

Southwark Council Children's Services Complaints Policy

Incorporating information relating to Education complaints

| | |
|-----------------|------------|
| Version no: | 2.6 |
| Date Effective: | 12/01/2021 |

1. Introduction

1.1 This procedure has been devised to ensure the Local Authority complies with the requirements of the Children Act 1989, Representation Procedure (England) Regulations 2006. This policy shall apply when the activities, to which a complaint refers, are associated with the councils obligations to the Children Act. Where the complaint relates to activities outside obligations to the Children Act, the corporate complaints policy shall apply.

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 are committed to providing the best possible services for Children and Young People 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.

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

also 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 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 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 If the complaint is from a child or young person, they will be offered the support of an independent, suitably qualified and experienced advocate. If requested, and whenever it is helpful, the same offer shall be extended to a person making a complaint on their behalf. Examples of advocacy support and other support can be found on our website :

www.southwark.gov.uk/childrencomplaints

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 a person otherwise involved in, or affected by the delivery of our services, including :

- Resident and non-resident parents of children / young people, regardless of whether they have Parental Responsibility
- Foster Carers, including those caring for children placed by independent fostering agencies and by private arrangement
- Special Guardians and Adoptive Parents
- Any child who has a social worker, or has been in contact with a social worker
- Young people who are adopted or in care, or who have so been previously
- Children / young people directly or indirectly affected by the Councils services and activities
- 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 from foster carers about children they used to look after; or their working relationships with the council or decisions about whether to place or remove children.

3.2.2 Complaints that a child may be suffering, or likely to suffer harm.

3.2.3 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 Those wishing to make complaints in relation to a Looked After Child can also, at any time, refer their complaints to Ofsted.

www.gov.uk/government/organisations/ofsted

3.6 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.

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's Children's Services, 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
- Child protection proceedings
- 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.

4.7 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.

4.8 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 professionals or volunteers working with other organisations to support children and young people together.

4.9.1 In such instances, matters of dispute should be dealt with in accordance with the spirit of primary guiding legislation and when applicable, the “Multi-agency resolving professional disagreements and escalation policy” – published by the Southwark Safeguarding Children Partnership.

5. Education

5.1 Some complaints cannot be assessed under this procedure when they relate to schools and education.

5.2 Some complaints can be considered under either the Children's Act Process, or through the Corporate procedure. The decision as to which procedure shall be followed is entirely at the discretion of the Complaints Manager, and will be made with full regard to the specifics of the information available.

5.3 Complaints about schools should be made in the first instance to the school directly. Schools are obliged to publish complaints procedure details and this will often be available on their website. Complaints relating to schools are overseen by the Department for Education (DfE) and more information is available here :

<https://www.gov.uk/complain-about-school/types>

5.4 Complaints about admissions to independent schools and academy schools must be made directly to the school, and will be dealt with via their own procedures.

5.5 If a parent, any person acting in a parental capacity, or a representative, wishes to challenge a decision relating to admission to a local authority-maintained school, and the child or young person is ordinarily resident in Southwark, the following web pages contain all the relevant information :

<http://www.southwark.gov.uk/schools-and-education/school-admissions/>

Education, Health and Care Plan (EHCP)

5.6 If a parent, or their representative, wishes to challenge the content of an EHC Plan, then contact can be made with the 'Named Officer' (EHCP Coordinator) responsible, in the Special Educational Needs and Disabilities Team (SEND). The content of the plan should be challenged through dialogue within the co-production process or via the annual review process, and afterwards via the draft EHCP which is sent to the parent for comments via the EHCP coordinator. If disputes on content of the plan and/or the setting named remain and the LA has finalised the plan, parents can seek mediation via the KIDS London SEN Mediation Service (an external organisation) and then via the Tribunal appeal route. Southwark Information and Advice Service can provide neutral information, advice and support. Their details can be found on the Local Offer web pages :

<http://localoffer.southwark.gov.uk/>

6. Investigation Process

6.1 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

6.2 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 in if the fault hadn't happened, if this is possible.

6.3 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.

6.4 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

6.5 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 Team to understand from the outset what outcome is being sought.

6.6 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.

6.7 At the 'Complaint Managers sole discretion, if a complaint is made directly by a child or young person, and if there is sufficient concern and validity, stage one of the process may be set aside so that the independent stage two phase can commence without delay.

6.8 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.

6.9 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.

6.10 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.

Stage Two

6.11 If a complainant or their representative remains dissatisfied, they may request a Stage Two investigation within 20 days of the stage 1 response. The reasons for this request should be made in writing and should explain what element or elements 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.

6.12 The Stage Two complaint involves contracting an Investigating Officer (IO) from outside the Council, and contracting an Independent Person (IO) to oversee the further investigation.

6.13 The Stage Two investigation involves significant input from all affected and the target for completion is between 25 and 65 days. However this is dependent on a number of factors and can take much longer.

6.14 The IO and IP will conclude their investigations and provide a written report based on their findings. This will include any recommendations to put things right.

6.15 The Council will write an Adjudication Report based on the IO and IP Reports. This will include confirmation for whether the recommendations will be taken up, and should include a time scale for undertaking those recommendations.

Stage Three

6.16 If a complainant or their representative wish to challenge the process used in producing the Stage Two reports, a Panel Review can be requested within 20 working days of receiving the Stage Two Adjudication Report.

6.17 A Review Panel is comprised of three independent people and the objective is to assess the quality of the Stage Two complaint investigation. The Panel will produce a report with their findings, which may include recommendations to the council.

6.18 The complainant has a right to attend the Panel and to be accompanied by another person who may speak on the complainant's behalf. However, this cannot be a barrister or a solicitor acting in a professional capacity. If a complainant fails to attend, without reasonable cause, the hearing will take place in his/her absence.

6.19 Panel must be held within 30 days of the request being received.

6.18 The Review Panel will not reinvestigate the complaint, nor is it able to consider any new complaints that were not considered at Stage Two.

6.20 The council will write an Adjudication Report to the Panel's recommendations. This will be sent to the complainant within 15 days working of receiving the Panel's

report. The Adjudication will set out the council's response, any action it will take and a timescale for carrying these actions out.

6.21 If the complainant, or their representative, remains unhappy after the Review Panel they should approach the Local Government and Social Care Ombudsman.

Local Government and Social Care Ombudsman (LGSCO).

6.22 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.

6.23 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

6.24 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.

6.25 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.

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

7. How to make a complaint

7.1 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.

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

sscomplaints@southwark.gov.uk

7.3 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.

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

www.southwark.gov.uk/childrencomplaints

7.5 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

8. Data Protection and Confidentiality

8.1 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.

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

8.3 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).

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