

Complaints and Representations

This policy was agreed by the Trust Board on 19 December 2017 to be used as an interim policy by Sandwell Children's Trust.

The intention is to review this policy by 1 July 2018 to ensure that it is fit for purpose for the Trust.



Sandwell
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Complaints and Representations

SCOPE OF THIS CHAPTER

This procedure covers complaints and representations received in respect of services to children.

Those wishing to make complaints in relation to a Looked After Child can, at any time, refer their complaints to the Regulatory Authority.

This procedure does not apply to complaints of Significant Harm, which must be dealt with under the Local Safeguarding Children Board Inter Agency Procedures.

RELATED GUIDANCE

[The Young Person's Guide to the Children and Families Act 2014](#)

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1. Who may make a Complaint?

A representation or complaint may be made by:

- a. Any child who is a Looked After Child or who, although not Looked After, is a Child in Need;

- b. A parent or person with Parental Responsibility;
- c. A local authority Foster Carer;
- d. Such other person as the authority consider has sufficient interest in a child's welfare to warrant a complaint or representation being considered by them;
- e. An Eligible Young Person, Relevant Young Person or Former Relevant Young Person;
- f. A Qualifying Young Person under the Leaving Care procedures;
- g. A person aged up to 24 who is or was a Former Relevant or Qualifying young person and whom the local authority may still assist in connection with education and training;
- h. Special Guardians;
- i. A child in respect of whom a Special Guardianship Order is in force;
- j. Any person who has applied for an assessment for special guardianship support;
- k. Any child who may be adopted, their parents and guardians;
- l. Any person wishing to adopt a child;
- m. Any person to whom arrangements for the provision of adoption support services extend;
- n. Adopted persons, their adoptive parents, birth parents and former guardians.

Where a complaint is made on behalf of a child, the Complaints Manager should confirm where possible that the child is happy for this to happen and that the complaint submitted reflects his or her views.

2. What may be Complained About?

A complaint may arise as a result of many things relating to statutory children's social care functions such as:

- An unwelcome or disputed decision;
- Concern about the quality or appropriateness of a service;
- Delay in decision making or provision of services;
- Delivery or non-delivery of services including complaints procedures;
- Quantity, frequency, change or cost of a service;
- Attitude or behaviour of staff;
- Application of eligibility and assessment criteria;
- The impact on a child of the application of a local authority policy; and
- Assessment, care management and review.

This is not an exhaustive list and the Complaints Manager should seek legal advice as necessary. Specifically, a complaint may be about the following:

- The decision by the local authority to initiate Care Proceedings;
- The effect of a Care Order and the local authority's actions and decisions where a Care

Order is made;

- Issues relating to contact between parents and children subject to Care Orders;
- How supervisors perform their duties where a Supervision Order is in force;
- Actions of the local authority regarding applications for and duties in relation to Child Assessment Orders;
- Matters relating to applications for Emergency Protection Orders and decisions relating to the return of children who have been removed;
- The quality or accuracy of social work information or a social work report provided to a Court;
- The conduct of a social worker in court.

In relation to adoption, a complaint may be about the following:

- The provision of Adoption Support Services insofar as these enable adoptive children to discuss matters relating to adoption;
- Assessments and related decisions for adoption support services;
- Placing children for adoption, including Parental Responsibility and contact issues (see **Placement for Adoption Procedure**);
- Removal of children who are or may be placed by adoption agencies;
- Removal of children in non-agency cases;
- The carrying out by the local authority of its duties on receipt of a notice of intention to adopt;
- The carrying out by the local authority of its duties in respect of
 - Considering adoption for a child;
 - A proposed placement of a child with prospective adopters;
 - Adoptive placements and reviews;
 - Adoption Case Records;
 - Contact; and
 - Parental Responsibility prior to adoption abroad.

In relation to Special Guardianship Order, a complaint may be about the following:

- Financial support for Special Guardians;
- Support groups for children to enable them to discuss matters relating to Special Guardianship;
- Assistance in relation to contact with parents for children;
- Therapeutic services for children; and
- Assistance to ensure the continuation of the relationship between the child and their Special Guardian or prospective Special Guardian.

The Complaints Manager has discretion in deciding whether to consider complaints where to do so would prejudice any of the following concurrent investigations:

- Court proceedings;
- Tribunals;
- Disciplinary proceedings; or
- Criminal proceedings.

If the Complaints Manager decides not to consider or further consider complaints subject to these concurrent investigations, s/he must write to the complainant explaining the reason for their decision and specifying the relevant concurrent investigation.

Once the concurrent investigation has been concluded the complainant may resubmit their complaint to the local authority as long as it is within one year of the conclusion of the concurrent investigation.

3. Time Limit to Complaints

Local authorities do not need to consider complaints made more than one year after the grounds to make the complaint arose. In these cases, the Complaints Manager should write to advise the complainant that their complaint cannot be considered, explaining the reasons why. This response should also advise the complainant of their right to approach the Local Government Ombudsman.

The time limit can be extended at the local authority's discretion if it is still possible to consider the representations effectively and efficiently and/or where it would be unreasonable to expect the complainant to have made the complaint earlier, for example, where the child was not able to make the complaint or did not feel confident in bringing it forward in the year time limit.

4. Informing Children about the Complaints Procedure

Children must be informed about the Complaints Procedure in a variety of ways suitable to their needs and level of understanding. Copies of relevant leaflets should be provided, for example the Children's Guide which is given to children before or upon admission to a children's home. Such information must include an explanation of the role of an Advocate and provide contact details for advocates to make complaints on children's behalf.

Where children or those acting on their behalf express a wish to make a complaint, they should be given any information or advice they require on how to use the Complaints Procedure. Their options must be carefully explained including information and advice on alternative methods for resolving their dissatisfaction. For all complaints made by or on behalf of children, help must always be offered to obtain the services of an advocate.

Where a child wishes to make a complaint, s/he should be referred to the relevant manager or to the Complaints Manager.

If the complaint is made by or relates to a child in foster care or residential care, it may also be directed to the Regulatory Authority.

5. Receiving Complaints

Comments, complaints and compliments may be made orally or in writing, including by email or text. Some complaints can be received via the Local Government Ombudsman.

All comments, complaints and compliments about services to children should be recorded forwarded to the Customer Focus Team to be recorded on the complaints system. In the meantime the front line manager can forward the complaint to the relevant person so that the investigation can start as soon as possible and advise who is dealing with the complaint.

In relation to complaints, the emphasis should be on a speedy resolution reached locally wherever possible.

However, where a complaint includes an allegation of Significant Harm, the matter must be directed to be dealt with under the Child Protection Procedures and must be referred to the MASH Team for this purpose immediately.

Staff may not deal with complaints relating to their own practice and must pass such matters to their own manager.

6. Stage One - Local Resolution

If comments made by users about a service indicate dissatisfaction with the service, the front-line service provider or the line manager receiving the complaint should in most instances try to resolve them quickly, if they have the delegated responsibility to do so. Wherever appropriate, complainants should be asked to agree to a 'local' resolution. In all cases where complaints are received, the Complaints Manager must be informed.

When the Complaints Manager receives a complaint directly, this will be considered under Stage One and the Complaints Manager will:

- a. Acknowledge the complaint within 2 working days, notifying the complainant of where the complaint has been forwarded and the timescale within which a response will be sent, the acknowledgement letter will refer to the advocacy service;
- b. Notify the appropriate line manager;
- c. Request that the line manager attempt to resolve the complaint within 10 working days and send a copy of the response to the Complaints Manager addressing all points in the complaint. Line Managers should check if the child has or requires an advocate when they contact the child to agree the complaint.

If it is not possible to respond within the above time scale - e.g. where files or records need to be checked or a key member of staff is not available - the line manager (in b) above) must inform the Complaints Manager who will send a holding letter to advise the complainant of the delay. However the maximum period for a complaint to remain at Stage One is 20 working days, unless the complainant has agreed to an extension of time.

Complaints made by children in foster care or residential care should be recorded as follows:

- Where the complaint relates to the child's placement in residential care, the fact that the complaint was made and resolved should be noted in the home's Daily Log, and a summary of the complaint and the manner in which it was resolved should be recorded in the Complaints Log and in the child's Daily Record. Where the complaint involves sensitive personal information, such details should not be held in the Complaint Log, which is a public record. The manager should consult the complainant to ensure that the matter was dealt with appropriately before countersigning the Complaints Log;

- Where the complaint relates to the child's foster home, the foster carer should record brief details in the child's Daily Record. The foster carer should inform the supervising social worker as soon as practicable as well as, where appropriate, the child's social worker. The complaint should be recorded in the Complaints Log held by the Fostering Service and where appropriate in the child's electronic record;

The manager for each team or service has to keep a record of complaints dealt with 'locally' and their outcomes. This record should then be forwarded to the Complaints Manager.

If the matter cannot be resolved to the user's satisfaction within 20 working days, the complainant must be advised that he or she has a right to proceed to Stage Two and given assistance to do so as necessary. The complainant may, however, agree to extend the deadline for the Stage One process.

7. Stage Two - Investigation

Complainants should be encouraged to make a written complaint, but do not have to do so. A complaint may be accepted in any form. Where a complaint is not in writing, however, the Complaints Manager should arrange to meet the complainant to make a written record of the complaint which is then agreed with the complainant.

Action on Receipt of Complaint

Upon receiving a complaint, the Complaints Manager will:

1. In some circumstances, contact the complainant direct to discuss whether it may be possible to mediate or negotiate a settlement;
2. Record the complaint. At this stage the Complaints Manager will decide whether the complaint should be investigated under this procedure or whether it should be referred elsewhere, for example under staff disciplinary procedure;
3. Inform those involved of the complaint and who will be investigating. Agree with line manager how to inform members of staff that they have been named in a complaint and provide them with a copy, unless this would prejudice the investigation. If this is the case the Complaints Manager should inform the relevant senior manager of this decision;
4. Appoint and prepare terms of reference for an Investigating Officer (who is not involved in the management of the services to the child concerned) and an Independent Person (who cannot be an employee or an elected member of the authority) to the investigation. The Independent Person is appointed to shadow the Investigating Officer. Under the arrangement, the Independent Person accompanies the Investigating Officer throughout the investigation and may see the child concerned alone if considered necessary;
5. Acknowledge receipt of the complaint within 7 days, and advise the complainant of how the complaint is being dealt with, the timescales and the name of the Investigating Officer.

The Complaints Manager and the Investigating Officer should consider whether it is necessary to halt a particular aspect of the case pending investigation, for example where there are ongoing Court proceedings.

The Investigation

Upon being appointed, the Investigating Officer will:

- i. Conduct an investigation, interviewing the complainant and staff as appropriate agree the timescale for the investigation;
- ii. Investigations should be completed with 25 working days of the receipt of the complaint. If this timescale is not possible, the Investigating Officer should consult with the Complaints Manager and agree a timescale for extension. In any event, this extension must not exceed a full response to the complaint within 65 working days;
- iii. Produce a report making recommendations about action to be considered;
- iv. Send a copy of the report to the Complaints Manager;
- v. Staff and carers need to be aware that it is a legal requirement upon the authority to undertake investigations when a complaint is made. It is therefore essential that they cooperate with the investigation and provide information to the Investigating Officer through their verbal responses to questions and access to written material.

Action Following Investigation

Upon receiving the Investigating Officer's reports and any supplementary report provided by the Independent Person, the Complaints Manager will:

- a. Send a copy of the report(s) to the relevant manager of the service complained about and, if the complaint concerns front-line service providers, the staff themselves;
- b. Ask the senior manager for his or her adjudication, in consultation with others as necessary, and what action the local authority will be willing to take in relation to the investigation's recommendations;
- c. Send a copy of the Investigating Officer's report, any supplementary report prepared by the Independent Person and the local authority's response to the report(s) to the complainant. This must be sent within a maximum of 65 working days of receipt of the complaint;
- d. Advise the complainant of the right to submit a request to the Complaints Manager within 20 working days that the complaint proceed to a Stage Three Review Panel;
- e. Monitor the outcome of the complaint in terms of consumer satisfaction with the process and the eventual outcome, and the implications for future service delivery and training.

8. Stage Three - Review Panels

If the complainant is not satisfied with the outcome of the complaint, s/he has 20 working days to ask for the response to be reviewed by a Review Panel. The request should be made to the Complaints Manager and acknowledged in writing within 2 working days. The Complaints Manager will ensure a Review Panel is set up and meets within 30 working days of the complainant's request being made.

The Review Panel must be made up of 3 independent people, who must not be:

- i. Employees of the authority;
- ii. Elected members of the authority;
- iii. A spouse or partner of either of the above.

One member will be appointed as the Panel Chair. It is good practice that the Chair should not have been employed or an elected member of the authority within the last 3 years.

The complainant should be notified of the Panel's date and location in writing at least 10 working days before the Review Panel meets and be invited to attend. The complainant should also be informed of his entitlement to be accompanied by another person and for this person to speak on his behalf.

Those persons involved with the investigation at Stage 2 (e.g. the Investigating Officer, and the Independent Person) should also be invited to attend.

The Chair should make the final decision on attendees (including asking the local authority to make specific members of staff available to provide specialist advice or opinion).

Panel papers should be sent to Panel members and other attendees as soon as these have been agreed by the Chair and no later than 10 working days before the date of the Panel. These should normally include: information on Stage 1 (as relevant), the Stage 2 investigation report(s), the local authority's adjudication, any policy, practice or guidance information relevant to the complaint, and any comments that the complainant has submitted to the Panel. The papers should also include information on any local practice around Panels, such as conduct, roles and responsibilities.

The Review Panel's recommendations should be recorded in writing and copies sent to the Head of Children's Social Care within 5 working days.

The Head of Children's Social Care must respond to the recommendations of the Review Panel and make the decisions known to the complainant within 15 working days, explaining the authority's decision and reasons.

In terms of the Complaints Procedure, there is no further action that the complainant can take to progress a complaint.

Complainants should be advised of their right to make representations to the Local Government Ombudsman if they are still not satisfied.

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