

Statutory Complaints Policy

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Section A: Policy Details

1 Introduction

Effective complaint handling enables individuals to be heard and understood. The starting point for this is a shared understanding of what constitutes a service request and what constitutes a complaint. In most cases Sandwell Children's Trust (SCT) should be able to put things right through normal service delivery processes.

1.1 A service request may be defined as: **'a request that the organisation provides or improves a service, fixes a problem or reconsiders a decision.'**

1.2 This provides SCT with opportunities to resolve matters to an individual's satisfaction before they become a complaint. A complaint may be raised when the individual expresses dissatisfaction with the response to their service request, even if the handling of the service request remains ongoing.

1.3 SCT is required by law to operate a three-stage procedure to manage complaints about specified functions relating to children's social care as set out in the Childrens Act 1989 Representations Procedure (England) Regulations 2006.

1.4 Any complaint that does not qualify for consideration under the statutory social care procedure may be considered under a two-stage non-statutory complaints procedure.

1.5 The purpose of this policy is to enable former, current or prospective service users to complain about the quality and nature of social care services provided by SCT, including services provided by external organisations on behalf of SCT.

1.6 This policy does not apply to:

- matters subject to current legal action
- any settlement of court proceedings
- disputes about matters covered by our insurance policies
- any settlement of an insurance claim

2 Aims of the policy

2.1 The complaints policy will:

- Ensure that people who access or wish to access SCT services are treated with dignity and respect, are not afraid to make a complaint, and have their concerns taken seriously
- Ensure even-handedness in the handling of complaints
- Ensure that complaints are resolved swiftly and satisfactorily at the local level
- Ensure a fair process and adequate support for customers
- Ensure that concerns about the protection of children are referred immediately to the relevant agency
- Ensure a focus on reflective learning and service improvement as a result of complaints

It should safeguard the child or young person's rights of access to other means of redress, such as the Local Government & Social Care Ombudsman or the Courts

3 Legal framework

3.1 Complaints about children's social care are regulated by:

- The Children Act 1989 Representations Procedure (England) Regulations 2006.
- Getting the Best from Complaints guidance.
- LGSCO – Complaint Handling Code 2024
- Advocacy Services and Representations Procedure (Children) Amendment Regulations 2004.

4 The Customer Experience Team

4.1 The Customer Experience Team aims to provide an accessible complaints service and to promote a 'listening and learning' culture within SCT.

4.2 In addition to administering the complaints procedure, the Customer Experience Team provides guidance to managers who are required to investigate complaints and ensure that customers (and relevant staff) are kept informed about the progression of complaints.

4.3 The Customer Experience Team will produce monthly, quarterly and annual reporting for the Executive Management Team which will outline SCT's performance with respect to complaints. This will include:

- The number of complaints received at each stage;
- The number complaints responded to within deadline;
- The number of complaints which have been upheld;

- The types of complaint received and trend analysis; and
- The improvement to service identified as a result of complaints.

5 What is a complaint and what is the purpose of the complaints procedure?

- 5.1** A complaint may be generally defined as ***‘an expression of dissatisfaction, or disquiet in relation to an individual child or young person, which requires a response.***
- 5.2** The complaints procedure is the mechanism used to determine whether SCT’s actions (or inaction) comply with relevant legislation, guidance, policy and procedure. This enables SCT to establish whether its conduct was correct and reasonable. Where the complaints procedure identifies that conduct was not correct or reasonable, this is called fault (or maladministration).
- 5.3** The complaints procedure is not a means by which the merits of decisions or professional judgements can be challenged because they are unfavourable or in dispute.

6 Receiving a complaint

- 6.1** Complaints can be made to any member of staff in the Trust, verbally or in writing. If a complaint is made to a member of staff, the Customer Feedback Team should be informed as soon as possible so that the complaint can be recorded, as appropriate. Alternatively, a complaint can be made through MySandwell Account at www.sandwell.gov.uk/mysandwell or by contacting the Customer Feedback Team can help the person to access this service and can be contacted on 0121 569 7867.
- 6.2** As soon as it becomes apparent that someone wishes to make a complaint, the customer should be given information about SCT’s complaints procedure, including how to contact the Customer Feedback Team If they require.

7 Who can complain?

- 7.1** The statutory complaints procedure enables children and young people to raise concerns about the services they have received.
- 7.2** SCT will consider complaints through the statutory procedure from:
- A child or young person who is or was cared for
 - A child or young person who is not looked after but has been assessed as a child in need
 - A young person who is receiving leaving care support
 - A child or young person to whom a Special Guardianship Order is in force

- A child or young person who may be adopted; and
- Adopted Persons

7.3 In addition, complaints made on behalf of a child or young person from the following will also be considered through the statutory complaint's procedure:

- A parent, or someone who has Parental Responsibility
- A guardian
- A foster carer (in relation to services for a child or young person)
- A Special Guardian or person who has made an application for Special Guardianship
- Persons wishing to adopt a child or any person for whom arrangements for the provisions of adoption services
- An advocate
- Any person with sufficient interest in the child or young person's welfare to warrant their representation being considered (at the discretion of SCT)

7.4 Where a complaint is received from a representative acting on behalf of a child or young person, SCT will consider whether it should approach the child or young person to ascertain if they are happy for this to happen and that the complaint submitted reflects their views.

7.5 SCT has discretion to determine whether the representative has sufficient interest in the child's welfare to complain for, or on their behalf. If it is determined that the representative does not have sufficient interest, they will be notified in writing, explaining that the complaint cannot be considered.

7.6 Where a complaint is made by an adult that relates to a child or young person but not made on the child's behalf, SCT will determine whether the adult has sufficient interest in the child's welfare to justify his own complaint being considered by them. In reaching a decision, SCT may check with the child or young person that they are happy with the adult making a complaint.

7.7 Anonymous complaints are recorded but fall outside of the scope of the statutory procedure. It is for SCT to determine what action it should take and the fact that a complaint is made anonymously should not justify a decision not to pursue the matter.

7.8 Complaints from partner agencies (for example, the Police, schools, Health etc.) will not be considered through the complaint's procedure unless a child or young person has given express consent for the complaint to be made. Partner agencies are expected to raise concerns they have with the appropriate level of management.

7.9 Where a complaint is made which does not directly concern a child or young person (i.e. an adult complaining about the service they have received, which

has no direct impact on a child or young person), this will be considered through the non-statutory complaint's procedure.

8 What may be complained about?

8.1 A complaint may arise as a result of many things relating to the management and delivery of services for children and young people. Examples include (but are not limited to):

- An unwelcome or disputed decision;
- Concern about the quality or appropriateness of a service;
- A delay in decision making or provision of services;
- The delivery (or non-delivery) of services, including the complaints procedure;
- The quantity, frequency, change or cost of a service;
- The attitude or behaviour of staff;
- The application of eligibility and assessment criteria;
- The impact on a child or young person of the application of a policy; and
- Assessment, care management and review.

8.2 The statutory complaints procedure may consider complaints about the following functions:

- All functions in **Part 3** of the Children Act 1989
- The following functions in **Part 4** of the Children Act 1989
- **Section 31** – the decision to initiate care and supervision orders
- **Section 33** – the effect of a care order, and the actions and decisions where a care order is made
- **Section 34** – control of parental contact with children in care
- **Section 35** – how supervisors perform their duties where a supervision order is in force
- The following functions in Part 5 of the Children Act 1989
- **Section 43** – matters that do not relate to the Court and which are specifically the actions of SCT can be considered, regarding applications for and duties in relation to child assessment orders; **Section 44** – matters relating to applications for emergency protection orders and decisions relating to the return of children who have been removed
- Specified functions relating to adoption assessments and related decisions for adoption support services, insofar as these enable adoptive children to discuss matters relating to adoption
- Placing children for adoption, including parental responsibility and contact issues
- 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 to adopt
- Duties in respect of SCT considering adoption for a child

- Duties in respect of a proposed placement of a child with prospective adopters
- Duties in respect of placement and review
- Duties in respect of records
- Duties in respect of contact
- Parental Responsibility prior to adoption abroad
- Special Guardianship support services
- Financial support for Special Guardians
- Support groups for children and young people to enable them to discuss matters relating to Special Guardianship
- Assistance in relation to contact
- Therapeutic services for children and young people; and
- Assistance to ensure the continuation of the relationship between the child or young person and their Special Guardian or prospective Special Guardian

8.3 SCT operates a non-statutory complaints procedure which can consider complaints which are not eligible for the statutory procedure, providing that the grounds for complaint are not exempt from investigation. This is a two-stage corporate complaint procedure.

If you're not satisfied with the initial response, you can escalate your complaint to a senior manager. The Trust encourages feedback and uses it to improve services.

Here's a more detailed breakdown of how we will deal with your complaint:

Stage 1:

A manager will investigate your complaint and aim to resolve it within 10 working days.

Stage 2:

If you're not satisfied with the Stage 1 response, you may request a stage 2 investigation. Upon which the Customer Feedback Team will acknowledge and log your request. We will set out the understanding of any outstanding issues and the outcomes the individual is seeking. If any aspect of the complaint is unclear, we will ask you for clarification.

An independent senior manager will investigate and respond within 20 working days.

To make a complaint, you should:

- Provide your contact details and the names of anyone else involved
- Clearly state the issues, what you think went wrong, how it affected you, and what you want to happen to put things right
- Include relevant dates, correspondence, and reference numbers
- Note that the complaints process does not cover issues where there is an alternative right of address

Important points to remember:

- Sandwell Childrens Trust treats complaints confidentially.
- If you do not provide contact details, we will not be able to update you on the outcome.
- If you remain unhappy after both stages of the Trust's process, you may be able to approach the Local Government and Social Care Ombudsman.

9 What cannot be complained about?

9.1 The complaints procedure does not apply when:

- The person making the complaint does not meet the requirements outlined in Paragraphs 7.2 and 7.3 (statutory procedure only)
- The complaint does not relate to any of the specified functions outlined in Paragraphs 8.2 (statutory procedure only)
- The complaint does not relate to the actions or decisions of SCT (or any agency acting on behalf of SCT)
- Complaints about decisions made at Child Protection Conferences as this is a multi-agency decision with a separate procedure
- There is an alternative appeal or tribunal process
- The same complaint has previously been dealt with
- The complaint is submitted more than one year after the grounds to make representation arose (discretionary e.g. - if it is still possible to consider the complaint effectively and efficiently)
- The customer has taken more than one year to notify SCT of their wish to escalate their complaint
- SCT has commenced, or will imminently commence, public law proceedings in respect of the matters being complained about
- The complaint relates to matters which have been raised and/or determined in any Court or tribunal
- The customer has initiated or stated in writing that they are taking, or intend to take, proceedings in any Court or tribunal
- The complaint is unclear, frivolous, vexatious or unreasonably persistent

- SCT is taking, or proposing to take, disciplinary proceedings against a member of staff being complained about or
- SCT is notified that any person is conducting an investigation in contemplation of criminal proceedings or that criminal proceedings are pending

9.2 If SCT determines that it will not consider a complaint for any of the above reasons, it will write to the customer to explain the basis for the decision.

9.3 SCT has the discretion to consider a complaint if it considers that consideration may prejudice a concurrent investigation (for example, Court proceedings, tribunals, disciplinary proceedings or criminal proceedings). If a complaint is suspended, the customer will have one year from the end of the concurrent proceedings to re-submit their complaint. If the grounds for complaint have been raised as part of the concurrent proceedings, the complaints procedure cannot re-consider those grounds.

10 Complaints about Court reports

10.1 Where social work information or a social work report has been submitted to Court in respect of a specified function, a child or young person can complain about the report, for example, its quality or accuracy (distinct and separate to the subsequent actions of the Court).

10.2 If the child or young person's complaint is upheld, SCT should advise what action it proposes to take with regard to the Court action.

10.3 Complaints made by parents or other parties about the preparation or contents of Court reports will not be considered through the complaint's procedure. Challenges or disagreements with the contents of Court reports should be raised in Court as this is a more appropriate and immediate avenue of redress for the customer.

11 Freezing decisions

11.1 If a complaint is about a proposed change to a placement or a service, the decision may need to be deferred (frozen) until the complaint is considered. However, care should be taken if deferring a decision is likely to have a significant effect upon the mental or physical wellbeing of the child or young person.

11.2 The decision to defer should normally be made through detailed discussion between the Complaints Manager and the relevant Head of Service, within the context of the work being undertaken with the child or young person.

11.3 Decisions need to be made on a case-by-case basis, but there should generally be a presumption in favour of freezing unless there is a good reason against it

(for example, if leaving a child or young person in a placement which would put them at risk).

- 11.4** Where the Complaints Manager and Head of Service have opposing views, the Director should determine whether or not to freeze the decision.

12 Complaints relating to more than one organisation

- 12.1** Where a complaint relates to more than one organisation, SCT will liaise with the other organisation(s) to discuss how the complaint will be investigated.
- 12.2** Where appropriate, SCT will ensure that a single response is provided. If this is not possible (or appropriate), SCT will advise the customer how their complaint will be dealt with and who will be responding.

13 Complaints relating to more than one team

- 13.1** If a complaint is received which relates to the action of more than one team, those teams should work together to produce a single, co-ordinated response.
- 13.2** Where required, the Customer Feedback Team will provide support to co-ordinate the response to ensure that the response is issued without delay.

14 Confidentiality

- 14.1** In the implementation of the complaint's procedure, confidentiality should be maintained, and the requirements of the Data Protection Act 1998 adhered to.
- 14.2** Customers (and staff) have the right to know what use will be made of personal information. Information will be shared only on a need-to-know basis.
- 14.3** All customers requesting independent consideration of a complaint will provide written, signed and dated agreement to sharing personal information for this purpose.
- 14.4** Those involved in the investigation should have access to the notes of their own interview in order to confirm the accuracy of the content.

15 Mediation

- 15.1** Where appropriate, SCT will offer mediation as way of resolving complaints. Mediation is a voluntary process offered to complainants at the end of the Stage 1 process who are unhappy with the outcome of their complaint. It is designed to assist in the resolution of disagreement. The senior manager will guide the

process in a constructive direction aiming to help the parties reach an agreement.

- 15.2** At the end of the mediation session, actions will be agreed with set timescales for completion and shared with all parties.

16 Recording and monitoring of complaints

- 16.1** Monthly, quarterly and annual reports will be produced for senior management which will give an overview of performance for all stages of the complaint's procedures.
- 16.2** Reports will also contain information about what lessons complaints are telling us and how we have used complaints feedback to improve the quality of our services.
- 16.3** Records of any complaints including investigation reports and responses will be stored in a complaints folder managed by the Customer Feedback Team. Young Peoples complaints will be placed on their file.

17 Publicity

- 17.1** Information about the complaint's procedure, including details of how to make a complaint and how advocacy support can be accessed, is provided on SCT's website. An Annual Compliments and Complaints Policy will also be published on SCT's website.

18 Redress

- 18.1** Where a complaint investigation identifies that there has been maladministration, SCT will acknowledge errors, apologise for them, provide an explanation, and take any necessary action.
- 18.2** Under Section 92 of the Local Government Act 2000, SCT is empowered to remedy injustice arising from maladministration. Remedies can include, but are not restricted to, financial redress. Remedies should only be considered on a case-by-case basis on its own individual merits (see Appendix A).

19 Unreasonably persistent complaints and unacceptable behaviour

- 19.1** SCT is committed to dealing with all complaints fairly and impartially, and to provide a high-quality service to those who complain. While access to the complaints service is not normally limited, there are a small number of customers who, because of the frequency and/or the manner of their contact,

seriously hinder consideration of their own complaints – and the complaints of others.

19.2 Features of unreasonably persistent or unacceptable behaviour includes:

- making the same complaint repeatedly or with minor differences but never accepting the outcome
- seeking an unrealistic outcome and persisting, although it cannot be achieved
- contacting multiple members of staff in SCT (and other agencies) to make the same complaint

19.3 When the nature or volume of contact becomes unreasonable, SCT will review future contact arrangements.

20 Advocacy

20.1 If a child or young person requires support to make a complaint, SCT Voice Team provides advocacy for Children and Young People. Alternatively, they can also be signposted to the Childrens Society Advocacy Service. Advocates provide independent and confidential information, advice, representation and support.

Section B: Statutory Complaints Procedure

Stage 1 - Local Resolution

- Stage 1 complaints should be responded to at a local level, normally by the Team Manager who is responsible for the service being complained about. Where a complaint concerns the actions or conduct of the Team Manager, the Service Manager or Head of Service will be identified to respond
- There is a 10-working day timescale for Stage 1 complaints, which starts from the date of case acceptance. This timescale can be extended to 20 working days if the complaint is complex or if an advocate needs to be appointed.
- A copy of the complaint and accompanying information will be sent to the Investigating Officer by email. The Investigating Officer will be advised to make contact with the customer to discuss the complaint and their desired outcomes
- Once the complaint investigation has been completed, the Investigating Officer should provide a written response which includes the following:
 - A finding for all of the complaints made and desired outcomes;
 - The details of learning/service improvement the complaint has identified;
 - The details of any actions which will be taken as a result of the complaint, including a timescale for completing actions; and

- advice about how the customer may pursue their complaint if they remain dissatisfied.

Stage 2 - Independent Investigation

- All requests for a stage 2 investigation should be made in writing to the SCT Customer Feedback Team or SMBC Customer Feedback Team. The stage 2 request should be clear what the complainant remains dissatisfied and what outcome(s) they are seeking
- Ideally, stage 2 requests should be made within 20 working days of the stage 1 response, but requests will be accepted for up to one year of the stage 1 response
- Once the stage 2 complaint is accepted, SMBC Customer Feedback Team will inform the complainant of the process of how the complaint will be investigated and appoint an independent Investigating Officer and Independent Person to carry out the Investigation
- The Investigating Officer and Independent Person will meet with the complainant to discuss the complaint and agree a Statement of Complaint. The Statement of Complaint will detail the complaints and desired outcomes and forms the basis of the investigation
- Once the Statement of Complaint has been agreed by the complainant and accepted by SCT, the timescale for completing the stage 2 investigation is 25 working days. However, this can be extended to a further 65 working days where the complaint is complex. If the timescale is extended, the complainant must be contacted in writing by SMBC to advise them that an extension is required
- The Investigating Officer will write a report following the investigation which will give their findings on each individual complaint aspect, comment on the desired outcomes and, where appropriate, make recommendations of actions SCT should take as a result of the complaint findings. In some cases, the Investigating Officer may also submit a confidential addendum report if there are areas of concern which they wish to raise with SCT but not the customer
- The Independent Person who will work alongside the Investigating Officer will also produce a brief report including their view upon whether the investigation has been conducted fairly
- Both reports are shared with a Director who will act as the Adjudicating Officer at stage 2. The Adjudicating Officer will consider the reports and provide a written response which includes the following:
 - Comment on the Investigating Officer's findings and recommendations, as well as the complainant's desired outcomes

- The details of learning/service improvement the complaint has identified
- The details of any actions which will be taken as a result of the complaint, including a timescale for completing actions and
- Advice about how the customer may pursue their complaint if they remain dissatisfied

Stage 3 – Review Panel

- Stage 3 is the final stage of the statutory procedure and reviews whether the complaint was adequately investigated at stage 2
- All stage 3 requests should be made in writing to SMBC Customer Feedback Team. The stage 3 request should specify why the customer remains dissatisfied and what outcome(s) they are seeking
- Ideally, stage 3 requests should be made within 20 working days of the stage 2 response
- The Review Panel consists of three independent people, one of whom will chair the Panel. SMBC Customer Feedback Team will ensure that the appropriate people involved with the Stage 2 investigation will also be invited to attend. The complainant can also attend and be accompanied by another person for support. If the customer is a child or young person, the support person can speak on the customer's behalf
- Stage 3 cannot consider any new complaints or re-investigate matters investigated at stage 2. The Review Panel will:
 - Review the complaints and consider the adequacy of the Stage 2 investigation
 - Take a problem-solving approach
 - Focus on achieving resolution and avoid a legalistic approach to the review
 - Listen to all parties
 - Reach findings and make recommendations
- The Review Panel will be held within 30 working days of receipt of a valid request. A letter will be sent not less than ten working days before the Panel to the customer and all other parties confirming the date and location of the Panel and will include copies of the complaint papers

The Panel Meeting

- The Panel meeting consists of two sessions:
 - An open session, where all attendees are present; and
 - A closed session, where only the three Panel members and a representative from SMBC Customer Feedback Team is present.
- The Chair will commence the Review by explaining its purpose and the need for confidentiality. The Chair will advise the customer of the respective roles and responsibilities of those present and address any questions or concerns that the customer may have about the process. The Chair will ensure that the focus is on the Statement of Complaint from the stage 2 investigation
- The purpose of the Review Panel is for Panel members to understand each party's opinion of the complaint rather than an opportunity to cross-examine attendees. The Panel meeting will begin with presentations on the points of the complaint and desired outcomes by the complainant (or their support person). Panel will also invite comment from the SCT representative, as well as the Investigating Officer and Independent Person at stage 2
- Panel members should then have sufficient opportunity to ask questions of all present and seek clarification on the issues being discussed so they are in a position to make recommendations regarding the outcome
- The Panel will then go into closed session to reach a determination and form a view about whether SCT adequately dealt with the complaint at stage 2. The Panel Chair will produce a written report with recommendations addressed to the Director within five working days of the Panel Meeting
- A response to the Panel's report and recommendations will be made by a Director within 15 working days of the Panel Chair's report. The response will include the following:
 - Comment on the Review Panel's findings and recommendations
 - The details of learning/service improvement the complaint has identified
 - The details of any actions which will be taken as a result of the complaint, including a timescale for completing actions; and
 - Advice about how the customer may pursue their complaint if they remain dissatisfied

The Local Government & Social Care Ombudsman

- Once the complaints procedure has concluded, a complainant may contact the Local Government & Social Care Ombudsman if they still remain dissatisfied. The Ombudsman is the final stage for complaints about SCT. The Ombudsman is a free service that investigates complaints in a fair and independent way
- While customers can approach the Ombudsman at any time, there is an expectation that customers make their complaint to SCT in the first instance to allow opportunity for local resolution. Accordingly, complaints made directly to the Ombudsman may be referred back to SCT as 'premature' for investigation through the appropriate complaints procedure

The Ombudsman's contact details are:

<https://www.lgo.org.uk/contact-us>

The Local Government & Social Care Ombudsman

PO Box 4771 Coventry CV4 0EH

The Ombudsman's Advice Team can be contacted on:

Tel: 0300 061 0614

Email: advice@lgo.org.uk

Web site: www.lgo.org.uk

Appendix A – Remedies

Types of remedy

The range of remedies covered by this policy includes:

- Apology
- A review of policy and procedure
- Direct action
- Provide a Service
- Deliver Staff training or action
- Financial
- Quantifiable financial loss
- Loss of non-monetary benefit
- Distress, harm, risk or other unfair impact
- Time and Trouble consideration