

Complaints and Representations Procedure



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1 Introduction

- 1.1 The Complaints and Representations Procedure for Children's Social Care Service reflects Solihull Council's (SMBC) statutory obligation to operate a Complaints and Representations Procedure and is in line with the Local Authority Social Services Act 1970, The Children Act 1989 Representations Procedure (England) Regulations 2006 (Statutory Instrument 2006 No. 1738), and the accompanying guidance 'Getting the Best from Complaints' DfES 2006.
- 1.2 The Customer Relations Manager is part of the Business and Quality Team and is responsible for managing the Statutory Complaints and Representations Procedure.
- 1.3 The information provided throughout this Procedure is in accordance with 'Getting the Best' from Complaints' 2006, which is available at:
www.education.gov.uk/publications/standard/publicationDetail/Page1/DFES-2055-2006
- 1.4 This procedure sets out "a statutory procedure for a child or young person who is likely to want to make representations, including complaints about the actions, decisions or apparent failings of a local authority's children's social services provision; and to allow any other appropriate person to act on behalf of the child or young person concerned or make a complaint in their own right". (*Getting the Best from Complaints 2006 Section 2.1.2*)

2 Key Principles

- 2.1 All forms of feedback from Service Users and their carers should be used to instigate service improvements. Comments and Compliments that raise, share and promote best practice along with positive feedback can be as important as responding to and acting upon issues raised through complaints.
- 2.2 Children and young people who make complaints should have their concerns resolved swiftly and, wherever possible, by the manager of the service being provided. The complaints procedure is a useful tool which can indicate where services may need improving; it is not a negative process for apportioning blame.
- 2.3 A complaint is generally defined as "an expression of dissatisfaction or disquiet in relation to an individual child or young person, which requires a response". (*Getting the Best from Complaints 2006 S2.1.3*)
- 2.4 SMBC is required to provide Complainants with information about advocacy services and offer help to obtain an advocate.
- 2.5 The Complainant should be given information about SMBC's complaints procedure including how to contact the Customer Relations Manager.
- 2.6 The Complainant has the right to approach the Local Government Ombudsman at any time. However the Ombudsman would normally expect SMBC to consider the complaint initially and may refer it back to the Customer Relations Manager if this has not been done.
- 2.7 Complaints may be made via Solihull Council's website, in writing, on the telephone, by email or by using the forms within our leaflets. They can also be made by speaking to the person who is providing the service, for example the social worker or family support worker.

- 2.8 Comments are views, concerns or suggestions for improving a service; these should be logged and passed to the relevant service manager for consideration and a response if requested.
- 2.9 Compliments are praise for a member of staff or a service - these should also be logged and forwarded to the member of staff and manager for their information and records, as well as to the Business & Quality Team. Managers will record these and should highlight best practice with others to help service and practice improvement. Communications colleagues can also be advised of these for inclusion in relevant publications / press releases.
- 2.10 Representations are complaints about a policy or a policy change; these will be recorded and passed to the Senior Communications Officer, who will record and process these under the Corporate Complaints Procedure.
- 2.11 SMBC is committed to learning from all forms of feedback including complaints and compliments and has established systems to ensure that this takes place.

3 Time Limit for making a complaint

- 3.1 SMBC will not consider complaints made more than one year after the grounds to make the complaint arose (*Children Act 1989 Representations Procedure (England) Regulations 2006, Regulation 9*). SMBC has the discretion to extend this time limit, if it feels that "it is still possible to consider the complaints effectively and efficiently, or where it would be unreasonable to expect the Complainant to have made the complaint earlier; for example, where a child was not able to make the complaint or did not feel confident in bringing it forward in the year time limit". (*Getting the Best from Complaints 2006 Section 3.3.2*)

4 Who may complain?

- 4.1 Complaints under these procedures must be made by or on behalf of a child or young person who is receiving a social care service (an eligible person) and must be in respect of that person and in respect of the discharge of SMBC's function.
- 4.2 Complaints can be made on behalf of an eligible person where the eligible person is either unable to make the complaint themselves or has given consent to the Complainant to act on their behalf. People who qualify to make a complaint are:
1. Any child or young person who is either 'looked after' by SMBC or is a child 'in need';
 2. Their parent or someone who has parental responsibility for them;
 3. Any SMBC foster carer (including those provided by independent fostering agencies);
 4. Children leaving SMBC's care, former and former relevant children (children looked after by SMBC aged 16, 17 and 18);
 5. A child qualifying for advice and assistance under The Children Act 1989, section 24;
 6. Special Guardians;
 7. A child or young person (or a parent or someone with parental responsibility) subject to a Special Guardianship order;

8. Any person who has applied for an assessment under The Children Act 1989, section 14F (3) or (4), for Special Guardianship Support Services;
 9. Any child, young person who may be adopted, their parents and guardians
 10. Persons wishing to adopt a child;
 11. Any person for whom the arrangements for the provision of adoption services extend;
 12. Adopted persons, their parents, natural parents and former guardians;
 13. Any such other person as SMBC considers has sufficient interest in the child or young person's welfare.
- 4.3 Where a complaint is made on behalf of a child, SMBC will where possible seek confirmation that the child or young person is happy for this to happen and that the complaint reflects their concerns or is in their best interests.
- 4.4 The Children Act, 1989 gives SMBC discretion to decide whether or not the representative making the complaint on behalf of the child or young person is suitable to act in this capacity or has Parental Responsibility or has sufficient interest in the child's welfare. If the representative is not an eligible person or is not acting on behalf of an eligible person, their complaint may be dealt with in accordance with the Council's Corporate Complaints Procedure. For example where foster carers make complaints about the services they receive themselves or their interaction with SMBC, this will be managed as a Corporate Complaint.

5 What may be complained about?

- 5.1 A complaint may be about SMBC's discharge of its functions under the Children Act 1989, The Care Leavers Act 2000 or the Adoption and Children Act 2002 and relate to either the provision of or failure of any of its social services functions.
- 5.2 The points below are offered as a guide only and therefore should not be used as an exhaustive list:
1. An unwelcome or disputed decision;
 2. Concern about the quality or appropriateness of a service;
 3. Delay in decision making or the provision of services;
 4. Delivery or non-delivery of services;
 5. The quantity, frequency, change or cost of a service;
 6. Attitude or behaviour of staff;
 7. The application of eligibility and assessment criteria;
 8. The impact on a child or young person of the application of an SMBC policy;
 9. Quality of assessments, care management and reviews.
- 5.3 Where a complaint can be resolved immediately and easily by giving information or clarifying an enquiry, there is no need to invoke the procedures. In these situations a record should be made in the service user's CareFirst file.
- 5.4 The following functions may also be the subject of a complaint:
- Any decision made by SMBC in respect of the Pre Proceedings Process;

Part 4 of the Children Act, 1989:

- The decision made by SMBC to initiate care proceedings or supervision orders (section 31);
- The effect of the care order and SMBC's actions and decisions where a care order is made (section 33);

- The decisions regarding parental contact with children in SMBC's care (section 34);
- How supervisors perform their duties where a supervision order is in force (section 35); and

Part 5 of the Children Act, 1989:

- The actions of SMBC regarding applications for and duties in relation to child assessment orders (section 43); and
- Matters relating to applications for emergency protection orders and decisions relating to the return of children who have been removed (section 44).

Adoption-related and Special Guardianship functions

- 5.5 There are adoption-related functions which may also be the subject of a complaint; these would normally be dealt with under the Independent Review Mechanism. See Appendix 1 for those adoption functions included in the 2006 Regulations.
- 5.6 For the functions of the Special Guardianship Regulations 2005 included by the 2006 Regulations that may be the subject of a complaint, see Appendix 2.

6 Complaints about the Child Protection Process

- 6.1 In general the Children's Statutory Complaints procedure should be used to respond to complaints about SMBC's Children's Social Work Service provision and the Local Safeguarding Children's Board (LSCB) complaints process should be used to respond to complaints about the conduct or outcome of a Child Protection Conference. The LSCB process can accessed at www.solihull.gov.uk/staysafe
- 6.2 Where a complaint is received by the Business & Quality Team and the Customer Relations Manager identifies there are issues that may potentially fall under the LSCB complaints process, the Customer Relations Manager will arrange a meeting with the Child Protection and Review Unit Manager as soon as possible to agree a planned and co-ordinated way to manage the complaints and the Complainant will be advised. For example complaints about the outcome of a child protection conference can be made on the grounds of the quality of the social work assessment / lack of social work services and would be managed under the Children's Statutory Complaints Procedure. The outcome would then inform the Local Safeguarding Children's Board complaints process which would consider if the conference had the appropriate information and / or the information had been given due consideration in reaching a decision regarding the need for a Child Protection Plan.
- 6.3 Where complaints may fall under another agency's complaints procedure, see section 17 below.

7 What is exempt from the Procedure?

- 7.1 The following provides examples of what is exempt from the Procedure. This is not an exhaustive list:
1. The person wishing to complain does not meet the requirements of "who may complain," and is not acting on behalf of such an individual;
 2. The complaint is not in relation to the actions or decisions of SMBC, or of anybody acting on its behalf;

3. Complaints made more than one year after the grounds to make the complaint arose (Regulation 9), subject to SMBC's discretion as outlined in section 3.1 above.
 4. The same complaint has already been dealt with at all stages of the procedure;
 5. SMBC has discretion to decide whether to consider complaints where to do so would prejudice any of the following concurrent investigations:
 - disciplinary or grievance proceedings;
 - Court Proceedings;
 - Tribunals;
 - Criminal Proceedings.
- 7.2 When a complaint is received checks should be made to ensure no concurrent HR investigation / process is underway.
- 7.3 SMBC must write to the Complainant explaining its decision and specifying the relevant concurrent investigation (Regulation 8(3)).
- 7.4 Once the concurrent investigation has been concluded / discontinued the Complainant may resubmit their complaint to SMBC within one year of the concurrent investigation being concluded / discontinued.
- 7.5 Complaints concerning the complaints process will be considered under the Corporate Complaints Procedure.
- 7.6 Complaints concerning schools cannot be considered under this procedure and should be made to the relevant school direct.
- 7.7 Complaints about the Special Education Needs Team will be dealt with under the Corporate Complaints Procedure unless the complaints concern issues which should be addressed by the Appeals Tribunal.

8 Anonymous Complaints

- 8.1 Anonymous complaints fall outside the scope of the Statutory Complaints Procedure. They should be recorded and assessed for any actions that may need to be taken which may include referral to other procedures as relevant.

9. Complaints relating to more than one local authority

- 9.1 Complaints relating to more than one local authority should be considered by the authority which is looking after the child or in any other case by the authority within whose area the child is ordinarily resident.

10 Help to Complain – advocacy and support for Children and Young People

- 10.1 SMBC's Children's Social Work Service work in partnership with the National Youth Advocacy Service (NYAS) who provide advocacy services for children and young people in Solihull. Advocates provide independent and confidential information, advice, representation and support to the child or young person making a complaint. The Business and Quality Team will provide children making complaints, with the contact details of NYAS when acknowledging the complaint.

11 The Complaints Process

- 11.1 The Business & Quality Team aims to provide an accessible complaints service and to promote a 'listening and learning culture'. The team also provides advice and guidance to managers who provide complaint responses and to staff who may be involved in complaint investigations. They will also ensure that the Complainant and relevant staff are kept informed about the progression of the complaint.
- 11.2 The Business & Quality Team will record the complaint on the Respond database and will maintain a record of all letters, emails and telephone contacts in respect of the complaint and its progress.
- 11.3 The Business & Quality Team will check the Complainant's status in relation to making complaints and clarify / define the complaints and the Complainants desired outcomes. The team will write to the Complainant acknowledging receipt of their complaints, within **three working days** of receiving the complaint; the letter will detail their defined complaints and desired outcomes. A copy of this acknowledgment letter will be sent to the Team Manager who will provide a response as detailed in section 11.12 below. The date of the acknowledgement letter is used as the start of the complaint timescale.
- 11.4 Where the Customer Relations Manager receives a complaint and identifies issues that may potentially fall under the LSCB complaints process, please see section 6 above for the initial process to follow.
- 11.5 Where a Complainant requests that their complaints be considered directly at Stage 2 of the complaints process, or when defining a complaint it becomes apparent that a Stage 1 investigation is not appropriate, the Customer Relations Manager will need to agree progression to Stage 2 of the procedure, with the Complainant.

Complaints concerning different services

- 11.6 Where a complaint relates to a number of different services, for example the Child Protection Review Unit or an External Fostering Provider, the Customer Relations Manager will liaise with the relevant parties and confirm any agreement in writing or, where necessary, convene a planning meeting to develop an agreed plan as to how and who will respond to the complaints, as some concerns may be about the contracting process. These meetings will be minuted with agreed actions. See also sections 6 above and 17 below.

Alternative Dispute Resolution (ADR)

- 11.7 Efforts to resolve a complaint should be continued during the consideration of the complaint. Alternative ways of seeking a resolution should be considered at any stage of the complaints process.
- 11.8 There are a number of methods that could be used to resolve a complaint that do not require a full investigation, these include:
- The provision of an apology or an explanation;
 - Conciliation and mediation;
 - An agreement for the reassessment of the children or young person's needs;
 - Practical action specific to the particular complainant;
 - An agreement to a review of practice; and,

- An assurance that SMBC will monitor the effectiveness of its remedy.
- 11.9 For example mediation can be considered **at any stage** of the complaints process and may be offered as an alternative process to help resolve the complaint more speedily, through all the relevant parties (including the social worker, the team manager and the Complainant) meeting to discuss the complaint issues and agreeing a way forward to help resolve the complaint.
- 11.10 Where the Complainant agrees to Alternative Dispute Resolution, following a Stage 2 investigation, it will not restrict their right to request a Stage 3 Review Panel, as long as it is within the 20 working day timescale. The Complainant can also terminate the Alternative Dispute Resolution process at any time, should they wish to invoke their right to a Stage 3 Review Panel.
- 11.11 The complaints process consists of three Stages
- Stage 1 – Local Resolution
 - Stage 2 – Investigation/Mediation
 - Stage 3 – Review Panel

Stage 1 - Local Resolution

- 11.12 A Stage 1 complaint should be addressed at a local level by the Team Manager (**Responding Manager**) who has responsibility for the service. The Business & Quality Team will send an acknowledgement letter to the Complainant within **three working days** of receipt, it will detail the defined complaints and desired outcomes; who will be dealing with their complaint, the expected date of the response, information about Advocacy Services and a copy of the complaints process flowchart will be included. A copy of this letter will be passed to the Responding Manager to enable them to provide their response to the complaints. The date of the acknowledgement letter is used as the start of the complaint timescale and for monitoring performance. The Business & Quality Team will also provide advice as to the progression of the complaint and ensure that the Complainant and relevant staff are kept informed.
- 11.13 There is a **10 working day** timescale for Stage 1 complaints, which starts from the date of the acknowledgement letter and most complaints should where possible be concluded within this time limit. However, if the response cannot be completed within this timescale it can be extended to **20 working days** in complex circumstances and the Complainant must be informed. If necessary the complaint may be suspended until an Advocate has been appointed and the 10 working days starts on the date of the appointment of the Advocate. The completion date can also be another date (outside of this timescale) requested by the Complainant.
- 11.14 A copy of the complaint and accompanying information will be sent to the Responding Manager by email. The Responding Manager should make contact with the Complainant and where possible arrange to meet them to discuss the nature of their complaint and explore the outcomes they desire and seek to resolve the matter. The Business Quality Team will liaise with the responding manager on a regular basis to establish the status of the complaint and provide any advice or guidance as required.
- 11.15 The Responding Manager will then make suitable enquires and provide the Complainant with a written response letter which includes confirmation of the outcomes; it should also inform them that they may request a Stage 2 complaint investigation should they remain dissatisfied and their right to approach the Local Government Ombudsman.

- 11.16 The Responding Manager should then provide a copy of the response letter and a completed Complaint Monitoring and Learning Form – Stage 1, to the Business and Quality Team.
- 11.17 Where the Complainant remains dissatisfied with the outcomes of the Stage 1, they can request a Stage 2 Investigation into their complaint within **20 working days** of the date of the Stage 1 response letter. In the absence of such a request the complaint file will be closed.
- 11.18 Where SMBC and the Complainant have resolved matters, SMBC must as soon as possible provide the Complainant / Advocate with written details of the resolution.

Stage 2 – Investigation

- 11.19 All requests for a Stage 2 investigation should be made in writing to the Customer Relations Manager within **20 working days** of the Stage 1 response letter and it should specify what the Complainant remains dissatisfied with, why, and what outcome(s) they are seeking. The Business & Quality Team will then inform the relevant Team Manager, their Head of Service and the appropriate Adjudicating Officer that a new Stage 2 request has been received and actioned.

Investigation

- 11.20 An Independent Investigating Officer will be appointed by the Customer Relations Manager to carry out a Stage 2 Investigation, into those complaints as defined at Stage 1, which remain unresolved. Throughout the investigation an Independent Person (someone not employed by SMBC) will work alongside the Independent Investigating Officer to provide an independent and objective view of the investigation into the complaints. The Investigating Officer and Independent Person will meet with the Complainant to confirm the complaints investigated at Stage 1 and what their desired outcome(s) are. The Investigating Officer will inform the Complainant that a written record of the of meeting will be sent to them and explain that there is a time limit for returning the signed record, as this is important in ensuring a timely completion of the investigation. It will be further explained, that where the formal record is not returned signed, it will be taken as accepted and will be used as evidence in the investigation. Where it is agreed that the desired outcomes cannot be achieved through the Complaints Procedure this will be explained and where possible an alternative route provided.
- 11.21 It is normally expected that a Stage 2 Investigation and Adjudication response would be completed within **25 working days**. However, there are times where the Investigating Officer will require an extension to timescale; *with the agreement of the Complainant*, this can be extended to a maximum of **65 working days**. These timescales must include the time required for the council to consider the Investigation reports and provide its response. For all Stage 2 investigations the timescale will commence from the date the Complainants request for a Stage 2 was received.
- 11.22 On completion of the investigation the Independent Investigating Officer will write a report as set out in the 'IIO Good Practice Guidance'. This will include their findings, outcomes and recommendations.
- 11.23 In some cases the Independent Investigating Officer may feel the need to write a separate report for management consideration; highlighting areas of concern, which

have been identified that do not directly concern the complaint or the Complainant. Titled a Management Report, this will be provided to the Customer Relations Manager.

- 11.24 The Customer Relations Manager will quality assure the Investigating Officer's report. The Independent Person will also produce a brief report including their view upon whether the investigation has been conducted fairly, this will also be quality assured by the Customer Relations Manager. Both reports will then be sent to the nominated Adjudicating Officer for consideration.

Adjudication

- 11.25 The Adjudicating Officer (appropriate Head of Service / Service Director) will consider the Independent Investigating Officers findings and recommendations and they will respond to the Complainant on behalf of SMBC within **10 working days** of receiving the investigation reports. The response letter will include the Complainants right to ask for any unresolved complaints to be further considered by a Review Panel at Stage 3 of the procedures
- 11.26 The Adjudicating Officer may wish to meet the Customer Relations Manager, Investigating Officer and Independent Person to clarify any aspects of the reports.
- 11.27 The Adjudicating Officer will also complete an Action Plan based on the recommendations. This will include nominating members of staff who will be responsible for completing the actions and timescales for the completion.
- 11.28 The Customer Relations Manager will send the Adjudicator's response letter with copies of the Investigation Officer's and Independent Person's reports to the Complainant.
- 11.29 A copy of the response letter, report and action plan will be sent to the Head(s) of Service, all members of staff who have been interviewed and managers who have identified tasks on the action plan and they will be asked to provide confirmation and evidence when the tasks have been completed. The Business & Quality Team will monitor the progress / completion of Action Plans to ensure the tasks are completed within the timescale set by the Adjudicating Officer.
- 11.30 The Adjudicating officer should also update the Complaint Monitoring and Learning Form – Stage 2 to take account of any additional learning points identified by the Stage 2 investigation and forward a copy to the Service Director, Children and Young People and the Business & Quality Team for monitoring and reporting purposes.
- 11.31 Should the Complainant remain dissatisfied with the conclusion of the Stage 2 investigation, they may request consideration of their complaint by a Review Panel at Stage 3 of the procedure. This must be made within **20 working days** of receiving the Stage 2 response letter.

Stage 3 – Review Panel

- 11.32 To ensure impartiality the Review Panel is operated as a separate function within SMBC and is managed by the Head of Democratic Services within the Governance Directorate.
- 11.33 Stage 3 is designed to consider whether SMBC adequately dealt with the complaint in the Stage 2 investigation.

- 11.34 The request to proceed to Stage 3 of the Complaints Procedure should be made in writing to the Customer Relations Manager by the Complainant and must be made within **20 working days** of receiving the Stage 2 response letter.
- 11.35 The request to proceed to a Review Panel must identify those aspects of the Stage 2 process with which the Complainant is dissatisfied, and the reasons why the Complainant is dissatisfied and must clearly state what outcome(s) they want from a Review Panel. A request which does not clearly do this, or which is received out of time, will not be accepted. A Stage 2 response will be deemed to have been received by the Complainant on the **third working day** after posting.
- 11.36 Where a request for a Review Panel is not accepted, reasons for this decision will be provided.
- 11.37 The Review Panel will only consider those matters set out in the request to proceed to Stage 3. It will not re-investigate the complaint/s and will not consider any new complaints which have not been investigated at Stage 2 of the procedure.
- 11.38 In considering the complaints being reviewed, the 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.
- 11.39 The Review Panel will consist of 3 people one of which will chair the Panel, all of whom will be independent of the Authority. The Customer Relations Manager will ensure that the appropriate people involved with the Stage 2 investigation will also be invited to attend. The Complainant can also be accompanied by another person or for them to speak on their behalf.
- 11.40 The Review Panel will be held within **30 working days** of receipt of a valid request for a review and the Customer Relations Manager will acknowledge the Complainant's request in writing within **2 working days** of receipt of the request.
- 11.41 A letter will be sent by Democratic Services not less than **10 working days** before the Panel to the Complainant and all other parties including the Panel Members confirming the date and location of the Panel and will include copies of the complaint papers prepared by the Customer Relations Manager.

The Panel Review

- 11.42 The Chair will commence the Review by explaining its purpose and the need for confidentiality. The Chair will advise the Complainant of the respective roles and responsibilities of those present and address any questions or concerns that the Complainant may have about the process.
- 11.43 The Chair will ensure that the Panel's focus is on the agreed complaint and the Complainant's desired outcomes from the Stage 2 investigation.
- 11.44 The full Panel meeting will begin with presentations on the points of the complaint and desired outcomes by the Complainant or their advocate, then the SMBC representative and then, any other person the Panel considers has sufficient interest in the complaints. The purpose of hearing presentations is to understand each party's opinion of the

complaint rather than an opportunity to cross-examine attendees. The Chair will also indicate how long the Panellists anticipate that the presentations should last.

- 11.45 Normally the first presentation will be by the Complainant (or their advocate / representative) who will be invited to 'talk' about the complaint and expand upon any relevant themes that should aid the Panel's deliberation. The Chair will ensure that this presentation is reasonable and relevant, exercising discretion in limiting its scope, substance or duration.
- 11.46 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 Chair will also invite the Complainant, the SMBC representative and other attendees to ask questions and raise points of information and opinion as relevant to the complaint.
- 11.47 The Panel will then go into closed session to reach a determination and form a view about whether SMBC adequately dealt with the complaint. It will produce a written report with recommendations, a copy will be sent by Democratic Services to the Complainant and anyone acting on their behalf within **5 working days** of the Review Panel. Copies will also be provided to all who attended the panel and to the Director of Children's Services and the Chief Executive.
- 11.48 A response to the Panel's report and recommendations will be made by the Service Director, Children and Young People / Chief Executive, in writing to the Complainant (and other participants as necessary). The response should be provided within **15 working days** from receiving the report and should set out how SMBC will respond to the recommendations and what action/s they propose to take.
- 11.49 The Complainant should be informed that this is the end of the internal Complaints Procedure. They should also be informed in writing of their right to approach the Local Government Ombudsman if they remain dissatisfied.

12 Local Government Ombudsman

- 12.1 This service is confidential, free of charge and has the same powers as the High Court to require people to provide information and to produce documents for investigation.
- 12.2 Whilst people can approach the Ombudsman at any time, the service states that the Complainant must first take up their complaint with the relevant Local Authority, to allow the organisation the opportunity to address the issues raised.
- 12.3 Where a Stage 2 has been concluded and the facts indicate that all reasonable consideration of the complaint has been undertaken and that further consideration by a Review Panel would not produce a demonstrably different outcome, the Customer Relations Manager in consultation with the Complainant can approach the Ombudsman to ask them to consider the complaint directly without going through a Review Panel. The Customer Relations Manager and the Complainant will need to agree a written statement of the complaint for release, by SMBC, to the Ombudsman.
- 12.4 Where a Stage 3 Review Panel has been held and the Complainant remains dissatisfied with the outcome, they then have the right to pursue a complaint to the Ombudsman. In these circumstances the Ombudsman will make a formal request to SMBC for all information concerning the complaint. This will be recorded and monitored

within Democratic Services and then passed to the responsible Service Director & Head of Service to provide a response. Democratic Services will then forward all documentation to the Ombudsman within the directed timescale.

- 12.5 The Local Government Ombudsman's contact details are:
The Local Government Ombudsman
PO Box 4771
Coventry
CV4 0EH

The LGO Advice Team can be contacted on.

Tel: 0855 602 1983 or 0300 061 0614
Fax: 024 7682 0001
Text: 'call back' to 0762 480 4299
E-mail: advice@lgo.org.uk
Web site: www.lgo.org.uk

- 12.6 In some instances Complainants make their complaints directly to the Ombudsman, these are considered premature complaints and the Ombudsman will normally forward them to SMBC for consideration under the complaints procedures. However in some cases the Ombudsman may decide to investigate the complaints without referring them to SMBC, in such cases they will request all information and a position statement from SMBC before making their findings.

13 Problem Solving and Resolution

- 13.1 Problem solving and resolution can be done by various methods, one of which is mediation as described in section 10.13 - Alternative Dispute Resolution, above.
- 13.2 Some other resolution methods that do not require a full investigation and can be invoked during any stage of the complaints procedure are:
- The provision of an apology or explanation;
 - Conciliation and mediation;
 - A reassessment of the child's or young person's needs;
 - Practical action specific to the particular Complainant;
 - A review of practice;
 - An assurance that SMBC will monitor the effectiveness of its remedy.

14 Working with Other Procedures

- 14.1 The Complaints Procedure would normally be suspended if any concurrent investigations might be compromised or prejudiced by continuing with it, for example:
- Disciplinary and Grievance Procedures
 - Safeguarding Procedures
 - Harassment Procedures
 - Police Investigation - Criminal

Any information from the above **will not** form part of the complaint process.

If, after the conclusion of any of the above investigations, the complainant feels that they have complaints that have not been addressed, they may approach the Customer

Relations Manager for these complaints to be considered under the Complaints Procedure.

15 Deferring (freezing) decisions

- 14.1 If the complaint concerns change to a care plan, a placement or a service, the decision may need to be deferred (frozen) until the complaint is considered. Care should be taken in case deferring a decision may affect the mental or physical wellbeing of an individual, but the presumption should be in favour of freezing. The decision will be made by the Manager responsible for the service, having considered the advice of the Customer Relations Manager.

16 Complaints Concerning Allegations of Child Abuse

- 16.1 Complaints received by the Business & Quality Team concerning allegations of child abuse or ill treatment will be reported to the Duty and Referral Team and discussed with the appropriate Head of Service.

17 Complaints concerning other Agencies

- 17.1 Where it has been identified that the complaint/s or parts of the complaint/s may potentially fall under another agency's complaints procedure, the Customer Relations Manager will advise the Complainant to use that procedure and offer, with their consent and where possible, to pass their complaint/s to the relevant agency.
- 17.2 All registered services will have their own internal complaints procedure. SMBC remains responsible for the quality of service which is delivered to meet a social care function as part of discharging its function and will request a copy of the agency's response to the complaint/s.
- 17.3 When a complaint is received regarding services provided under the Children's Homes Regulations, 2001, the relevant parts of the complaint will be referred to the registered provider within **5 working days** and they should provide a response directly to the Complainant in accordance with their own complaint procedures.
- 17.4 Where services are integrated or provided in partnership with the NHS, local agreements should ensure that complaints are acknowledged and responded to within one process.

18 Unreasonably Persistent Complainants

- 18.1 SMBC is committed to providing a fair and equitable service to those who have reason to complain. However where a Complainant becomes unreasonably persistent or demonstrates unacceptable behaviour, action will be taken in accordance with SMBC's Vexatious Procedure.
- 18.2 The Customer Relations Manager and the appropriate Head of Service with advice from a Legal representative where appropriate, will determine if the Vexatious Procedure should be invoked.

- 18.3 Persistent Complainants may include:
- a person who makes the same complaint repeatedly (with minor differences), but never accepts the outcomes;
 - a person who seeks an unrealistic/unobtainable outcome and persists in pursuing this, or
 - a person with a history of making other unreasonably persistent complaints.
- 18.4 An unreasonably persistent complaint is likely to include some or all of the following:
- an historic and irreversible decision or incident;
 - frequent, lengthy, complicated and stressful contact with SMBC staff;
 - the Complainant behaving in an aggressive manner to staff or being verbally abusive; or threatening;
 - the Complainant changing aspects of the complaint partway through the investigation or Review Panel;
 - the Complainant making and breaking contact with SMBC on an ongoing basis; and
 - the Complainant persistently approaching SMBC through different routes about the same issue seeking different responses and / or actions.

19 Statutory Complaints Service

- 19.1 The Complaints Procedure contributes to safeguarding and promoting the welfare of children. It reflects SMBC's ongoing commitment to service development and improving the outcomes for children, by creating a listening and learning culture.
- 19.2 Comments, Compliments and Complaints are managed within the Business & Quality Team. The recording and monitoring of all Comments, Compliments and Complaints is carried out by the team in accordance with the Regulations.
- 19.3 The Business & Quality Team will produce and publish an Annual Report in accordance with Regulation 13 (3) which will provide information covering all aspects of the complaints received; the process of seeking to resolve them and the timescales taken to resolve them.
- 19.4 Below are some useful contact details and telephone numbers:

Solihull MBC
Business & Quality Team (Complaints)
Council House
Manor Square
Solihull
B91 3QB
Telephone 0121 704 8296 or 8276
E-mail: statutorycomplaints@solihull.gov.uk
Website: www.solihull.gov.uk

Advocacy Services

National Youth Advocacy Service (NYAS)
169 Newhall Street
Birmingham
B3 1SW
Freephone: 0800 616101
Text: 0777 333 4555
Email: help@nyas.net

20 Record management and data protection

- 20.1 All functions of the complaints procedure must adhere to the requirements of the Data Protection Act, 1998 and the Freedom of Information Act, 2000.
- 20.2 Once the complaint/s have been finally resolved the Business & Quality Team will provide a summary of the complaints made, the outcomes and resolutions at each of its stages, this will then be passed to the relevant Team Manager to be placed on the case file as a record of the complaint.
- 20.3 The Business & Quality Team will retain and destroy the complaint file in accordance with SMBC's RS19 Management Retention Schedule.

Appendix 1

Adoption related functions

The following are the adoption-related functions which may be the subject of a complaint by virtue of being included by the 2006 Regulations:

- Adoption support services (under regulation 3 of the Adoption Support Services Regulations 2005) insofar as these enable adoptive children to discuss matters relating to adoption;
- Assessments and related decisions for adoption support services as under regulation 3 of the 2005 Regulations (Parts 4 and 5 of the 2005 Regulations);
- Placing children for adoption, including parental responsibility and contact issues (sections 18 to 29 of the 2002 Act);
- Removal of children who are or may be placed by adoption agencies (sections 30-35 of the 2002 Act);
- Removal of children in non-agency cases (sections 36-40 of the 2002 Act);
- Duties on receipt of a notice of intention to adopt (section 44 of the 2002 Act);
- Duties set out in regulations in respect of:
 - a SMBC considering adoption (part 3 of 2005 Regulations);
 - a proposed placement of a child with prospective adopters (part 5 of 2005 Regulations);
 - placement and reviews (part 6 of 2005 Regulations); records (part 7 of 2005 Regulations);
 - contact (part 8 of 2005 Regulations); and
- Parental responsibility prior to adoption abroad (part 3 of Adoptions with a Foreign Element Regulations 2005).

Appendix 2

Special Guardianship related functions

The following are the Special Guardianship - related functions which may be the subject of a complaint by virtue of being included by the 2006 Regulations:

- All support plan services 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 and their Special Guardian or prospective Special Guardian.