

Southampton City Council Children and Learning Service Children Statutory Complaint Policy



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Children Statutory Complaint Policy			
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The Statutory Complaints procedure for Children and Learning Service is laid out in the Childrens Act 1989.

A significant proportion of this legislation has been repealed, updated or replaced since its inception.

However the complaints sections of the Act have remained unchanged.

Substantial changes have also taken place in the working practices, joint working with other agencies (the Police and NHS for example) and new legislation and guidance have been introduced over the intervening years, which have rendered parts of the complaints sections of the Childrens Act 1989 incompatible with the current national Children and Families functions of today.

Until that position is rectified by change of legislation the Local Authority will endeavour to ensure that the principles of the complaints sections of the Childrens Act 1989 are followed.

Where this is impossible, the Complaints Resolution Manager will inform the complainant of any anomalies and what the Local Authority current complaint policy/process will do to deal with these matters.

This will be assessed on a case by case basis.

Introduction

We acknowledge that – despite our best intentions – things do sometimes go wrong. When this happens, we want to put things right. We want our customers' comments, compliments and complaints to better understand how they view our services and to use these valuable opportunities to learn and improve for the future.

1. Aims

We aim to deliver a comments, compliments and complaints provision that:

- Is simple for everyone to use and understand
- Is led and supported by the very top of the organisation
- Consistently ensures excellent service standards are delivered
- Fulfils the needs of our customers
- Encourages us to learn from customer feedback in order to improve
- Complies with the relevant legislation and council policy
- Focuses on fair, proportionate resolution at the earliest stage
- Works in an open-minded and impartial way
- What is the purpose of this policy? You may provide an explanation for the policy.

2. Comments and Compliments

We understand that customers may wish to share their experiences of using our services, express a concern, or tell us about services which they would like to receive. Sometimes, customers may want to tell us when we're doing something particularly well. Comments of this nature are welcome.

3. Service Requests

The complaints scheme is used when there has been some form of persistent service failure and the customer believes it to be the Council's fault. We don't treat "requests for service" as complaints. For example, if a customer reports lack of communication, we will arrange for the matter to be dealt with without fuss and in line with normal service delivery – there is no need to use the complaints process unless there is evidence of multiple or systemic service failure or a one off serious failure that requires more detailed investigation and remedy in the public interest.

4. Complaints service standards

- We will apply the Customer Charter to all our dealings with complaints
- We will protect personal information given to us in the course of a complaint
- We will work to specific response targets and agree with the customer if we need more time to investigate and resolve matters

- We will ensure that customers are informed of the options to request escalation to the next stage of the complaints process – or to the Local Government and Social Care Ombudsman, if they remain dissatisfied following response
- We will ensure that decisions are properly and promptly implemented

5. Service Area

Complaints are handled within the spirit of the following Council and Service Mission Statements and Charters:

- a. The duties and responsibilities of the Designated Complaints Officer will be carried out by the Complaints Resolution Manager.
- b. Complainants receive an approach and perspective to their concerns, which is independent of operational management.
- c. The Service promotes resolution focus, keeps the complainant informed about the progress of their complaint and provides a full response without delay.
- d. Complaints are a source of information, which leads to service improvement.
- e. Complaints handling conforms to Southampton City Council and Service statements on equalities, and links with other local government complaints procedures.
- f. The Service will support complainants, their carers and representatives and ensure they have access to friends or advocates as required, particularly where extra help is needed due to age, disability, or if the complainant's first language is not English.
- g. Even in the context of a complaint, there may be opportunities to record elements of good practice and compliments.

6. Complaints Handling Context

- a. Staff must learn from complaints and get the best from them.
- b. Quality of service is at the heart of complaints handling and quality is the responsibility of all staff.
- c. Complaints play an important part in performance management at Service, Council, Member and National level, so accurate data collection is critical.
- d. Services have a statutory duty to report on their compliments and complaints performance annually.
- e. It is also important to take into account the special nature of social care complaints, which often extend from what has happened to why and how.

7. Definitions

The Regulations and Government guidance describes the statutory procedure for a person who is likely to want to make service requests, including complaints, about the actions, decisions or apparent failings of a local authority's social services provision; and to allow any other appropriate person to act on behalf of this person or child/young person. Complaints of a general nature, which are not concerned with an individual case, are likely to fall outside the statutory definition, as are anonymous complaints.

8. What constitutes a compliment, service request and complaint

a. Compliments

Many service users wish to make a compliment about the services they receive. The Council welcomes compliments and will thank service users who take the time and trouble to give them.

A record of compliments is kept for the Annual Report.

b. Service Requests

A service request allows children and adults to comment on the services they receive, **without** them being treated as complaints

Representations and service requests are comments received that can be resolved within normal published service standards and can be dealt with by the service area prior to any formal complaint being made

c. Complaints

A complaint is defined as '**an expression of dissatisfaction or disquiet in relation to an individual child or young person, which requires a response**'. Where the matter can be addressed immediately, it is not necessary to record this as a formal complaint, but rather as part of 'day to day' business

Where the concern cannot be resolved immediately, and falls within the statutory process, it should be logged as a Stage I complaint for resolution within 10 working days. Where the complaint falls within the general complainant's process, it will be responded to within 20 working days (see section 17A).

9. Who is a qualifying individual and entitled to make a complaint under the statutory process?

- A child or young person who is looked after or in need
- The child's parent or person with parental responsibility for the above.
- Local Authority Foster Carers (including those caring for children placed through independent fostering agencies)
- Any person with sufficient interest in the child's welfare. The Complaints Resolution Manager will advise on sufficient interest and suitability to represent a child
- Children leaving care
- Special Guardians
- A child or young person (or parent of them) to whom a Special Guardian order or a Child Residency Order is in force
- Any person receiving adoption services, or with sufficient interest in a child who is being, or may be, adopted. This includes adopted children and their parents and guardians, persons wishing to adopt a child, and adopted persons, their parents, natural parents and former guardians

- Any other person whom arrangements for the provision of adoption services extend

10. Complaints made on behalf of a child

- If in doubt about an adult making a complaint on behalf of a child, the Local Authority must confirm that the wishes and views of the **child** are being considered and taken into account. This is particularly the case where the complainant might discover information about a child or young person to which they would not be entitled, should they have made an access to records request instead
- It would also be a concern if the adult wished to have their complaint investigated, without the knowledge of the child or young person, or without the young person being kept informed
- If the Complaints Resolution Manager considers that the representative does not have sufficient interest, he/she should notify the representative in writing, explaining why no further action is being taken. The Complaints Resolution Manager should discuss this decision with the relevant Service Manager
- Throughout the guidance, where children and young people are referred to as the complainant, the same applies where an adult is making a complaint about services to a child. The Complaints Resolution Manager will advise the Service on the interpretation of 'qualifying individual' status, domicile and residency

11. Examples of what may be complained about are as follows:

- an unwelcome or disputed decision
- concern about the quality or appropriateness of a service
- delays in decision making or delivery of service
- delivery or non-delivery of services including complaints procedures
- quantity, frequency, change or cost of a service
- attitude or behaviour of staff (may fall within the Councils HR Policies, each issue to be decided on its own merits)
- application of eligibility and assessment criteria
- the impact on a child or young person of the application of a local authority policy
- assessment, care management and review
- the decision to initiate care or supervision orders
- the practical effects of a care order and decisions around such
- parental contact with children in care
- supervisory duties when a care order is in force
- service actions arising from child assessment orders and child protection orders (including emergency orders)
- the local authority's duty to investigate

This is not an exhaustive list and the Complaints Resolution Manager will seek legal advice as necessary.

12. The Adoption and Children Act 2004, including regulations

- assessments and decision in relation to adoption support services
- placing children for adoption (includes parental responsibility and contact)
- removal of children who are, or may be, placed by adoption agencies
- removal of children in non-agency cases
- duties on receipt of a notice of intention to adopt
- parental responsibility prior to adoption abroad

13. Support Service

- placements, reviews and records
- financial support for adoptive parents and Special Guardians and for their support groups
- help with arrangements for contact between the child and another person
- service provided or not in relation to the therapeutic needs of the child, including support groups
- help with the continuing relationship between the child and adoptive parent and Special Guardians
- assistance in the potential or actual disruption of a placement
- assistance in relation to contact

14. What cannot be complained about:

- disciplinary proceedings (determined by the Local Authority)
- grievance proceedings (determined by the Local Authority)
- complaints from staff about personal issues
- where an appeals process already exists, whether it has been used or not.
- Section 7 and Section 47 Reports that are being prepared for, or are before the court
- Freedom of Information or Data Protection Act issues (incl. Information held by the Local Authority)
- criminal investigations where court action is on-going or is pending (determined by the Local Authority)
- where the complaint is about an Approved Social Worker under the Mental Health Act, (ASW) carrying out their statutory duty, where they act as an individual, rather than an agent of the Service
- where a court has made, is making, or is about to make, a determination on the specifics of the complaint (please consult with the Complaints Resolution Manager and/or legal

team). Service of a “letter before action” or “pre action protocol letter” is usually deemed in the court process by the Local Authority.

- where the same complaint has already been dealt with through all stages of the complaints procedure or has had the opportunity to do so.

15. Other limitations on what may be complained about

a. Statutory Social Care and Corporate Complaints

If a person is not a qualifying individual for a **statutory** social care complaint, they may be entitled to make a corporate complaint.

A number of services provided by Children and Learning Services are not covered by this statutory process. Examples are (but not limited to) Education and Child Protection process.

The corporate complaint process is similar, and described in a separate procedure entitled ‘Southampton City Council Complaints Procedure – Corporate and Adult Social Care Complaints’ and is available on the Council website at <http://www.southampton.gov.uk/council-democracy/have-your-say/comments-complaints/complaints.aspx>. If in doubt, the Complaints Resolution Manager will advise on which procedure should be used.

b. Objections to Policy

If staff carry out a legitimate Council policy correctly, it would be inappropriate for them to be the subject of a complaint. However, if the child or young person is complaining about the impact on services they receive, this would be a valid complaint and should be treated as such. Other corporate policy matters should be directed to the Complaints Resolution Manager so that a consistent approach can be taken, and response made. However, if the representation concerns a local service policy, this should be directed to the Service Director for Children and Learning Service.

The Complaints Resolution Manager will bring objections to the attention of Senior Managers and Members and formulate and communicate any changes to guidance. Such changes should be included in the annual report on comments and complaints, in the section headed ‘learning from complaints’.

c. Appeals against Decisions

Comments and complaints may be made about professional decisions however, before working on a Stage 1 response, a complainant should be advised of more appropriate steps they can take. There may be a mechanism for a Senior Manager to review that decision and the complainant should be advised how such a review can be arranged.

The decision may also be subject to an appeal by a panel, or constituted financial review group. Again the complainant should be advised how this can be arranged.

However, these steps should not slow down the resolution of a complaint. If there is evidence that this is happening, the complaint should be considered at Stage I.

16. Time limit for making a complaint

Complaints made more than one year from the issue arising or a person having knowledge that grounds for complaint existed will not generally be considered. The Complaints Resolution Manager will write to advise the complainant that their complaint cannot be considered and explain the reasons why he/she has adopted this position. The response should also advise the complainant of their right to approach the Local Government and Social Care Ombudsman. Decisions should be made on a case by case basis and there should generally be a presumption in favour of accepting the complaint unless there is good reason against it.

17. Special issues concerning complaints made by children

Children and vulnerable adults, and those with special needs, may need extra help from the Service to make their representation or complaint. Help may be best provided by a relative or friend, or by the provision of an advocate.

18. Professional to Professional complaints

Where a complaint, comment or compliment is made by another agency (i.e. police, Courts, Schools, NHS for example) the matter will be not be treated under this complaints policy but matters will be directed to the Service Director for Children and Family Services and the matter will be dealt with directly between the Service and the referring professional agency. As such these issues will not be recorded under this policy.

19. Anonymous complaints

- a. Complaints may be made anonymously, although they will not progress under this procedure. Staff taking the call will explain that, although anonymous complaints cannot be dealt with under the statutory procedures, the concerns will be investigated where necessary and appropriate.
- b. Anonymous complaints will be recorded.
- c. Where it is not possible to contact the anonymous complainant, the response should be sent to the Complaints Resolution Manager, who is independent of the line management of that service. A decision will then be made as to the course of action required.

20. Complaints about the Complaint Resolution Manager/Team

The Complaints Resolution Manager and Team, who are involved in handling complaints, may have complaints made about their work or behaviour. If so, the complaint will be managed by the Service Director for Legal and Business Operations or their nominee.

21. Choosing an Advocate

- a. The Local Authority may be asked by the complainant, whether they can have someone to support him/her. The choice of advocate is for the complainant to determine, but the Local Authority could suggest the following options :
 - a friend
 - relative
 - neighbour
 - Independent Advocacy Service
- b. The Local Authority should advise that the choice should be carefully thought through, in order that the complainant does not lose control of their own complaint, does not lose the opportunity to express their feelings direct, and does not find that they have shared confidential information with someone who may not be fully trusted with it.

22. Access and Equalities

Customers may make a comment, compliment or complaint in the simplest way for them using any of the following contact methods:

- By using the form or factsheet (available on request from the Quality Assurance Team, Children and Families)
- By using online forms found on the Council's website <http://www.southampton.gov.uk/council-democracy/have-your-say/comments-complaints/complaints.aspx>
- By letter
- By telephone (confirmation will be required in writing)
- Email childrens.services.complaints@southampton.gov.uk
- In person

PROCEDURAL OVERVIEW

Data Protection.

The Local Authority now deals with a wide variety of partner agencies and companies. The nature of some complaints means that we need to share details of the complaint and possibly complainant's details, to fully investigate complaints, with relevant partners and third parties.

If this is the case, we will contact you to make you aware that we need share relevant details of the complaint and/or personal details with any third party, giving reasons why we feel we need to contact the third parties and the information we need to share. We would ask for your views on this, and whilst we would only ever share the minimum amount of information necessary to investigate the complaint, if there is any information you would not want us to share, you would be given the opportunity to make this known. We would then make a decision about whether or not to share this information, depending on the nature of the complaint.

23. MANAGEMENT OF COMPLAINTS –THREE STAGE PROCEDURE (Statutory Social Care only)

The handling and consideration of complaints consists of three stages:

- a. Stage I Local Resolution
- b. Stage II Independent Investigation or Independent Review
- c. Stage III Independent Review Panel

24. An overview of the timetable for the whole process

Complaints must be dealt with as quickly as possible. Urgent discussions should take place with the complainant in order to promote early local resolution. Where this happens, the working relationship between staff and service users is likely to be improved. Where an immediate resolution is not achieved, the Stage I timescales apply.

25. Stage I - Local Resolution (responsibility of the Children and Learning Service)

An overview

- a. The service must ensure that people have every opportunity to give a compliment or make a complaint or service request. Complaints must be accepted in any format which the complainant chooses, including orally, in writing, by email or website facility.
- b. The Team Manager for the team that is currently dealing with the case to which the complaint relates, is responsible for the investigation and response. If the case is closed, it is the responsibility of the manager of the team who most recently dealt with the case. Where there is any dispute the Head of Service (Children and Learning) will determine the most appropriate person to deal with the complaint.
- c. The Quality Assurance Team (Children and Learning) will ensure that all complaints are acknowledged within 3 working days.
- d. The Children and Learning Service will ensure that all complaints are responded to within 10 working days. It is the responsibility of the investigating manager to agree an extension to the 10 working day target with the complainant, should more than 10 working days be required to complete the enquiry.
- e. Where doubt exists as to which complaint process a particular issue should be registered, the Complaints Resolution Manager will decide whether the complaint should be handled under this Statutory Complaints Procedure, the Council's Corporate Complaints Procedure or other procedures, such as Child Protection procedures.

Complainants must be informed of their right to request to proceed to Stage II if they are dissatisfied with the response they have received. A statement at the bottom of **each** response letter should read "If you remain dissatisfied with the response you have received to your complaint, you are entitled to request that your complaint be considered at Stage II of the complaints procedure (Independent Investigation). You should make this request to the Complaints Resolution Manager within 20 working days of receipt of the response".

If the complainant remains dissatisfied, but before Stage I is completed, someone independent can still mediate or conciliate on the issues, which are still 'sticking points', should the complainant see this as a positive option.

26. Transition from Stage I to Stage II and the opportunity for mediation or conciliation (responsibility of the Complaints Resolution Team)

If the complainant remains dissatisfied following Stage 1, the Complaints Resolution Manager will always try to resolve the issues through mediation with the complainant and relevant management. This does not affect the ability to proceed to Stage 2 if the complaint cannot be resolved through early intervention.

Mediation is not always appropriate and matters may proceed directly to stage two of the process.

27. Stage II - Independent Investigation (responsibility of the Complaints Resolution Team)

An overview

- a. The complaint will be allocated to an Independent Investigator chosen by the Complaints Resolution Manager. The Independent Investigator may be someone external to the Council or an Investigating Officer from a non-Children and Families area of the council. The complaint details will be passed to the Investigator to confirm there is no conflict of interest

with either the complainant or staff involved. In general an internal investigator will be drawn from the Complaints Resolution Team.

- b. The Investigating Officer and the Independent Person (if applicable) will carry out the investigation within the timescales set by the legislation and guidance, which is 25 working days, from the date when the statement of complaint is agreed, for a full response. If an advocate is required for a child or vulnerable adult, or there are exceptional circumstances, and where the complainant is in agreement, then a further 40 working days is allowed. However, the reason(s) for the extension(s) must be recorded on the complaint file.
- c. Once the Investigation is completed, the Investigator will supply a full report, with findings, to the Council (Complaints Resolution Manager). The complainant will be supplied with a copy of the report, or an abridged / redacted version of it.

A letter of response will be sent by the Service Director, or their nominee, to the complainant in respect of the report findings within 15 working days of the report publication.

28. Abridged Reports

- a. In exceptional circumstances, the Service Director and the Complaints Resolution Manager may authorise an abridged Stage II report for distribution rather than the full report.
- b. This may be because the Stage II report includes third party or disciplinary matters to which the complainant is not entitled. Equally, the report may include sensitive material, which could severely affect the emotional and psychological health of the service user, carer or staff member.

The fact that the report is abridged, and the reasons why, should be shared with the complainant by the Complaints Resolution Manager. In this event, the opinion of the Investigating Officer, Independent Person, Service Director, and Complaints Resolution Manager will be sought and recorded. The abridged Stage II report will be clearly marked as such on the front page.

29. Stage III – Independent Review Panel (responsibility of the Complaints Resolution Team)

An overview

- a. Where Stage II of the complaints procedure has been concluded and the complainant remains dissatisfied, they can request an Independent Review Panel up to 20 working days **after** receipt of the Stage II letter from the Service Director
- b. The Complaints Resolution Manager must acknowledge the request, in writing within 3 working days, be responsible for facilitating the review panel and will recruit the chair and panellists and convene the Review Panel within 30 working days of the request being made
- c. The Service Director will respond to the complaint in writing, once the recommendations of the Review Panel are published, within 15 working days.

OR,

Early Referral to the Local Government and Social Care Ombudsman by the Local Authority

In some circumstances, the Complaints Resolution Manager in agreement with the Council's Ombudsman Link Officer, would support the complainant in making a referral direct to the Local Government and Social Care Ombudsman if it is felt that by proceeding to Stage III will not provide an appropriate resolution to the complaint.

30. LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN

Once the complainant has exhausted the Local Authorities Complaint process **and** they remain dissatisfied with the outcome, they may refer their complaint to the Local Government and Social Care Ombudsman (LGSCO).

31. Complaints against Services and NHS Bodies

The Local Authority and Local NHS partners have a protocol in place. The main points are as follows:

- a. Where a complaint crosses these boundaries, it is for the public services to assist the complainant to have their complaint dealt with efficiently.
- b. If the complaint is about Health Services, but has been sent to Social Care Services, or vice versa, then the complainant's permission should be sought to forward it to the appropriate Service.
- c. Where the complaint relates to both Services, the two Services must decide who will act as the lead agency.
- d. The lead agency will then keep the complainant informed, and provide the response, whilst the other agency will contribute to the investigation, and agree the response, working to the lead agency complaints policy timetable.
- e. If, exceptionally, the agencies cannot meet the same timetable, or cannot agree a joint resolution, then it will be for the lead agency to explain the position to the complainant.

32. WITHDRAWING A COMPLAINT

A complaint may be withdrawn verbally (written confirmation will be requested) or in writing at any time by the complainant. The Local Authority must write to the complainant to confirm the withdrawal of the complaint. The Complaints Resolution Manager, together with the Service Manager or if appropriate the Service Director will consider whether or not the issues that gave rise to the complaint should be considered further through an internal management review. This work should then be used in the consideration of any need for subsequent actions in the services the Local Authority deliver.

33. VEXATIOUS AND UNREASONABLY PERSISTENT COMPLAINANTS

A copy of our policy can be viewed on our website:

http://www.southampton.gov.uk/policies/Vexatious-Behaviour-Policy_tcm63-361808.pdf

34. LEGISLATION GUIDANCE

Legislation

The Children Act 2004

- a. The Equality Act 2010
- b. Human Rights Act 1998
- c. Data Protection Act 1998
- d. The Public Interest Disclosure Act 2013
- e. The Freedom of Information Act 2000

- f. The Local Government Act 2000
- g. Special Guardianship (Amendment) Regulations 2016
- h. Child Arrangement Orders Guidance 2016
- i. 'The Right to Complain'- practice Guidance on Complaints Procedures in Social Services Departments" - HMSO publication (1991).
- j. 'Getting the Best from Complaints' – Social Care Complaints and Representations for Children, Young People and Others (guidance taken from Change for Children - Every Child Matters, DfES website)

35. Reporting and Feedback

The Local Authority produce an annual report which includes consistent information about the council's comments, compliments and complaints experience.
The latest report is published on the council's website.

36. Contact details

Service Director

Children and Families Service

Southampton City Council

Civic Centre

Southampton

SO14 7 LY

Tel: 02380 833 004

Email: childrens.services.complaints@southampton.gov.uk

Complaints Resolution Team

Legal and Governance

Southampton City Council

Civic Centre

Southampton

SO14 7LY

Tel: 02380 833 154

Email: complaints.review@southampton.gov.uk

Web address www.southampton.gov.uk/complaints

The Local Government and Social Care Ombudsman

PO Box 4771
Coventry

CV4 0EH

Telephone: 0300 061 0614

Website: www.lgo.org.uk