

# Southwark Council Adult Social Care Complaints Policy

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## 1. Introduction

1.1 This procedure has been devised to ensure the Local Authority complies with The Local Authority Social Services and National Health Services Complaints (England) Regulations 2009.

1.2 For the purpose of this policy, a complaint will be defined as “an expression of dissatisfaction requiring a response, where no alternative formal process exists to address it.”

1.3 The Social Care Complaints Team shall be responsible for determining when a ‘service failure’ constitutes a formal complaint; this may include a ‘minor service failure’ that is repeated within a short period of time.

1.4 Southwark Council is committed to providing the best possible services for our communities and for those involved with, or affected by the delivery of our services. We recognise that there will be times where mistakes have been made and it is important to us that we acknowledge this and take appropriate corrective action. It is important that we are equipped to derive and share learning from those examples.

1.5 Our activities are overseen by the Local Government and Social Care Ombudsman. They provide us with guidance on a range of specific subjects and will investigate relevant matters which the Local Authority has not managed to resolve to the satisfaction of the complainant.

1.6 Whilst the Council welcomes the opportunity to investigate issues formally, often the people best equipped to fix problems quickly are the team who have provided the service. Before a complaint is raised, consideration should be given to contacting the team, or contracted provider (for example a Care Home) directly in case a satisfactory solution can be found straight away.

1.7 If there is no immediate satisfactory solution, or if the formal complaint is considered appropriate at the outset, the Complaints Team will:

- provide information about the complaints process and provide support to make a complaint, or provide information about third parties who may offer support throughout the investigation process
- keep all parties updated with progress and timescales
- work towards the earliest resolution of the reported issues, irrespective of timescales already provided

1.8 The Complaints Team will identify a manager in the service involved and will assist them to investigate and respond. That manager will ordinarily be senior to any officers named in the complaint and will ordinarily have had no immediate and direct responsibility for the issues complained about. However this may not always be possible or practicable. The Complaints Team will exercise its own discretion.

1.9 A complaint can be withdrawn at any time by the person who has raised it, or by the person directly affected, if somebody else has made the complaint on their behalf. A complaint can be withdrawn verbally but in those cases we will need to write with confirmation.

## 2. Accessibility

2.1 Depending the nature of the complainant, and circumstances around the complaint, we provide or suggest the support of an independent, suitably qualified and experienced advocate. This may extend to a person making a complaint on behalf of another. Examples of advocacy support and other support can be found on our website :

[www.southwark.gov.uk/asccomplaints](http://www.southwark.gov.uk/asccomplaints)

2.2 The Council produces leaflets for a range of audiences, to help with making a complaint. These are kept in reception and in the public areas of all buildings involved with the management and delivery of our services. These leaflets are distributed amongst those officers and Social Workers who regularly work directly with people.

2.3 We will always attempt to accommodate a complainant's specific needs. For example, we can :

- arrange face-to-face meetings
- provide meeting locations with step-free access or hearing loops
- provide information in other languages
- provide of information, or letters in other formats such as braille or large type

2.4 The complaints area of the Council's website is fully equipped to deliver information in spoken format.

### **3. Who Can Complain ?**

**3.1** We will consider complaints from any resident, service-user, family member of person otherwise involved in, or affected by the delivery of our services, including :

- Residents of Care Homes organised by the Council
- Users of Social Care services following a stay in hospital
- Relatives of residents using services organised by the Council
- Friends, neighbours and other concerned parties
- Those with a Personal Budget, in place of services organised by the Council
- Any person considered to have sufficient interest in a service user's welfare

**3.2** There are some circumstances in which complaints will be dealt with under other Southwark Procedures. This will be confirmed in writing at the time the complaint is acknowledged. A separate procedure exists for Corporate complaints.

This may include, but is not limited to :

**3.2.1** Complaints made anonymously - which will be accepted on a case-by-case basis.

**3.3** Where a complaint relates to other bodies working in partnership with the Council – for example some areas of the NHS – the parties may work together to respond, in which case consideration will be given to any differences in complaint handling procedures.

**3.4** There will be some circumstances where the complaint is outside the jurisdiction of the council and this will be confirmed in writing at the earliest possible opportunity. Should this be the case, the Complaints Team will advise and provide contact details for the appropriate organisation.

**3.5** Where a complaint is received from a representative acting on behalf of another person, the Complaints Team will confirm, where possible, that the affected individual is happy for this to happen and that the complaint submitted reflects his or her views.

**3.6** The council has the discretion to decide whether or not a representative is suitable to act in this capacity or has sufficient interest in the affected person's welfare. If after discussion with relevant professionals, the Complaints Manager considers that the representative does not have sufficient interest, the representative will be notified in writing and it will be explained that no further action will be taken.

## **4. Exceptions**

**4.1** This complaints policy does not apply when:

- the person wishing to complain, or his/her representative, does not meet the requirements of "Who Can Complain?" set out above
- the complaint is not about the actions or decisions of Southwark Council Adult Social Care, or of any party acting on its behalf

- the same issues have previously been investigated
- the issues described are subject to commercial contract law
- an affected party, or their representative, disagrees with a matter of policy

**4.2** The Council has discretion to decide whether to consider a complaint made during or preceding :

- Court proceedings
- Tribunals
- Proceedings necessary to ensure safeguarding
- Disciplinary proceedings
- Criminal proceedings

**4.3** A complainant has up to one year to resubmit a complaint following the conclusion of any such proceedings.

**4.4** New complaints should usually be made within one year of any matter arising. However a decision to investigate is made according to the merits and circumstances of each case and the Council will generally investigate unless there is an appropriate reason not to.

**4.5** Historic complaints may be considered, particularly if a person was prevented from raising a complaint sooner. In some cases it is not possible to fully investigate complaints relating to events in the past. Staff may have left, or there may not be enough recorded information to reach a robust decision. If this happens, we will write

to the complainant and explain why we will not investigate. We will also provide the details for the Local Government and Social Care Ombudsman in case the complainant wishes to take it further.

**4.6** Where Southwark Council commissions on behalf of other organisations then that organisation shall be responsible for the administration and investigation of complaints for their own residents or stakeholders.

**4.8** Where another Council or organisation funds a service, or makes placements in Southwark, then that other party remains responsible for the administration and investigation of complaints for their own residents or stakeholders.

**4.7** This policy does not cover complaints relating to data incidents or concerns around the rights afforded to individuals by the General Data Protection Regulations.

In those circumstances information can be found here :

<https://www.southwark.gov.uk/council-and-democracy/freedom-of-information-and-data-protection/freedom-of-information-requests>

**4.9** Complaints made by a 'responsible body' as defined by The Local Authority Social Services and National Health Service Complaints Regulations 2009.

**4.9.1** Responsible bodies include other Local Authorities, The NHS, Primary or Independent Care Providers [eg. GP, SLAM NHS Trust..]



**4.9.2** In such instances, matters of dispute should be dealt with in accordance with the spirit of primary guiding legislation applicable and in any case appropriate and professional peer-to-peer conduct.

## **5. Investigation Process**

**5.1** Correspondence should be acknowledged in writing within 2 days of receipt, advising what course of action should follow. In busier times this may extend to 3 days, but should not ordinarily affect the timescale for any ensuing formal investigation.

### Representations

**5.2** When a complaint is first received, it will be assessed to determine whether an immediate resolution can be found. If there is a reasonable opportunity to do so, the Complaints Team will discuss this option with the complainant or their representative and seek agreement. These 'Representations' are formally recorded and count towards our overall complaint statistics. The Council will acknowledge and learn from any mistakes and will put the affected person in the position they would have been if the fault hadn't happened, if this is possible.

**5.3** Actions necessary to resolve 'Representations', and the time period for further action to occur, should default to 3 days. However should be usually be dictated by agreement between the Investigator and the Complainant or their representative.

5.4 If the complainant and their representative are not happy to proceed on this basis, or if there is no satisfactory outcome delivered, then the Complaints Team will immediately commence a formal investigation.

### Stage One Formal Complaint

5.5 As with a 'Representation', the complaint is formally recorded. The complaint will be responded to in writing, to advise under what procedure the complaint will be investigated. As with a Representation it is helpful for the Complaints to understand from the outset what outcome is being sought.

5.6 The Complaints Team's duty is to represent both the views of the complainant and the Service, and to work with both to find mutually satisfactory solutions.

5.7 An investigation will commence with the Complaints Team writing to the Service or Services involved to inform about the issues raised. A meeting may be suggested during the course of the investigation, to learn more about what has potentially gone wrong and what can be done to address it.

5.8 At the conclusion of the investigation, a letter will be sent to the complainant or their representative, with the investigation findings. This should usually be within 20 working days. However if a delay is necessary, the Complaints Team will always keep the complainant informed.

5.9 If the findings of the formal investigation are not considered satisfactory by the complainant, the Complaints Team will work with them or their representative to identify any further actions that can be taken to improve matters. Any such dissatisfaction should be registered within 20 days of the response otherwise the Council may decline to investigate further..

### Internal Review Process

5.10 If an affected party or their representative remains dissatisfied, an Internal Review may be requested. The reasons for this request should be made in writing and should explain what element(s) of the complaint have not been satisfactorily addressed. This should include what outcome is being sought and set out specific actions the complainant would like the council to take. If the Complaints Manager determines there can be no reasonable expectation for an alternative outcome, then a review may not be agreed.

5.11 Reviews are undertaken by a manager senior to the Stage One responder. They will consider the complaint, the investigation, and the response to the complaint to determine whether more could have been done in response. The timescale for the review is 20 working days from the date the review was requested, in writing. The findings of the review will be documented in a further formal response letter.

5.12 The Internal Review may be investigated and responded-to by the 'Complaints Manager' if – at their discretion – operational circumstances or the nature of the complaint warrants it.

5.13 In the event that this still does not result in satisfaction, at the Complaints Manager's discretion, and upon receiving an explanation, as long as it is within 20 days of the complaint response, the complaint may be further escalated as far as Assistant Director level. The timescale for the review shall be 20 working days from the date of the request.

### Further Review Process

5.14 If the outcome of the Internal Review is not satisfactory, the same process, described from 5.10, is repeated

5.15 The Complaints Manager may, in discussion with Service Management, defer the provisions of the Further Review, if the circumstances are such that alternative findings are unlikely.

### Local Government and Social Care Ombudsman (LGSCO).

5.16 The LGSCO is the final stage for complaints about councils, all adult social care providers (including care homes and home care agencies) and some other organisations providing local public services. They are a free service. They investigate complaints in a fair and independent way and do not take sides.

5.17 Whilst they may consider a complaint at any time, if the complaint has not been considered at each stage of our procedure, the Ombudsman will usually refer the complaint back to the council for investigation first. More information can be found on their website :

<https://www.lgo.org.uk/>

## Complaint Remedies

**5.18** Where the Council have identified fault, it becomes responsible for 'putting an individual back in the position they would otherwise have been'. This will include reimbursing any out-of-pocket expenses incurred by a complainant and can extend to making symbolic payments to recognise other injustices.

**5.19** Where a remedy of any kind is needed, the Council is obliged to ensure the remedy is equitable to any faults and remedies identified in the past, and is in accordance with Local Government and Social Care Ombudsman advice.

**5.20** If a remedy is declined by the complainant then the offer is cancelled at the point of being declined.

## **6. How to make a complaint**

**6.1** We always encourage complainants to contact the Social Care Complaints Team on 0207-525-3977. Although a new complaint will need to be further confirmed in writing (which we can help with, if required), often a solution can be identified straight away which will resolve the matter.

**6.2** To make a representation or complaint, the most direct way is to email:

[sscomplaints@southwark.gov.uk](mailto:sscomplaints@southwark.gov.uk)

**6.3** It is helpful to provide the name, address, email and date of birth of any person to whom the complaint relates. It is also helpful if the names of teams or officers, and relevant dates are included.

**6.4** Complaints can also be made via the council website (below). This is particularly helpful if the complaint is being made on another person's behalf as there are resources available via the website such as a 'Sample Letter of Authority' which can be used to provide consent from the affected person.

[www.southwark.gov.uk/asccomplaints](http://www.southwark.gov.uk/asccomplaints)

**6.5** Complaints can be made in writing to :

Southwark Council. Social Care Complaints  
FREEPOST, RTJL-XAZG-ZRTU  
2nd Floor, Hub B. 160 Tooley Street.  
PO Box 64529.  
London. SE1P 5LX

## **7. Data Protection and Confidentiality**

**7.1** The Data Protection Act regulates the way in which organisations can use personal information.

- a complaint cannot be discussed with or information disclosed to a third party without the written permission of the complainant

For example - where an advice worker or solicitor is making a complaint on behalf of a customer, a letter of authorisation must be obtained;

- an exception to this rule allows a constituent's own Ward Councillor or MP to be given information when following up a complaint;
- where a Councillor is acting on behalf of a constituent of a different ward the customer's permission must be sought before disclosing any information.

7.2 We will only share details of the complaint with those people who need to know, in order to investigate.

7.3 If, in the course of a complaint investigation, we have any concerns about the welfare of an individual, we will pass these on to the relevant authority. This includes, but is not limited to; the Referral and Assessment Team, the Police, the Multi Agency Safeguarding Hub (MASH), or the Local Authority Designated Officer (LADO).

7.4 Complainants, and those acting on their behalf, are asked to seek the consent of all involved parties before recording conversations or meetings.