

APPENDIX 1 - Report

Report to:	Education Resources Committee
Date of Meeting:	21 May 2024
Report by:	Executive Director (Education Resources)

Subject:	Response to Consultation by the Scottish Public Services Ombudsman (SPSO) on child friendly complaints handling procedures
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1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ update Committee on the response of the Children's Services Partnership to the consultation by the Scottish Public Services Ombudsman on child friendly complaints handling procedures.

2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation(s):-

- (1) to note the response of the Children's Services Partnership to the consultation by the Scottish Public Services Ombudsman on child friendly complaints handling procedures.

3. Background

3.1. In January 2024, the Scottish Public Services Ombudsman opened a consultation on the draft Child Friendly Complaints Handling Principles (Appendix 1). The consultation closed on 1 March 2024.

3.2. The purpose of the consultation was to gather responses on the drafts to ensure that the Principles are clearly communicated and easy to understand.

3.3. The consultation was a legal requirement as it is the intention of the SPSO to amend its Statement of Principles to include the Child Friendly Complaints Handling Principles in the course of coming months, following parliamentary approval.

3.4. A response to the consultation was made by the Children's Services Partnership, led and co-ordinated by Education Resources.

4. Child Friendly Complaints-handling Principles

4.1. The principles underpin how to handle and investigate complaints from or involving children, in a way that respects their rights under the United Nation Convention of the Rights of the Child and are as follows:

Principle 1	For Everyone under 18	Article 1 (definition of the child)
Principle 2	Focused on Children's Best Interests	Article 3 (best interests of the child)
Principle 3	Trusting and Inclusive	Article 5 (parental guidance and children's evolving capacities)

Principle 4	Centred on Children's Voices	Article 12 (respect for the views of the child)
Principle 5	Kind and Supportive	Article 13 (freedom of expression)
Principle 6	Confidential	Article 16 (right to privacy)
Principle 7	Educational about Rights assistance)	Article 18 (parental responsibilities and state
		Article 42 (knowledge of rights)

4.2. The response to the consultation is at the end of this report.

5. Employee Implications

5.1. None

6. Financial Implications

6.1. None

7. Climate Change, Sustainability and Environmental Implications

7.1. None

8. Other Implications

8.1. Procedures will require to be enhanced or developed to ensure compliance with the principles of the SPSO child friendly complaints handling procedures.

9. Equality Impact Assessment and Consultation Arrangements

9.1. The response was developed in consultation with partners from across the Children's Services Partnership.

Carole McKenzie
Executive Director (Education Resources)

1 May 2024

Link(s) to Council Values/Priorities/Outcomes

♦ Education and learning: inspiring learners, transforming learning, strengthening partnerships

Previous References

None

List of Background Papers

None

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

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Consultation on child friendly complaints handling procedures.

Principle 1 - For Everyone Under 18

- For the purposes of complaints handling a child is defined as “anyone under the age of 18”.
- All concerns affecting any child will be handled in a way that meets all of their rights under the UNCRC.
- This includes concerns raised directly by a child, as well as concerns raised by an adult, either on a child’s behalf, or about matters that affect a child.

Article 1 (definition of the child) Everyone under the age of 18 has all the rights in the Convention.

How well do you think we have explained this principle?	
Very clear	X
Mostly clear	
Partly clear	
Not at all clear	
Is there anything you think would help explain this principle better?	
While this is clear, is there narrative required about the relationship between everyone under 18 and the categories of complaint? i.e. a child or young person has the right to give their views on a complaint that is made by an adult on their behalf, or when a complaint made by an adult affects them.	

Principle 2 – Focused on Children’s Best Interests

- The best interests of any children affected will be at the heart of the complaints process. This means all decisions made or actions taken will treat the best interests of any children affected as a top priority.

Article 3 (best interests of the child) The best interests of the child must be a top priority in all decisions and actions that affect children.

How well do you think we have explained this principle?	
Very clear	x
Mostly clear	
Partly clear	
Not at all clear	
Is there anything you think would help explain this principle better?	
A reference to the complaints process being ‘resolution focussed’ might be helpful here.	

Principle 3 - Trusting and Inclusive

- Trust will be placed in children to make decisions they can manage, recognising their increasing ability to make their own choices.
- Concerns will be handled in a way that respects the rights of their parent/s, guardian/s or other responsible adult/s to guide and direct them.
- If a child does not wish their parent/s, guardian/s or other responsible adult/s to be made aware of their concerns, their involvement will be decided by carefully weighing the child's views, their best interests, and the rights of everyone involved.

Article 5 (parental guidance and a child's evolving capacities) Governments must respect the rights and responsibilities of parents and carers to provide guidance and direction to their child as they grow up, so that they fully enjoy their rights. This must be done in a way that recognises the child's increasing capacity to make their own choices.

How well do you think we have explained this principle?	
Very clear	
Mostly clear	x
Partly clear	
Not at all clear	
Is there anything you think would help explain this principle better?	
Within the third bullet – 'their involvement will be decided' should there be a reference to who decides about the involvement of parents/s or guardians? Not so clear how the weighing will happen i.e. will the child's view have more weight than a competing adult right or equal weight. Will it be a sliding scale linked to capacity. Who would decide and how. Not so clear on what "decision they can manage" would mean for a child and how that would be judged.	

Principle 4 – Centred on Children's Voices

- Children will be given the chance to express their views, feelings and wishes in all matters that affect them.
- Children's voices and views will always be listened to, taken seriously, and have real impact.
- Children will be asked how they want to communicate and things will be done their way whenever possible.
- Informed consent will be sought from the child affected where a concern has been raised by parent/s, guardian/s or other responsible adult/s on behalf of their child.

Article 12 (respect for the views of the child) Every child has the right to express their views, feelings and wishes in all matters affecting them, and to have their views considered and taken seriously. This right applies at all times, for example during immigration proceedings, housing decisions or the child's day-to-day home life.

How well do you think we have explained this principle?	
Very clear	x

Mostly clear	
Partly clear	
Not at all clear	
Is there anything you think would help explain this principle better?	
This is clear, but could there be reference to the role of independent advocacy under this principle? Would like to see more about how views would be sought from child in a manner which takes account of their levels of understanding and ability and allows them to take part in expressing these views in a meaningful way.	

Principle 5 – Kind and Supportive

- Children will be treated with kindness and understanding at all times, and they will never be treated differently for raising concerns.
- Every effort will be made to ensure children feel comfortable to freely and openly express their thoughts and opinions.
- Wherever possible, children will be supported to complain by people they know and trust.
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Article 13 (freedom of expression) Every child must be free to express their thoughts and opinions and to access all kinds of information, as long as it is within the law.

How well do you think we have explained this principle?	
Very clear	X
Mostly clear	
Partly clear	
Not at all clear	
Is there anything you think would help explain this principle better?	
This is very clear and an essential principle to support an effective child friendly complaints procedure. Would like to see reference to reassurance being given to a child that they will not be treated differently as a result of the complaint.	

Principle 6 – Confidential

- Nothing a child shares will be passed on without their permission, unless doing so is required to raise a child protection concern.
- Before speaking with any child about a complaint, explanations will be given about when things may need to be passed on without their permission. This will include explaining what happens if they say something that suggests they are at risk.
If a child's concerns have to be shared, or their parent/s, guardian/s or other responsible adult/s involved, they will be told this, and why this needs to happen.
- If a child's concerns are shared this will be done as far as possible without identifying them.
- Where an investigation might mean other people could identify the child, this will be discussed with them for their views on whether they wish to continue.

Article 16 (right to privacy) Every child has the right to privacy. The law should protect the child's private, family and home life, including protecting children from unlawful attacks that harm their reputation.

How well do you think we have explained this principle?	
Very clear	X
Mostly clear	
Partly clear	
Not at all clear	
Is there anything you think would help explain this principle better?	
<p>This is clear, and the section on the relationship between child friendly complaints and child protection concerns is helpful in ensuring there is no dubiety over which process is relevant for which purpose.</p> <p>Guidance for public bodies creating a child friendly Privacy Statement to support this principle would be helpful.</p>	

Principle 7 – Educational about Rights

- Information will be provided to children and any parent/s, guardian/s or other responsible adult/s about their rights under the UNCRC and they will be helped to understand what this means for them.

Article 18 (parental responsibilities and state assistance) Both parents share responsibility for bringing up their child and should always consider what is best for the child. Governments must support parents by creating support services for children and giving parents the help they need to raise their children.

Article 42 (knowledge of rights) Governments must actively work to make sure children and adults know about the Convention.

How well do you think we have explained this principle?	
Very clear	x
Mostly clear	
Partly clear	
Not at all clear	
Is there anything you think would help explain this principle better?	
<p>This is clear but is there a capacity issue re the ability to provide information consistently as an integral part of the child friendly complaints process. What is the expectation on public bodies to raise the awareness of children, young people and parents and carers regarding the right to complain. A standard information leaflet to re-enforce this principle would be valuable.</p>	

Any other comments, observations or suggestions

Please share any other comments you have below:

The complaints handling principles are welcome and are helpful in setting expectations around the ethos required to implement a Child Friendly Complaints Procedure effectively and with children and young people at the centre.

Greater clarity on the different categories of complaint under the Under 18 principle.

A reference to the complaints process being resolution focused would be helpful, possibly within the 'Best Interests of the Child' principle.

Should there be a reference to the important role of independent advocacy with the principles, possible under the principle 'Centred on Children's Voices'? e.g. In certain circumstance the voice of the child may be conveyed by an independent advocate. Also requires statement about children being assisted to understand the advocacy role.

The section on the relationship between child friendly complaints and child protection concerns is helpful in ensuring there is no dubiety over which process is relevant for which purpose.