



# Statutory Complaints Procedure

For Members of the Public

## Procedure Summary

This procedure outlines the process for complainants.

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A hands-on approach to help children in Slough be

..... Safe, Secure and Successful

## Table of Contents

Accessibility .....	3
Introduction.....	4
Trust Corporate complaints .....	4
Key Principles .....	4
The role of the Complaints Manager .....	5
Who can complain?.....	6
Advocacy support.....	6
Members of Parliament/ Councillor Enquiries.....	7
How to make a complaint .....	7
What can be complained about? .....	7
What cannot be complained about?.....	8
Where a complaint raises vulnerability or harm issues.....	8
Time limit for making a complaint .....	8
Complaints and the media .....	9
The statutory complaints process .....	9
Local Government Ombudsman (LGO) .....	11
Outcome and Resolution of Complaint.....	11
Learning from complaints .....	12
Data Protection .....	12
Anonymous complaints.....	12
Unreasonably Persistent Complainants .....	12
Annual Customer Service report .....	13
Status of this guidance .....	13
APPENDIX A: Corporate Complaints Policy .....	14

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## Accessibility

If you require this document in an alternative format please discuss your request with the Complaints Manager.

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## Introduction

This policy is for the use of everyone who may be involved in the application of Slough Children's Services Trust's Statutory Complaints Procedure for Children's Services. The aim is to provide a comprehensive and easily accessible guide to all aspects of the procedure. Complaints not covered by this process will be dealt with under this Trust's Corporate Complaints Procedure.

There are three stages of the statutory complaints procedure:

- **Stage One** – Local resolution
- **Stage Two** – Independent investigation
- **Stage Three** – Independent review panel hearing

A robust and responsive complaints procedure is a key factor in showing that professionals working with children, young people and families are open to challenge, are able to communicate effectively and demonstrate that they make decisions in a transparent, open and honest way.

This procedure should also be read in conjunction with 'Getting the Best from Complaints'<sup>1</sup>. This guidance sets out changes to the Children's Social Services representations procedure as a result of the Children (Leaving Care) Act 2000, Adoption and Children Act 2002 and the Health and Social Care (Community Health and Standards) Act 2003.

## Trust Corporate complaints

If your complaint doesn't fall into the Statutory Complaints Procedure it will be managed under the Trust's Corporate Complaints Policy (please see Appendix A, p14).

## Key Principles

- The welfare of the child is paramount.
- The procedure should not detract from the Trust's duty of care.
- People using the complaints procedure will be treated with dignity and respect.
- The complaints procedure is clear and easy to access.
- The complainant remains informed about the progress of their complaint.
- Complaints are viewed positively as a means of gaining feedback and information to improve the services we provide and not a negative process to apportion blame.

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<sup>1</sup> Department for Education and Skills: Getting the Best from Complaints: Social Care Complaints and Representations for Children, Young People and Others; Change for Children- Every Child Matters

The Children Act 1989 defines the complaints procedure as being for 'representations (including complaints)'. In this legislation a representation could also include a compliment or an enquiry on the nature, delivery or availability of a service. Therefore, for a clearer understanding and to benefit those required to use this document, the following terms will be used as a replacement to the phrase, 'Representation':

- **Complaint** – A complaint may generally be defined as an expression of dissatisfaction or disquiet, in relation to an individual child or young person, which requires an investigation and response.
- **Concern** – On a daily basis there are many instances where minor concerns can be addressed without further recourse to the complaints procedure. These are generally handled locally within the team, and resolved within a short space of time.

It is also acknowledged that those in receipt of a service should be able to express their views with regards to the service they receive, or the establishment they live in, without having this framed as a complaint.

- **Compliment** – Many of those in receipt of a service wish to give a compliment. The Trust welcomes these as they provide an insight of where 'things are working well'.
- **Deferred** – It may not be possible to respond to a complaint immediately for a number of reasons, for example if a case is in Court, a complaint may not be progressed if it is felt that it may impact on the Court judgement. In such cases the complaint is deferred until Court proceedings are concluded; the complainant has 12 months to resubmit their complaint if necessary or deemed appropriate.

### The role of the Complaints Manager

The Complaints Manager does not investigate the complaint, but has overall responsibility for overseeing the managing, developing, resourcing and administering of the Complaints Procedure. The Complaints Manager must also maintain a sensitive, customer-focused service appropriate to the needs of children and young people.

#### **Upon receipt of the complaint, other key tasks will include (not an exhaustive list):**

- Ensure complaints received are eligible for investigation; acknowledge / decline as appropriate.
- That Advocacy services are explained, offered and provided when required.
- Appointing Investigating Officers, Independent Persons and Review Panelists, ensuring that there are no conflicts of interest at any stage between parties involved in delivering the procedure. (Impartiality and Independence)
- Co-operating with other persons (or agencies) as may be necessary in order to investigate or resolve complaints.

- Monitoring the progress of the investigation and ensuring its smooth running, including reporting on timescales.
- Ensuring the complainant is kept informed at all stages of the procedure.
- Working closely with the Panel Chair on the organisation of Stage 3 Review Panels.

**The Complaints Manager is also expected to support the Trust by:**

- Providing guidance, advice and support to staff on management of complaints, act as ‘critical friend’ to provide appropriate challenge to staff and managers in the process.
- Supporting staff involved in all stages of the complaints procedure whilst ensuring that the procedure is being followed.
- Offering advice on the response from the Trust and providing practical support to complainants
- Provide appropriate training to staff in the Trust on handling complaints.
- Maintaining a pool of people with skills / training needed to conduct investigations.
- Overseeing the arrangements for publicity
- Providing a quality assurance role on all communication/ response.

### Who can complain?

Section 26(3) and 24 D of the Children Act 1989 specifies a list of those who are eligible to make a complaint. Other than the young person themselves, a parent, carer, an adult who has parental responsibility, or an advocate<sup>2</sup> may complain on behalf of the child / young person to Slough Children’s Services Trust.

The Trust has the discretion to decide whether or not the ‘complainant’ is appropriate to act on behalf of the child or young person or has sufficient interest in their welfare.

In reaching this decision, the Complaints Manager should, whenever possible, check with the child or young person that he or she is happy with the person making the complaint on their behalf, and that the complaint submitted reflects **their** views.

If the decision is made that the complaint should be declined, the author of the complaint should be provided with an explanation in writing.

### Advocacy support

Sometimes, the child or young person will need extra help to make their complaint, either just at the beginning or possibly throughout the whole procedure. This may be best provided

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<sup>2</sup> If a complaint is lodged by a party identifying themselves as a McKenzie Friend of someone eligible to lodge a complaint through the Statutory Complaints Procedures, through demonstrated evidence from the complainant, the McKenzie Friend is to be dealt with as an advocate (see Advocacy Support below) for the party lodging the complaint.

by a relative or a friend, or arrangements can be made to provide independent advocacy support.

They can request this themselves or someone can do this on their behalf, e.g., their foster carer or social worker. Alternatively the Child Participation Officer – Slough Children's Services Trust can make all of the arrangements required.

### Members of Parliament/ Councillor Enquiries

On occasions a complainant may approach their Member of Parliament (MP) or Councillor with their complaint. When an enquiry is submitted by an MP or Councillor these are usually 'for the attention of' and dealt with by the Chief Executive of the Trust.

In approaching their MP/ Councillor, constituents have given implied consent for information about their case to be shared with them.

Where constituents are not the service user or other parties are involved in the same situation, care must be taken to ensure that information is not shared about those individuals who are not party to the enquiry and third party information is not disclosed in accordance with the Data Protection Act 1998.

### How to make a complaint

Complaints can be accepted in any format which the complainant chooses – including

- orally
- in writing
- text message or
- website facility

### What can be complained about?

Some examples are given below – this is not an exhaustive list and the Complaints Manager will seek legal advice as necessary.

- An unwelcome or disputed decision.
- Concern about the quality or appropriateness of a service.
- Delivery or non-delivery of services.
- Quantity, frequency, change or cost of a service.
- Attitude or behaviour of staff.
- Poor / lack of communication.
- Application of eligibility and assessment criteria.
- Assessment, care management and review.
- The quality or accuracy of a social work report.
- Control of parental contact.

## What cannot be complained about?

Some examples are given – this is not an exhaustive list.

- Disciplinary proceedings.
- Criminal proceedings.
- Grievance proceedings.
- Complaints from staff about personal issues.
- Foster Carers on their own behalf (this is dealt with under the Corporate Procedure). However, they are able to support the 'looked after child' in making a complaint regarding services provided.
- Where an appeals process already exists (for example SEN Tribunal)
- Complaints relating to independent providers (all independent service providers are required to have their own complaints procedure in place)
- The Slough Children's Services Trust is in the midst of Court proceedings with the case in question.
- Where a Tribunal has made, is making, or is about to make a determination on the specifics of the complaint (in these instances it is usual to consult with the Legal Team for confirmation /clarification).
- Where the same complaint has previously been dealt with through all stages of the complaints procedure.
- Decisions made at Child Protection Case Conferences (this is covered by a separate procedure which is laid out in Chapter 9 of the Berkshire LSCB Child Protection Procedures (which can be found on Slough Children's Services Trust's website).

## Where a complaint raises vulnerability or harm issues

The safety and protection of a child or young person is a higher priority than the investigation of the complaint. If they are at risk of harm, child protection procedures should be instigated immediately. Any other aspects of the complaint are put 'on hold' and if appropriate are resumed, as soon as the issue of protection and safety has been concluded.

## Time limit for making a complaint

There is a time limit of 12 months from when the issue being complained about occurred, to when a complaint may be accepted. After this time, any complaints made are not usually considered.

However, this is negotiable on a case by case basis and at the Trust's discretion; whereby the Complaints Manager will write to the complainant advising them of any decisions made and providing an explanation where required.

The complainant should also be informed of their right to approach the Local Government Ombudsman if they disagree.

Possible grounds for extending the time limit will be negotiated between the Complainant and the Complaints Manager who will consider relevant legislation.

Any decisions will consider the best interests of the child.

### Complaints and the media

Whilst complaints should remain strictly confidential, some may come to the attention of the media. The fact that the complainant has gone to the media (local or national) does not absolve the Trust from its responsibility to maintain confidentiality and no information should be disclosed to the media regarding a case/ complaint.

The media and complaints handling should remain separate. Media contact is managed by communications professionals within the Trust.

The Complaints Manager will co-ordinate any exchange of information between relevant parties (Head of Communications, Chief Executive, other Head of Services etc) where there is potential for media involvement.

### The statutory complaints process

#### **Stage One – Local Resolution**

The initial complaint that comes in can sometimes go directly to the Practice Manager of the service rather than the Complaints Manager – either way the Complaints Manager should be informed of the complaint in order to record and monitor the management of the complaint. The stage one investigation and response is carried out by either the Practice Manager, or their delegate; if the Practice Manager has been named in the complaint, then the Head of Service will be approached. The following then applies:

- Acknowledge the complaint within 3 working days (Complaints Manager).
- 10 working days is the expected timescale for a full response to the complainant, (which begins / is calculated from the date of acknowledgement).
- This timescale may need to be extended (through negotiation with the complainant) e.g., if the complaint is complex / if an advocate is required / staff required to be interviewed are unavailable
- If the complaint includes concerns regarding a member of staff (for example; their conduct, decisions made, dispute over information contained in the assessment etc.); at the very least, staff should be informed that a complaint is being investigated which concerns them.
- Good practice dictates that the staff member is interviewed as a matter of course; should the complaint progress to stage two (where the staff member is required to be formally interviewed) they will already be prepared for this eventuality.

- At the conclusion of the response, the complainant must be informed of their right to request consideration for their complaint to progress to stage two if they remain dissatisfied. They have 20 working days in which to request this.

### **Stage Two – Independent Investigation**

The Complaints Manager will oversee the stage two processes.

- The Complaints Manager will appoint an Independent Investigator to carry out the investigation – they will write a report on completion of their investigation, which is forwarded to the Head of Service.
- An Independent Person will also be identified, working alongside the Independent Investigator – who will also write a report on completion of the investigation which is forwarded to the Head of Service.
- The use of an Advocate should be reiterated at this point if the complaint is being made by a young person.
- If at any stage during the investigation, the Investigator believes that the complaint is capable of reaching an early resolution, then the Trust will suspend the complaint investigation.
- It should be recognised that this can be a very difficult period for staff, especially throughout the interview stage. They must be informed that they are able to bring a colleague for support to the interviews if they wish (their line manager cannot act in this role – also the department cannot fund the support arranged).
- Staff should feel confident in expressing their views on the issues, and how procedures were followed in each case. They should feel able to either agree or disagree with each complaint.
- The expected timescale for a response to the complaint is 25 working days. If the complaint is particularly lengthy or complex, under these circumstances an extension of the timescales may need to be negotiated with the complainant – up to a maximum of 65 days.
- The Head of Service will normally respond to the complainant in writing enclosing the Investigator's Report. However the Trust may consider that a discussion may more easily resolve the complaint and will offer a resolution meeting to the complainant in its written response.
- At the conclusion of the response at stage two, the complainant must be informed of their right to progress their complaint to stage three if they remain dissatisfied with the outcome. They have 20 working days in which to request this.

### **Stage Three – Review Panel**

If the complainant remains unhappy and is in disagreement with the outcome reached, they are entitled to request that their complaint goes to review panel. This is the third and final stage of the Statutory Complaints Procedure.

The Panel will consider whether the complaint was properly investigated, whether the report has a clear logic and whether the evidence presented supports conclusions and recommendations made at stage two.

- The Panel will consist of three members (one to be Chair).
- The Panel will focus on the complainant's desired outcomes, with a view to a resolution.
- The Panel Chair will write to the Chief Executive Officer informing them of the outcome of the Panel.
- The Chief Executive Officer will write to the complainant informing them of the outcome and decisions of the Panel.
- On completion, should the complainant remain dissatisfied, they will be advised on how to contact the Local Government Ombudsman by the Complaints Manager.

### Local Government Ombudsman (LGO)

The LGO investigate complaints of injustice arising from maladministration by the Trust, which may include looking at complaints both in relation to the provision of Children's Services and in relation to the operation of the complaints process. They can also investigate complaints about how the Trust has carried out these processes.

When necessary the LGO will inform the complainant that the Trust must have an opportunity to investigate / respond to a complaint before they will become involved. For example, if the complainant goes direct to the LGO without having first made the complaint to the Trust allowing them the opportunity to investigate and respond. However in exceptional circumstances the LGO will consider an early referral from the Trust (this is done on a case by case basis).

The LGO are impartial. When they receive a complaint, they are on the side of neither the complainant nor the Trust. They are there to defend Authorities and Trusts against unjustified allegations as well as to seek remedies for those who have been wronged. If the LGO do find that something has gone wrong and that a person has suffered in consequence, they will do their utmost to obtain a satisfactory remedy. They will not question what has been done simply because the complainant does not agree with decisions made.

If the LGO is satisfied with the remedial action offered by the Trust, the complaint will be regarded as 'locally settled' and discontinue their investigation. Before reaching that decision, the LGO will usually consult the complainant, but is not bound by their views.

### Outcome and Resolution of Complaint

There may be a number of outcomes to a complaint which range from a complaint being upheld, partially upheld or not upheld.

There are a range of resolutions that the Trust may wish to progress based on the outcome and recommendations of investigators.

These will be considered on a case by case basis, this may include compensation under Section 92 of the Local Government Act 2000. Any resolution should be appropriate and proportionate based on the outcome of the investigation.

## Learning from complaints

It should be remembered that the formal complaint investigation process is not to 'find fault', but to look at the practices followed in relation to the complaint issues at hand. This also provides an insightful valuable source of information and these experiences will be used to:

- Identify service problems and make improvements.
- Improve / adapt staff learning and enhance professional development.

To this aim, a 'Learning from Complaints' form will be forwarded to the appropriate Manager, or Head of Service for completion following the investigation and closure of a complaint.

## Data Protection

All functions of the complaint procedure must adhere to the requirements of the Data Protection Act 1998 and the Freedom of Information Act 2000.

Under the Data Protection Act 1998, those who collect and use personal information need to follow rules of good practice for handling information called the 'data protection principles'. The Act also gives rights to individuals whose information they collect and use.

The Information Commissioner's Office (ICO) is responsible for regulating the Data Protection Act.

If a complaint is made direct to the ICO regarding the way the Trust has handled or used personal information, the ICO will first establish that the Trust has been given an opportunity to put things right. If the Trust has been unsuccessful in resolving the situation to the satisfaction of the complainant, then the ICO will look into the matter concerned.

The ICO cannot award compensation. Their main aim is to advise on ways to change, which will enable personal information to be handled correctly in the future. For further information, **please use the following link:**

[http://www.ico.gov.uk/complaints/data\\_protection.aspx](http://www.ico.gov.uk/complaints/data_protection.aspx)

## Anonymous complaints

Anonymous complaints will be referred to the Complaints Manager who will record them in the same way as other complaints. Anonymous complaints fall outside of the scope of the statutory procedure and the Trust will decide what action to take if any. Just because the complaint is from an anonymous source will not mean that the Trust will not investigate it.

## Unreasonably Persistent Complainants

A very small number of complainants fall within the definition of persistent or unreasonable complainants. To define a complainant as such, staff should seek the advice of the Complaints Manager and have the verification and endorsement of a Senior Manager. Legal

advice may be sought to inform decisions regarding the classification of a complainant as unreasonable / persistent.

**Features of a persistent complainant may include:**

- A person who makes the same complaint repeatedly but never accepts outcomes
- A person who seeks an unrealistic outcome and persists until it is reached
- People who have a history of making other unreasonably persistent complaints.

**Before identifying a person described as above, the Trust must ensure and is satisfied that a series of things are not going wrong and that the complaint has been:**

- properly and fully considered
- robustly investigated and
- appropriately responded to

Each case should be discussed on an individual basis and where necessary legal advice sought.

To manage this behaviour the Chief Executive Officer will write to the complainant, advising them that they will be categorised in this way; provide an explanation, outline any plans intended to make, and advise, them on how the complaint will be managed, including the mechanism for contact with the Trust and single point of contact.

### Annual Customer Service report

The Trust is required to publish an annual report at the end of every financial year which details complaints made for that year. It is the responsibility of the Complaints Manager to produce this and is an important part of the governance function and quality assurance, as this can inform practice and service development.

The report should include evaluation on types of complaints received, whether there are any trends and final outcomes and decisions reached.

The report is presented to the Slough Children's Services Trust Board and is provided to the Council in line with contractual arrangements.

The Annual Customer Service Report will be shared with the Local Safeguarding Children's Board to ensure activity is noted and any lessons learnt are shared.

Once accepted / agreed the annual report is available to both staff and the general public alike and can be found on the Trust's website.

### Status of this guidance

The Slough Children's Services Trust Complaints Procedure should be seen as a public document and should be made available to those who request it and is readily obtainable on the public website.

This procedure complies with the Statutory Complaints Guidance and will be administered in conjunction with '**Getting the Best from Complaints**', Social Care Complaints and Representations for Children, Young People and Others (**Department for Education and Skills**).

## APPENDIX A: Corporate Complaints Policy

### Stage One

Your complaint will be sent to the manager of the service that you are unhappy about. You need to give as much detail as possible as this will help us investigate your complaint.

You should receive an acknowledgement within two working days and a reply within 10 working days.

If you are unhappy with your stage one reply, you can ask for your complaint to be considered at stage two by the department director or head of service.

### Stage Two

Your stage two complaint needs to be in writing, stating which aspects of the previous reply you are not happy with and what more you think we should do. Your complaint at Stage Two will be considered by the Head of Service or Department Director.

This must be received within 20 working days from the date of the stage one reply.

You should receive an acknowledgement within two working days and a reply within 10 working days.

### Stage Three

If you are still unhappy with your stage two reply, you can ask the chief executive to review your complaint. You need to explain in writing which aspects of the previous response you are not happy with and what more you think we should do.

Your stage three complaint must be received within 20 working days from the date of the stage two reply.

You should receive an acknowledgement within two working days and the aim is to reply within 20 working days.

If we cannot respond fully within that time, we will contact you, explain why and let you know when you will receive a full response.

Your stage three request should be sent to [complaints@scstrust.co.uk](mailto:complaints@scstrust.co.uk) or to:

Complaints  
Slough Children's Services Trust  
St Martins Place  
51 Bath Road  
Slough

## SCST Corporate and Children's Social Care Complaints Process

