

South Ayrshire Council Child Friendly Complaints Handling Procedure

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Child Friendly Complaints - Overview

South Ayrshire Council is committed to listening to our customers and recognises the barriers which may be in place where children and young people may wish to raise a complaint or concern about services they use or receive. In conjunction with [South Ayrshire Council's Complaints Handling Procedure](#), this guidance sets out how we will ensure all complaints from children are handled in a manner that respects and promotes children's rights under the [UN Convention on the Rights of the Child \(UNCRC\)](#).

This procedure is underpinned by the Scottish Public Services Ombudsman's (SPSO) [Child Friendly Complaints Handling Principles](#) and, in line with the SPSO's [Child Friendly Complaints Handling Process Guidance](#), aims to ensure that children and young people's rights are met by tailoring our process to the needs and abilities of young people, taking into account their views and wishes when deciding how to run the process and communicate with them.

1. Definition of a child

1.1. For the purposes of this procedure, a child is defined as "anyone under 18".

1.2. The word "child" is used in the procedure to mirror the language of the UNCRC and is intended to refer to any child or young person under the age of 18.

1.3. While the process should always be used when anyone under the age of 18 is involved, there are elements of this process that may be beneficial for others. It should, in particular, be considered for those who have turned 18 during the course of the complaint, or for care experienced young people

2. When to use this process

2.1 This process should be used whenever a child is involved in a complaint. This includes when:

2.1.1 A child raises a complaint directly

2.2.2 An adult raises a complaint at the request of a child

2.2.3 An adult raises a complaint about matters which affect a child

3. Responsible Adults

3.1 The term “responsible adult” is used throughout to refer to any adults with primary caring rights and/or responsibilities.

3.2 The responsible adults in a child’s life will depend on their individual circumstances, but includes:

3.2.1 Anyone with parental rights for the child

3.2.2 Any other legally appointed guardians or carers

3.3 These two groups are not intended to be exclusive. It may be that an adult who does not meet these definitions might be the person best placed to support or represent a child through the complaints process. Decisions on who to consider “responsible adults” for the purposes of this process should be taken in full consideration of the circumstances of the child, their familial and caring relationships, any existing support plans, and the nature of the complaint.

4. Overview of the child friendly complaints process

4.1 The following overview summarises the main steps required when relevant concerns are raised, and links to guidance where further detail is provided on key interactions and decisions. This process is not intended to be prescriptive and should be adapted and amended to meet the needs and wishes of any children involved. The complaint process is essentially two-stage, but in the context of Child Friendly Complaints it is important to consider the context of everyday business (Business as usual), how the complaints process is accessed and how it is escalated to the SPSO. The basic process is the same but will vary in the detail of the guidance, the decisions taken and wider issues such as consent and confidentiality. It is likely that additional sector/ service specific guidance will be developed over time based on learning and experience.

| Stage | Stage description | Child-led; child makes complaint | Child-led; adult makes complaint on behalf of a child | Adult led; adult complains about an issue that affects a child |
|---------------------------------|---|---|---|---|
| <p>Everyday business</p> | <p>Some minor issues or concerns will be raised in the daily business of services provided to children. These issues may simply be requests for actions to be taken, or conversations about what is worrying someone and not necessarily matters that will progress to a complaint.</p> <p>It is important to act quickly and to be aware of the complaint process so that appropriate advice about escalation can be provided.</p> <p>This everyday business is not directly part of the complaints process but it is important context.</p> <p>The approach will vary between types of service and children receiving those services.</p> | <ul style="list-style-type: none"> • Have conversation with the child. • Provide immediate response or action. • Check whether the child is satisfied with the outcome. • If not, offer the complaints process in a way that feels safe and manageable. • Make a written record of the conversation and any actions or outcomes. | <ul style="list-style-type: none"> • Have conversation with adult and child. • Provide immediate response or action. • Check whether the child is satisfied with the outcome. • If not, offer the complaints process in a way that feels safe and manageable. • Make a written record of the conversation and any actions or outcomes. | <ul style="list-style-type: none"> • Any children affected have the right to provide their views, so the two stage process below should be followed. |
| ↓ | ↓ | ↓ | ↓ | ↓ |

| Stage | Stage description | Child-led; child makes complaint | Child-led; adult makes complaint on behalf of a child | Adult led; adult complains about an issue that affects a child |
|--|---|--|--|---|
| <p>Accessing the complaint process</p> | <p>The first consideration of the 2-stage complaint process is how a child or adult accesses it.</p> <p>It covers the support and guidance they need, and the decisions that need to be taken.</p> <p>The detailed process will vary with the everyday business context, the service area and circumstances of the complainer.</p> <p>Outcomes</p> <ul style="list-style-type: none"> • Child does not wish to proceed • Complaint is made • Complaint progressed to stage 1 or stage 2 where needed, or • Signposted to another process | <ul style="list-style-type: none"> • Ask the child whether they would like to nominate someone to support them, or would like to be signposted to advocacy. • If that person is not a member of staff, ask the child to nominate a member of staff to be their point of contact. • Have first discussion with the child to understand their complaints and decide next steps. • If the child wants any adult supporting them to act on their behalf, seek their informed consent. • Consider whether contact needs to be made with responsible adult/s. • Make a written record of the key points discussed and share this with the child. | <ul style="list-style-type: none"> • Ask the child to nominate a member of staff to be their point of contact. • Have first discussion with the child to understand their complaints and decide next steps. • If the child wants any adult to act on their behalf, seek their informed consent. • Consider whether contact needs to be made with responsible adult/s. • Make a written record of the key points discussed and share this with the child and their supporting adult. | <ul style="list-style-type: none"> • Clarify and agree the adult's complaints through the normal process. • Ascertain ownership of the complaint. • Clarify the adult's relationship to the child and consider whether contact with any responsible adults is needed. • Ask the adult whether the child is aware of the complaint and explain their right to provide their views. • Ask the child whether they would like to nominate someone to support them (this can be the adult complaining). • If that person is not a member of staff, ask the child to nominate a member of staff to be their point of contact. • If the child has ownership of the complaint, seek their informed consent to decide how and whether to proceed. • Have first discussion with the child to understand their views on the complaints being raised. • Make a written record of the discussion and share this with the child. |



| Stage | Stage description | Child-led; child makes complaint | Child-led; adult makes complaint on behalf of a child | Adult led; adult complains about an issue that affects a child |
|------------------------|---|--|---|--|
| Stage 1: Responding | <p>Stage 1 is aimed at fast response and resolution.</p> <p>The detailed process depends on who is complaining and the advice and support needed.</p> <p>The process should focus on outcomes for the child.</p> <p>Outcomes</p> <ul style="list-style-type: none"> • Child does not wish to proceed • Complaint resolved • Complaint upheld, not upheld or upheld in part • Signposted to stage 2 | <ul style="list-style-type: none"> • Consider stage 1 complaints through the normal process. • Give due weight to the views of the child and consider their best interests • Have an outcome discussion with the child to explain the outcomes reached. • Make a written record of the outcome and share this with the child. | <ul style="list-style-type: none"> • Consider stage 1 complaints through the normal process. • Give due weight to the views of the child and consider their best interests • Have an outcome discussion with the child to explain the outcomes reached. • Make a written record of the outcome and share this with the child and their supporting adult. | <ul style="list-style-type: none"> • Consider stage 1 complaint through the normal process. • Give due weight to the views of the child and consider their best interests • Give decision to adult through normal process. • If the child wishes, have an outcome discussion with them to explain the outcomes reached. • Make a written record of the outcome and discussion and share this with the child. |



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| Stage 2: Investigation | <p>Stage 2 is the detailed investigation. It may follow stage 1 or a complaint may be escalated to stage 2.</p> <p>The detailed process depends on who is complaining and the advice and support needed.</p> <p>The process should focus on outcomes for the child.</p> <p>Outcomes</p> <ul style="list-style-type: none"> • Complaint resolved • Complaint upheld, not upheld or upheld in part • Signposted to SPSO | <ul style="list-style-type: none"> • Carry out full investigation into the complaint. • Give due weight to the views of the child and consider their best interests • Have an outcome discussion with the child to explain the outcomes reached. • Make a written record of the outcome and share this with the child. • Provide a decision letter, if the child wants one. | <ul style="list-style-type: none"> • Carry out full investigation into the complaint. • Give due weight to the views of the child and consider their best interests • Have an outcome discussion with the child to explain the outcomes at this stage. • Make a written record of the outcome and share this with the child and their supporting adult. • Provide a decision letter, if the child or their supporting adult wants one. | <ul style="list-style-type: none"> • Carry out full investigation into the complaint. • Give due weight to the views of the child and consider their best interests • Provide decision letter to adult through normal process. • If the child wishes, have an outcome discussion with them to explain the outcomes reached. • Make a written record of the outcome and discussion and share this with the child. |
|---------------------------|---|---|--|--|



| Stage | Stage description | Child-led; child makes complaint | Child-led; adult makes complaint on behalf of a child | Adult led; adult complains about an issue that affects a child |
|------------|---|--|---|---|
| Escalation | <p>Escalation is about how the child or adult is signposted to the SPSO and the support and advice they need to help them do that.</p> <p>Outcomes</p> <ul style="list-style-type: none"> • Child or adult can make an informed decision about complaining to SPSO | <ul style="list-style-type: none"> • Explain that the SPSO are the independent final stage of the complaints process and provide materials to explain the process of complaining to the SPSO. • If the child would like additional support to complain to the SPSO, ask them to nominate someone to support them and/or consider signposting for independent advocacy. | <ul style="list-style-type: none"> • Explain to the adults involved that the SPSO are the independent final stage of the complaints process and provide materials to explain the process of complaining to the SPSO. • Ensure this option is explained to the child in a way that feels safe and manageable. | <ul style="list-style-type: none"> • Explain to the adults involved that the SPSO are the independent final stage of the complaints process and provide materials to explain the process of complaining to the SPSO. • Ensure this option is explained to the child in a way that feels safe and manageable. |

Additional Guidance

5. Best Interests

5.1 Article 3 of the UNCRC gives a child the right to have their best interests assessed and taken into account as a primary consideration in all actions or decisions that concern them. The concept of best interests is potentially complex and must be determined on a case-by-case basis, but is generally aimed at ensuring both the full and effective enjoyment of all the rights within the UNCRC, as well as the holistic development of the child.

5.2 It is also important to remember that [Article 3](#) underpins one of the four key principles of the UNCRC, the Best Interest of the Child, so should be given primary consideration

5.3 Therefore, when making best interest assessments, decision makers should always consider the rest of a child's rights under the UNCRC, from the perspective that these rights have no hierarchy and are interrelated and interdependent. They should always seek to ensure that no decisions made in a child's best interests negatively impact or override any of a child's rights.

5.4 The decision maker should also determine a child's best interests in light of their specific circumstances. Where multiple potential outcomes exist in a best interest assessment, the decision maker should evaluate the likely impact of those options on the child, both holistically and in terms of their rights, to determine which supports a child's best interests.

5.5 Where there are potential conflicts between the best interests of a child and other interests or rights, such as parental rights, those will have to be resolved on a case-by-case basis, carefully balancing the interests of all parties. However, in reaching that balance, decision makers should bear in mind that as a "primary consideration", the child's best interests should be given high priority.

6. What should be taken into account?

6.1 When making a best interest assessment related to the complaints process, the following factors should be considered to assess their impact on the decision:

6.1.1 All of the child's rights under the UNCRC.

6.1.2 The child's views should be taken into account and given due weight according to their age and maturity.

6.1.3 The child's identity should be considered, including factors such as their sex, sexual orientation, national origin, religion and beliefs, cultural identity and personality, where these might impact on the circumstances being assessed.

6.1.4 Their family circumstances and relationships.

6.1.5 Any specific areas of vulnerability they are currently experiencing, including where these may impact on their care, protection or safety.

6.2 This is not an exclusive list, and not all of these factors will be relevant to every case, varying depending on the circumstances of the child. A full consideration of all relevant circumstances should be carried out on a case-by-case basis

7. Recording

7.1 When a best interests assessment has taken place, a record should be made, recording a justification of the decision made that explains what factors were taken into account and why the decision reached has been considered to be in the child's best interests

8. Supporting the child

8.1 Making a complaint can often be a cause for children to feel fearful and uncertain. This has the potential to discourage many from pursuing their complaints, even if they feel strongly about them, so additional supports are needed to help them realise their right to freedom of expression. It is therefore important to communicate with them in a way that is reassuring, and allows them to feel safe, included and at the centre of the process.

8.2 We can do this by:

8.2.1 Allowing the child to choose anyone they know and trust to support or represent them through the complaint.

8.2.2 Allowing the child to choose which staff member they talk to about their complaint.

8.2.3 Clearly explaining what practical steps to expect next at each stage, and asking whether they want to proceed.

8.2.4 Communicating verbally, ideally in person, unless the child would prefer a different way of communicating.

8.2.5 Using less formal language that is personalised to the individual needs of the child, taking account of the child's own wishes and use of language.

9. Trust and confidentiality

9.1 One of the most common concerns for children using a complaints process is that views they share will be passed on to someone without their permission, or their complaints will be acted on in a way they didn't expect or intend. If this happens, children can lose trust in the process and in the people involved. It is therefore of the utmost importance that children's views are treated in a way that is sensitive and confidential.

9.2 We can do this by:

9.2.1 Explaining clearly at the outset of any process or discussion that their views will not be shared with anyone without their permission, unless this is necessary to raise a child protection concern or meet another legal duty.

9.2.2 Only ever sharing views with anyone else with the permission of the child, or because this is necessary to raise a child protection concern or meet another legal duty.

9.2.3 Where a child says something that raises child protection concerns, it will be clearly explained to them who this will need to be shared with and how this will happen.

9.2.4 During the investigation of any complaints, the child's identity will be kept confidential, as far as it is possible to do so.

9.2.5 Where it is not possible to sufficiently investigate without sharing the child's views or identity with others, such as where the matter would need to be investigated by a complaint handling member of staff, an explanation will be given to the child of what needs to be shared, why and who with. Their permission will then be sought to proceed.

10. Record keeping & privacy

10.1 In order to ensure children's views can be kept confidential, careful consideration is needed as to how records are made and stored when complaints are raised.

10.2 In particular, it is important to ensure:

10.2.1 Children receive a copy of any records made of their views and have the opportunity to comment on and amend these, if they do not feel they are accurate.

10.2.2 Records are stored in a way that they will not be accessed by anyone other than those who have received the permission of the child.

10.2.3 Local privacy policies are reviewed to ensure they are compatible with this approach.

11. Ownership of the complaint

11.1 Where an adult has raised a complaint that affects a child, it is important to ascertain whether ownership of the complaint lies with them, or with the child affected. This will depend on the subject matter of the complaint they have raised.

11.2 If the complaint is about services provided directly to the adult, or to their family as a whole, then ownership of the complaint lies with the adult and the complaint can proceed, though any children affected should still be given the opportunity to provide their views.

11.3 If the complaint is about services provided directly to the child in question, then ownership lies with the child, and this is a complaint the adult is making on the child's behalf.

11.4 In these circumstances, the informed consent process should be followed to decide whether or not to proceed. If the child has ownership and the capacity to consent, then they are the primary decision maker on the complaint, and the process should not proceed if they do not want the complaint to be raised.

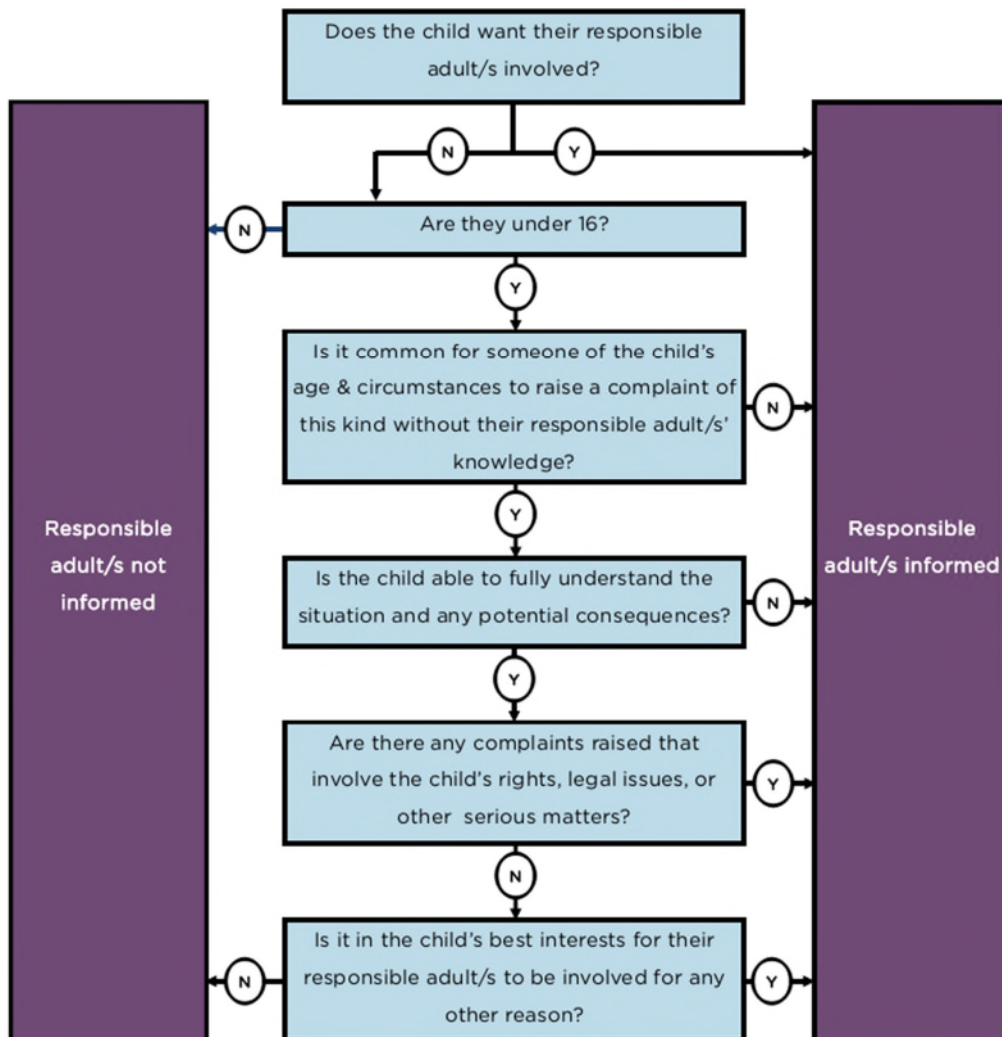
11.5 If the child provides informed consent, the child led process should generally be followed, though the manner of communication and level of involvement should be decided by the child.

11.6 Many children will be happy for their responsible adult/s to handle the process for them from this point on without their involvement. They should be made fully aware that they are providing permission for the adult to be the primary decision maker and act on their behalf. If they are happy for that to be the case, they do not need to be involved from that point on and the normal complaints process can be followed.

12. Deciding whether to inform responsible adult/ s of complaints

12.1 The following flowchart guides the decision making process that should be used to decide whether or not to involve a child's responsible adult/s in a complaint. The questions asked below are based on the Age of Legal Capacity (Scotland) Act 1991, which specifies that, in Scotland, a child reaches the age of legal capacity at 16. However, there are other circumstances when a child under 16 may legally enter into

transactions without the involvement or consent of their parent or legal guardian. The flowchart also takes account of parental rights under the Children (Scotland) Act 1995.



12.2 The flowchart should not be used for children aged 16 or 17 who have additional support needs that may impact their capacity. Such cases should be considered holistically in the same way as a complaint received from any other adult who potentially lacks the capacity to complain on their own behalf.

12.3 In seeking consent from children in the complaints process, it has been a common practice to assume that a child over 12 has the capacity, and therefore the legal right, to consent. This is generally appropriate, unless potential issues around their capacity are identified.

12.4 However, it is important to note that this does not make it safe to assume children under 12 cannot consent. Children under 12 may still have the capacity to fully understand the complaint and potential consequences. If they do, then they have the right to provide or refuse consent and be the primary decision makers on the complaint.

12.5 If a child lacks the capacity to fully understand the complaint, this does not mean they are no longer involved in the process. This process should continue to be followed, to ensure they realise their rights to express their views, as far as they are able.

12.6 If it is decided that the child's responsible adult/s should be informed of their complaints against their wishes, this should be discussed with the child. It is important to understand the reasons why the child would rather their responsible adult/s are not involved, in case their views raise child protection concerns. If, after these discussions, it is still considered best to involve the child's responsible adult/s, this decision should be explained to them, and their views should be sought on how best to make contact.

12.7 Where there are multiple parents or other responsible adult/s, this should also be discussed with the child to seek their views on who they would prefer is contacted and why. Any existing support plans should also be considered in deciding who to contact and how.

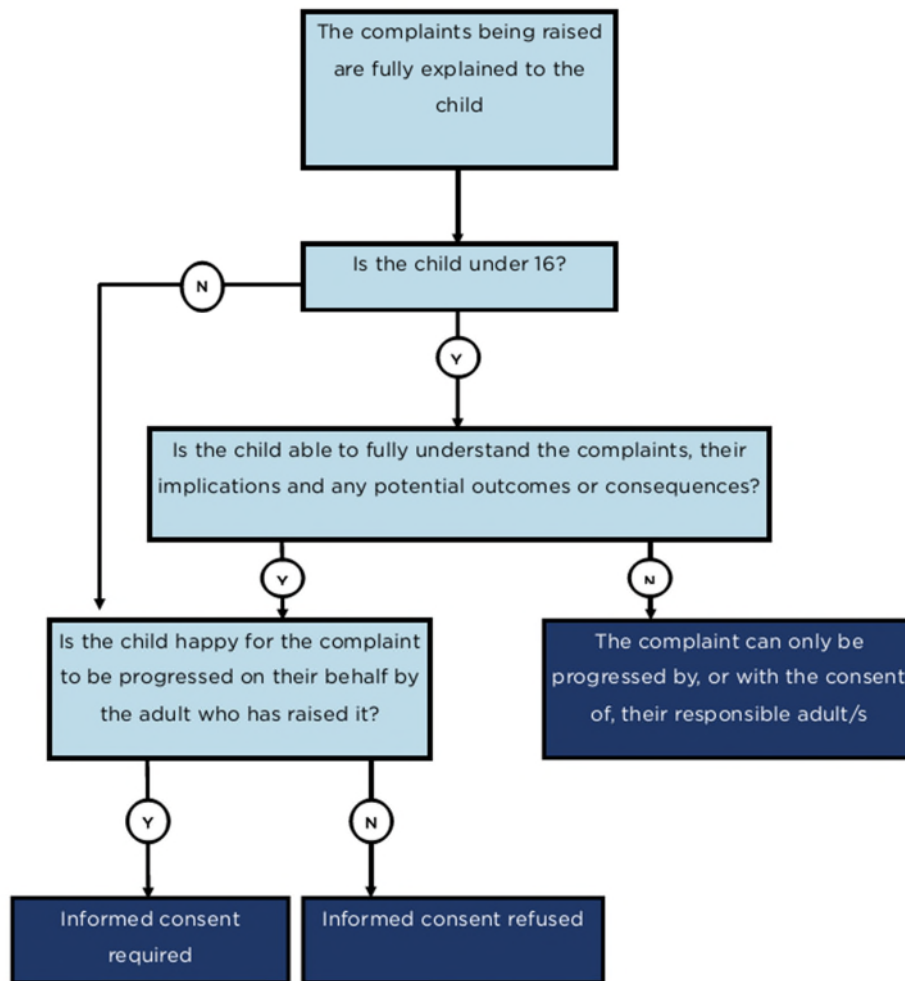
12.8 Once their responsible adult/s are contacted, they should be supported, as far as possible, to ensure their involvement supports their child to access and realise their rights in the remainder of the process.

13. Informed consent

13.1 A record of informed consent is required in order for a complaint to proceed if an adult wishes to raise a complaint on behalf of a child.

13.2 In the majority of cases, the child or children involved will likely be happy for their responsible adult/s to progress the complaint on their behalf. When this is the case, this section should be followed to ensure their informed consent is received and they fully understand what it is they are consenting to. Where children are happy for their responsible adult to act entirely on their behalf, the complaint can then progress through the normal complaints process without the child's ongoing involvement.

13.3 The following flowchart sets out the process required for deciding whether informed consent is required.



14. Determining capacity

14.1 The flowchart should not be used for children aged 16 or 17 who have additional support needs that may impact their capacity. Such cases should be considered holistically in the same way as a complaint received from any other adult who potentially lacks the capacity to complain on their own behalf.

14.2 Usually, unless there are existing issues affecting a child's capacity, such as they are very young, or have additional support needs, it is safe to presume they have the capacity to consent, though this should also take account of the seriousness and complexity of the complaints being raised.

14.3 In seeking consent from children in the complaints process, it has been a common practice to assume that a child over 12 has the capacity, and therefore the legal right, to consent. While this is generally appropriate unless potential issues around their capacity are identified, it is important that the converse is not applied.

Children under 12 may still have the capacity to fully understand the complaint and potential consequences. If they do, then they have the right to provide or refuse consent and be the primary decision makers on the complaint.

14.4 In rare cases where capacity is not straightforward to determine, this should be discussed with people who know the child well in order to reach the decision. This can include, but should not be limited to:

14.4.1 The child.

14.4.2 Their responsible adult/s.

14.4.3 Experts within the organisation being complained about, such as teachers, social workers or doctors.

14.4.4 If a child lacks the capacity to fully understand the complaint, this does not mean they are no longer involved in the process. This process should continue to be followed, to ensure they realise their rights to express their views, as far as they are able.

15. Formats of consent

15.1 As much flexibility as possible should be given to children in how they wish to provide consent. Examples of this might include by leaving a voicemail, recording a video, speaking to a member of staff they choose or in writing.

16. What is required to establish informed consent?

16.2 In order for consent to be considered informed, there must be a record that the child:

16.2.1 Fully understands the nature and subject of the complaints being raised, and the potential outcomes being requested.

16.2.2 Is happy for those complaints to be considered or investigated through the complaints process.

16.2.3 Is happy for the responsible adult or representative in question to raise the complaint and the extent to which they want that person to act on their behalf.

16.2.4 Has said what level of direct contact or updates they would like, if any.

16.2.5 Has been given the opportunity to provide any views they would like to be considered.

17. Withdrawing Consent

17.1 A child who has provided informed consent retains the right to withdraw that consent at any time, and they should be made aware of this. If they choose to withdraw consent, they should once again become the primary contact for the complaint, and the child-led process should be followed, unless they nominate someone else to support or represent them.

Complaint Handling Guidance

18. First discussion – Child led

18.1 The purpose of this initial discussion is to understand the child's complaints, views and needs and discuss what will happen next.

18.2 The discussion will take place between the child, whoever they have chosen to support them, and whichever staff member they have chosen as their point of contact.

18.3 The discussion will cover the following key points:

18.3.1 Explain the purpose of the discussion, which is to understand the child's complaints and decide what to do next.

18.3.2 Reassure them that their complaints will not be shared without their permission unless necessary to safeguard their wellbeing.

18.3.3 Ask the child if they want their parent/s or guardian/s to be involved and explain when it may not be possible to meet their wishes.

18.3.4 Listen to the child's complaints and ask any questions needed to build a full understanding of their complaints and the outcomes they wish to achieve.

18.3.5 Clearly explain what steps will be taken to look into or resolve their complaints and how long those steps are likely to take.

18.3.6 Ask the child whether they want to proceed.

18.3.7 If they do, agree how and when they would like to communicate going forward, including how they would like to hear about any decisions or outcomes.

18.4 Afterwards a written record should be made, covering each of these points, and this should be shared with the child.

19. First discussion – Adult led

19.1 Children have a right to provide views on matters that affect them, but not an obligation. An opportunity to provide their views should always be provided, but if a child does not wish to provide their views, a record should be made of this and this decision should be respected.

19.2 The purpose of this initial discussion is to understand the child's views on the complaints that have been raised by the adult.

19.3 The discussion will take place between the child, whoever they have chosen to support them, and whichever staff member they have chosen to be their point of contact for the complaint.

19.4 The discussion will cover the following key points:

19.4.1 Explain the purpose of the discussion, which is to understand the child's views on the complaints being considered.

19.4.2 Reassure them that their views will not be shared without their permission unless necessary to safeguard their wellbeing.

19.4.3 Explain the complaints that have been raised.

19.4.4 If the child has ownership of the complaint, seek their informed consent for the adult to complain on their behalf.

19.4.5 Listen to the child's views and ask any questions needed to build a full understanding.

19.4.6 Clearly explain what steps will be taken to look into or resolve the complaints and how long those steps are likely to take.

19.4.7 Agree how and when the child would like to communicate going forward.

19.5 Afterwards, a written record should be made, covering each of these points, and this should be shared with the child.

20. Outcome discussion

20.1 An outcome discussion is a child-centred discussion, the primary purpose of which is to explain the decisions reached to the child. If following the adult-led process and the child affected has indicated they would like a discussion to discuss the outcome, the adult complaining should already have been made aware of the outcome.

20.2 The discussion will take place between the child, whoever they have chosen to support them, and whichever staff member they have chosen to be their point of contact for the complaint. In more complex cases, it may also be helpful to have

whoever investigated the complaint present, but this should be at the decision of the child.

20.3 The discussion will cover the following key points:

20.3.1 Explain the purpose of the discussion, which is to explain the outcomes reached and provide the child with the opportunity to ask questions.

20.3.2 Reassure the child that their views will not be shared without their permission unless necessary to safeguard their wellbeing.

20.3.3 Explain the steps taken to consider or investigate and the decision reached in full.

20.3.4 Listen to the child's views on this and let them ask questions to ensure they fully understand the decision. Where possible, questions should be answered in the discussion.

20.3.5 If it is an outcome discussion at stage 1, and the child has ownership of the complaint, confirm whether they are satisfied with the outcome. If they are not, offer the possibility of a full investigation in a way that feels safe and manageable, and confirm the reasons the child disagrees with the stage 1 decision.

20.4 Afterwards a written record should be made, covering each of these points, and this should be shared with the child.

20.5 If the discussion is for a stage 2 decision, then the option to escalate the complaint to the SPSO should be explained and details of how to do this provided.

Our contact details

If you require further information or advice on this process, please contact us by the following means:

Information Governance Team

Tel 01292 612223

Email: listeningtoyou@south-ayrshire.gov.uk

By writing to: Customer Services, South Ayrshire Council, Freepost NAT 7733, Ayr, KA7 1DR.