following HE courses in FE colleges.

When the LSC will not investigate

17 We will not investigate complaints about:

- exam results or curriculum content where a more appropriate form of redress would be the examining body or the Qualifications and Curriculum Authority
- individual employment issues, (not in the wider public interest) which are a matter for the employer and the employee where employment law provides appropriate remedies
- contractual disputes e.g. Disputes which arise from a contractual agreement between the complainant and the Provider
- the provision of education or training by school sixth forms, or local authority external institutions, where the complaint should be directed to the local authority except where the complaint concerns the administration of EMA
- matters that are the subject of legal action, or where legal proceedings are the most appropriate way of resolving the dispute.

18 Except in relation to complaints about irregularity, we will not usually investigate complaints more than three months after the decision or action was taken.

- 19 We reserve the right not to investigate complaints considered to be vexatious or malicious.

What the LSC will do:

- 20 On receipt of a complaint the appropriate officer should check:
- the matter is one which the LSC can investigate
 - if the decision or action complained about occurred more than three months ago. Where this is the case the LSC will not normally investigate, unless the complainant has good reason for the delay in making the complaint;
 - whether the allegations relate to fraud or irregularity. In these cases, the appropriate officer shall notify the Area Director and the Head of IAIU or the Director of the NES or Regional LLDD Manager to discuss appropriate investigation procedures.
- 21 Within five working days of receipt of a complaint the appropriate officer should acknowledge receipt and send a copy of this procedure to the complainant. The complainant should be told whether the complaint is one which the LSC will investigate. In cases alleging fraud or irregularity the complainant should be informed of the involvement of the IAIU and the procedures which will be followed. It should be noted that IAIU's procedures are different, timescales vary and investigations usually take longer.
- 22 If the LSC is to investigate the matter, the complainant should be asked to provide:
- details of their complaint in writing, by email or fax (if this has not already been provided);
 - confirmation that the Provider's complaints procedures have been exhausted;
 - permission to disclose details of their complaint to the Provider concerned.
- 23 If the complainant has difficulties in providing details in writing, the appropriate officer should consider alternative ways of receiving the information.

- 24 Within five working days of receipt of the written complaint the appropriate officer should prepare a summary of the complaint to be sent to the complainant for approval. The complainant should be given five working days to provide any response to this document.
- 25 The appropriate officer should consider any response from the complainant and, if appropriate, amend the summary of complaint before sending this to the Provider. The Provider should be asked to provide within 10 working days:
- details and copies of the relevant procedures where appropriate
 - confirmation that their procedures have been exhausted
 - a response to the summary of complaint together with relevant documentation;
 - confirmation that the information provided can be shown to the complainant. With regard to investigations by IAIU, anonymity will be respected as long as it does not impede any investigations.
- 26 If, at any stage, the appropriate officer is satisfied that procedures at the Provider have not been properly exhausted they should usually write to the parties to indicate that they will not investigate the matter further. Where the appropriate officer judges that the provider has unduly delayed in resolving the complaint, or that there is no prospect of the Provider resolving the complaint within a reasonable timescale, the LSC may continue to investigate.
- 27 On receipt of documentation and response from the Provider the appropriate officer shall provide the Provider's response to the complainant and seek confirmation within five working days as to whether the complainant remains dissatisfied.
- 28 The appropriate officer should consider whether the complaint may be resolved by mediation and, if the parties agree, should arrange for a mediation meeting.
- 29 If the matter has not been resolved within 20 working days of agreeing the summary with the complainant, the appropriate officer should consider each aspect of the summary of complaint and determine whether, on the balance of probabilities, the complaint should be upheld.

- 30 If the appropriate officer cannot resolve the position on the information available, he or she shall arrange for the parties to be contacted to obtain such further information as is required. If necessary the appropriate officer can arrange to meet with either or both of the parties. The information received and notes of any meeting should normally be disclosed to both parties.
- 31 Once a provisional decision has been made in relation to the complaint, draft findings should be sent to the parties providing them with an opportunity to respond within five working days.
- 32 Responses should be considered before the appropriate officer confirms the findings. This document should be finalised within five working days and sent to the parties. This concludes the investigation.
- 33 If at any point during the investigation, the appropriate officer encounters a delay in responding to/providing correspondence, the complainant should be notified of the delay and be given details when a response will be provided.

What action the LSC can take

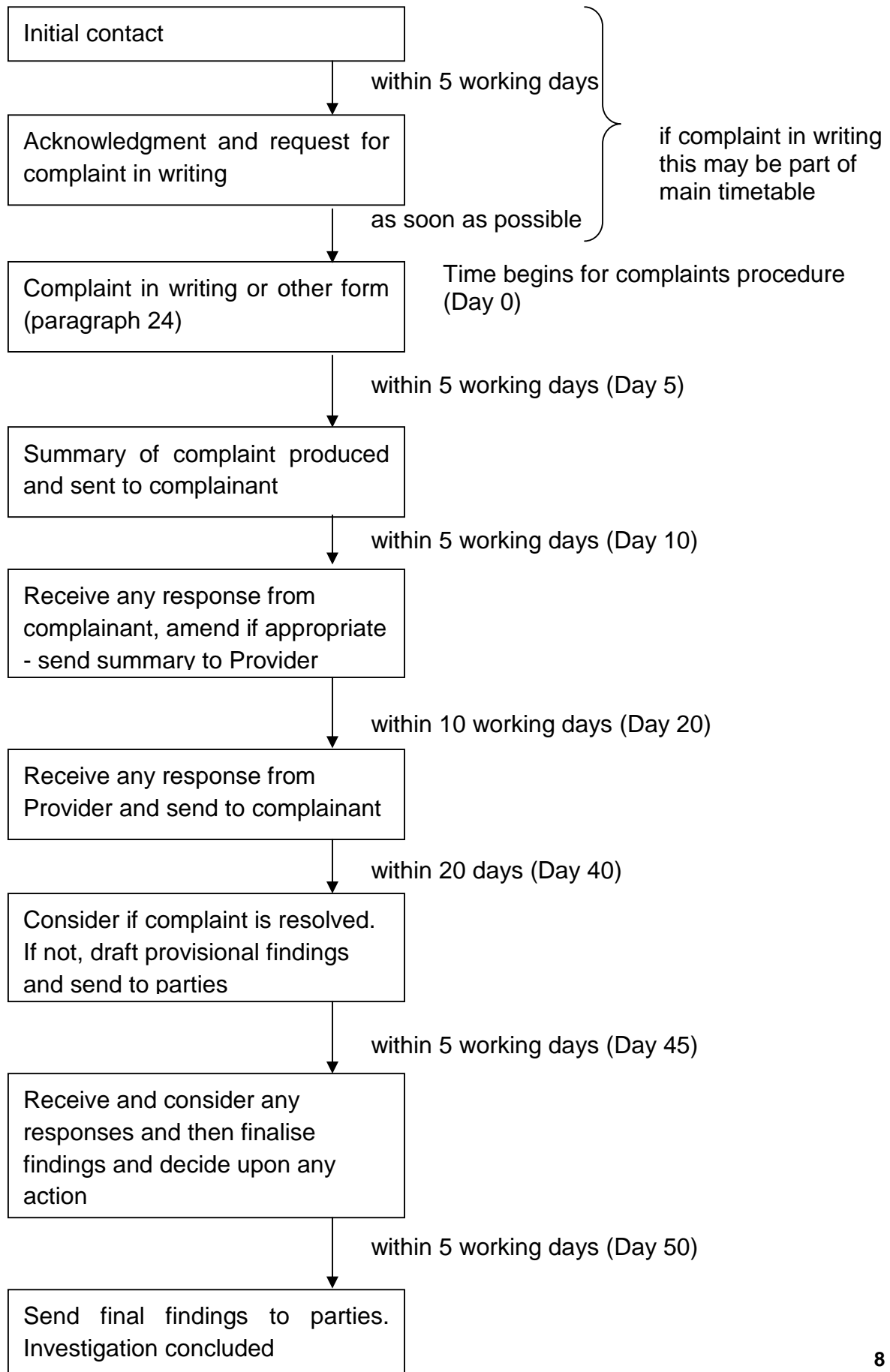
- 34 If a complaint is upheld, the Area Director, Regional LLDD Manager or NES Director shall consider taking action against the Provider in accordance with the key principles. The LSC may:
- ask the Provider to review its procedure to ensure non-recurrence
 - ask the Provider to review its decision in the individual case
 - where the Provider is a further education college, require the college to provide appropriate education to a named individual between 16-18
 - where the Provider is a further education college impose additional conditions of funding
 - consider the eligibility of provision for funding
 - where the Provider is a further education college, appoint additional governors to the governing body
 - where the Provider is a further education college, consider intervention in the management of the College

- invoke the clauses in the contract between the Provider and the LSC relating to breach
- terminate the contract
- recommend to the Secretary of State that the Provider be inspected
- in cases of financial irregularity, recover funds and refer matters to the police (where there is evidence of a crime).

If the complainant remains dissatisfied

- 35 If a complainant is dissatisfied with the way a Region or NES has dealt with their complaint against a Provider, they should write to the Council Solicitor, Learning and Skills Council National Office, Cheylesmore House, Quinton Road, Coventry, CV1 2WT.
- 36 It should be noted that the Council Solicitor will **not** investigate the original complaint against the Provider but will look at whether the complaint has been appropriately handled. Any queries about this can also be sent to complaints@lsc.gov.uk

Timetable for complaints procedure (excluding complaints about fraud or irregularity).



Annex A – Contact details for Regional Office Managers

West Midlands Region

15 Bartholomew Row
Birmingham
B5 5JU
Tel: 0121 345 4580

East Midlands Region

Meridian East
Meridian Business Park
Leicester
LE19 1UU
Tel: 0116 228 1875

East of England Region

Felaw Maltings
42 Felaw Street
Ipswich
IP2 8SJ
Tel: 01473 883024

South East Region

Princes House
53 Queens Road
Brighton
BN1 3XB
Tel: 01273 783580

South West Region

St Lawrence House
29-31 Broad Street
Bristol
BS1 2HF
Tel: 0117 372 6406

North East Region

Moongate House
5th Avenue Business Park
Team Valley
Gateshead
NE11 0HF
Tel: 0191 492 6307

Yorkshire & The Humber Region

Mercury House
4 Manchester Road
Bradford
BD5 0QL
Tel: 01274 44 4071

North West Region

Arndale House
Arndale Centre
Manchester
M4 3AQ
Tel: 0161 2610251

Learner Support Directorate (EMA only)

W8a
Moorfoot
Sheffield
South Yorkshire
S1 4PQ
Tel: 0114 2074524

London Region

Centre Point
103 New Oxford Street
London
WC1A 1DR
Tel: 0207 904 0803