

# Adult Social Care Statutory Complaints Policy



<b>Contents</b>	<b>Page</b>
1. Purpose	3
2. Legal Framework and Relevant Policies	3
3. Scope of Policy	3
4. Introduction	3
5. Definition of a Complaint	4
6. Who Can Complain	4
7. Complaints Not Covered by This Policy	4
8. Duty to Co-operate	5
9. Complaints Relating to Care Standards	5
10. Social Care Provider Complaints	5
11. Time Limit for Making a Complaint	6
12. Procedure Before Investigation	6
13. Investigation and Response	6
14. Publication	7
15. Monitoring Complaints	7
16. Annual Report	7
17. Vexatious Complainants	7

## **1. Purpose**

- 1.1 The purpose of this document is to outline how Solihull Council will respond to complaints made about Adult Social Care Services, as defined in the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

## **2. Legal Framework and Relevant Policies**

- 2.1 The policy is defined by the following legal framework:
- The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009
  - Mental Capacity Act 2005
  - Care Standards Act 2000
- 2.2 This policy should be read in conjunction with Solihull Council's:
- ASC Statutory Complaints and Representations Procedure
  - ASC Statutory Complaints Vexatious Complainants Procedure
  - ASC Statutory Complaints Guidance for Investigating Managers
  - ASC Statutory Complaints Guidance for Commissioned Provider Investigating Managers
  - Protocol for Handling Multi-Agency Formal Complaints

## **3. Scope of the Policy**

- 3.1 This policy applies to all adults over the age of 18 and their representatives who approach the Council in relation to making a complaint or representation.

## **4. Introduction**

- 4.1 Solihull Council has a duty to deal with complaints in relation to its Adult Social Care Functions to ensure that:
- a. Complaints are dealt with efficiently;
  - b. Complaints are properly investigated;
  - c. Complainants are treated with respect and courtesy;
  - d. Complainants receive, as far as is practical:
    - i. Assistance to enable them to understand the procedure in relation to complaints; or
    - ii. Advice on where they may obtain such assistance;
  - e. Complainants receive a timely and appropriate response;
  - f. Complainants are told the outcome of the investigation of their complaint;
  - g. Action is taken if necessary in light of the outcome of a complaint; and
  - h. Complainants are made aware of who to contact if they are not happy with the outcome of an investigation by the Council.
- 4.2 The Regulations require that the Council must designate a "Responsible Officer", who will be responsible for managing the procedures for handling and considering complaints and ensuring compliance with the arrangements contained within the Regulations. The Responsible Officer is identified within *Appendix 1: ASC Statutory Complaints and Representations Procedure*.

## **5. Definition of a Complaint**

5.1 A complaint can be defined as “an expression of dissatisfaction, disquiet or discontent about the actions, decisions or apparent failings of service provision, which requires a response”.

## **6. Who Can Complain**

6.1 A complaint can be made by:

a. Any person who receives or has received services from Adult Social Care Services

Or

b. A person who is affected, or is likely to be affected, by the action, omission or decision of Adult Social Care Services

6.2 A complaint can be made by another person – the Representative – who is acting on behalf of the person mentioned above, if that person:

a. has died

b. is unable to make the complaint themselves due to physical incapacity; lack of mental capacity within the meaning of the Mental Capacity Act 2005; or has requested the Representative act on their behalf.

6.3 The Responsible Officer must be satisfied that the Representative is making the complaint in the best interests of the person on whose behalf the complaint is being made. If the Responsible Officer is not satisfied, they may decide not to consider the complaint further. In such situations, the Responsible Officer will notify the Representative in writing, stating the reason for their decision.

## **7. Complaints Not Covered by This Policy**

7.1 The following complaints cannot be dealt with under the Adults Statutory Complaints Policy:

- a complaint made by another Local Authority
- a complaint from an employee of Solihull Council concerning their employment
- a complaint which is made orally and is resolved satisfactorily within 24 hours
- a complaint about a matter that has already been investigated under these procedures
- a complaint that is currently being investigated under Safeguarding procedures or is being investigated by the Local Government Ombudsman
- a complaint resulting from a failure to comply with a request for information under the Freedom of Information Act (2000)
- anonymous complaints
- a complaint that has been investigated by a local commission, other legal process or judicial review
- a complaint relating to a Court Decision or where a remedy to any issues is through an appeal to Court

- where there are separate arrangements to Appeal a professional decision or a special statutory procedure already exists for dealing with a particular issue (i.e. Tribunal)
- a complaint on behalf of a group of service users or the same complaint is received from a number of individuals in such a way as to suggest an organised campaign

7.2 Where the decision is taken not to investigate a complaint under this policy, the complainant will be informed of the decision and the reason for that decision. Where possible, the complainant will be advised of the appropriate process to follow.

## **8. Duty to Co-operate**

8.1 Where a complaint relates to the actions of more than one agency (i.e. police / NHS etc) the Council will co-operate with those agencies for the purposes of co-ordinating the handling of the complaint and ensuring the complainant receives a co-ordinated approach. The Council will ensure that they provide relevant information requested by another agency and to attend any meetings required in connection with the complaint.

8.2 Where Solihull Council receives a complaint relating to NHS functions, the Responsible Officer will ensure that the complaint details are passed to the relevant NHS organisation's Responsible Officer in line with the Protocol for Handling Multi-Agency Formal Complaints.

## **9. Complaints Relating to Care Standards**

9.1 Where a complaint relates to care standards, consent will be sought from the complainant or their representative, to share details of the complaint with the Registered Person. Once this consent has been received, details will be shared as soon as reasonably practicable.

9.2 Where a complaint relates in part to care standards and in part for the Council to consider, the Council will confirm to the complainant which parts of the complaint will be dealt with by the Registered Person and which elements by the Council. The Council will also cooperate with the Registered Person to ensure a coordinated response.

9.3 The "Registered Person" means the person under Section 11 of the Care Standards Act 2000 in respect of an establishment or agency complained about.

## **10. Social Care Provider Complaints**

10.1 Where a complaint relates to service provided by a social care provider, consent will be requested from the complainant or their representative, for details of their complaint to be shared with the provider. Once this consent has been received, details of the complaint will be shared with the provider as soon as is reasonably practicable.

10.2 Where a complaint relates in part to a social care provider and in part for the Council to consider, the Council will confirm to the complainant which

parts of the complaint will be dealt with by the social care provider and which elements by the Council. The Council will also cooperate with the social care provider to ensure a coordinated response.

## **11. Time Limit for Making a Complaint**

11.1 Complaints must be made not later than 12 months after:

- a. the date on which the matter which is the subject of the complaint occurred; or
- b. if later, the date on which the matter which is the subject of the complaint came to the notice of the complainant.

11.2 However, the Responsible Officer has the discretion to waive this time limit if they are satisfied that:

- a. the complainant had good reason for not making the complaint within the time limit;
- and
- b. notwithstanding the delay, it is still possible to investigate the complaint effectively and fairly.

## **12. Procedure Before Investigation**

12.1 A complaint may be received orally, in writing or electronically and will be acknowledged within 3 working days of receipt. If the complaint has been received via another organisation (i.e. NHS), the complainant will be notified within 3 working days of receipt of the complaint, that their complaint details have been received by the Council. The acknowledgement may be made verbally or in writing and will contain details of the way in which the complaint will be handled and the response timeframe. The complainant will also be offered the opportunity to discuss their complaint issues.

## **13. Investigation and Response**

13.1 Complaint investigations will be appropriate, aiming to resolve the issue quickly and efficiently and during the investigation, as far as reasonably practical, the complainant will be kept informed of progress.

13.2 Following the investigation, the complainant will receive a written response containing an explanation of how the complaint has been considered; any conclusions reached; and any remedial action Solihull Council considers necessary. The response will also contain details of the complainant's right to take their complaint to the Local Government Ombudsman (including contact details) should they continue to be dissatisfied.

13.3 Solihull Council has a maximum of 6 months from the receipt of a complaint to provide a written response. Should a longer period be required, this must be with the agreement of the complainant. Where the 6 month response timeframe cannot be met, the complainant must be informed in writing of when they can expect to receive a written response.

#### **14. Publication**

14.1 The Responsible Officer will ensure that information relating to the arrangements for making a complaint is available to the public. This information will include relevant contact details and the process followed when investigating a complaint.

#### **15. Monitoring Complaints**

15.1 The Responsible Officer will ensure that systems are in place to maintain a record of complaints for the purposes of monitoring. As a minimum, the following details will be recorded:

- a. each complaint received
- b. the subject matter and outcome of the complaint
- c. the response timeframe

#### **16. Annual Report**

16.1 The Responsible Officer is responsible for producing an Annual Report which as a minimum will include:

- a. the number of complaints received
- b. the subject matter of the complaints
- c. the outcome of complaints received
- d. any learning identified as a result of complaints.
- e. details of any complaints reported to the Local Government Ombudsman and the outcome of these complaints.

16.2 The Annual Report will cover a 12 month period ending with 31 March and will be made available to any person who requests a copy.

#### **17. Vexatious Complainants**

17.1 Complainants who make persistent or repeated contact with Solihull Council still have the right for legitimate complaints to be investigated under this policy. However, should the Responsible Person in liaison with a manager from Adult Social Care, decide that a complainant's behaviour is becoming vexatious, their communication will be handled according to *Appendix 2: ASC Vexatious Complaints Procedures*.