

Social Care Complaints Procedure

(Public Access)



1. Introduction

This procedure is for use of everyone who may be involved in the application of Together for Children's Statutory Complaints Procedure for Children's Social Care. Its aim is to provide a comprehensive but easily accessible guide to all aspects of the procedure. Complaints not covered by this process will be dealt with under Together for Children's Corporate (Non-Statutory) Complaints Procedure.

There are three stages of the statutory complaints procedure:

- Stage one – Local resolution
- Stage two – Investigation
- Stage three – Independent Review Panel Hearing

2. Key Principles

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

We aim to develop a listening and learning culture where learning is fed back to our children, young people and families who use the services, and to feed into the system for driving improvement. The same listening and learning culture should shape wider opportunities for working in partnership with service users, such as individual reviews and systematic quality assurance. It should give people opportunities to tell the authority about both their good and bad experiences of the services.

- The welfare of the child is paramount
- The procedure will not detract from Together for Children's duty of care
- We will ensure that the people who use the service are treated with dignity and respect
- Concerns about the protection of children will be referred immediately to the relevant Children's Social Care Team and/or the police
- It is a fair process
- The complainant will receive a considered response within timescale permitted.
- Complaints are viewed positively as a means of gathering feedback and information and lessons learnt will be used to feed into internal systems and for driving improvement.

3. Together for Children Customer Feedback Team

Together for children has a team that deals with complaints and compliments made directly in relation to Children's Services. The Children's Services Customer Feedback Team are required to register, monitor, review and report on complaints from the public in line with the appropriate complaint procedures. Similarly, there is a requirement that staff receiving any such complaints either by letter, email, fax or phone are to advise the Customer Feedback Team immediately.

All complaints must be registered with the Children's Services Customer Feedback Team. Complaints will be registered and monitored, by the Customer Feedback Team.

However, it should be noted that Member/MP Enquiries are still managed directly by Sunderland City Council, as are Subject Access Requests, where individuals wish to access their own personal information <https://www.sunderland.gov.uk/article/13426/Make-a-Subject-Access-Request-> Freedom of Information requests are handled separately by the Together for Children Information Governance Officer. Please see https://togetherforchildren.org.uk/about/freedom-information

4. When is a complaint a complaint?

The usual rule of thumb would be when the customer says it's a complaint, then it's a complaint. However, the expectation is that service areas would first try to resolve the problem without invoking Together for Children's Statutory Complaint Procedure. Particularly, where the customer or service user has not raised the matter before and the service area has not had the opportunity to try and put the matter right.

If a customer is not satisfied with the service they receive from Together for Children they have the right to raise it immediately with the Together for Children employee concerned. The employee should attempt to resolve the complaint quickly and informally at the first point of contact, if it is in their power to do so. This is an informal unrecorded process and it is here that most complaints are usually and satisfactorily dealt with. However, those complaints that cannot be sorted quickly or by a simple phone call, consideration must be given to how best to proceed.

Where the above action has failed to resolve the problem or concern and the customer remains dissatisfied they should be advised of Together for Children Social Care Complaints procedure.

5. Who can complain?

Section 26 (3) and section 24D of the Children Act 1989 and section 3 (1) of the Adoption and Children Act 2002 require us to consider representations and complaints made by;

- Any children or young person (or a parent of his or someone who has parental responsibility for him) who is being looked after by the local authority or is not looked after by them but is in need
- Any local authority foster carer (including those caring for children placed through independent fostering agencies)
- Young people leaving care
- Special guardians
- A child or young person (or parent of his) to whom a special guardian order is in force
- Any person who has applied for an assessment under section 14F (3) of (4)
- Any child or young person who may be adopted, their parents and guardians;
- Persons wishing to adopt a child
- Any other person whom arrangements for the provision of adoption services extend
- Adopted persons, their parents, natural parents and former guardians
- Such other person as Together for Children consider have sufficient interest in the child or young person's welfare to warrant his representations being consider by them.

Together for Children has the discretion to decide whether or not the 'qualifying individual' is suitable to act on behalf of the child or young person or has sufficient interest in their welfare.

6. How can customers complain?

Customers can complain in a range of ways, for example:

- In person;
- By phone;
- By letter;
- By email; or
- By completing the on line form <https://www.togetherforchildren.org.uk/aboutus/complaints>

7. What can customers complain about?

Customers can complain about a range of different things, for example (but not limited to):

- An unwelcome or disputed decision
- Concern about the quality of appropriateness of a service
- Delay in decision making or provision of services
- Delivery or non-delivery of services including complaints procedures
- Quantity, frequency, change or cost of a service
- Attitude or behaviour of staff
- Application of eligibility and assessment criteria
- The impact on a child or young person of the application of a Together for Children policy assessment, care management and review

8. What can customers not complain about?

The following is exempt from the procedure;

- the customer wishing to complain does not meet the requirements of 'who may complain' and is not acting on behalf of such an individual
- the complaint is not in regard of the actions or decisions of Together for Children complained to, or of anybody acting on it's behalf
- Disciplinary procedures
- Criminal proceedings
- Complaints from staff about personal issues
- Grievance proceedings
- Where the same complaint has previously been dealt with through all stages of the complaints procedure.
- Decisions made at CP conferences

9. Time limit for making a complaint

There is a limit of 12 months from when the issue being complained about occurred, to when a complaint may be accepted. After this time, any complaints made are not usually considered. However this is negotiable on a case by case basis and at the discretion of the Complaints and Feedback Manager.

The Complaints and Feedback Manager will write to the complainant advising them of any decisions made and providing an explanation where required. The complainant will also be informed of their right to approach the Local Government Ombudsman if they disagree.

Possible grounds for extending the time limit are could include a genuine reason why the complaint was not made sooner and the complaint can still be investigated effectively and efficiently.

10. Getting Support

If you need support to make a complaint, the following options can be considered:

- A friend
- A relative
- A neighbour
- An advocacy service
- A carer

11. Advocacy

Advocacy is about helping a person speak out about what they want and ensuring they understand their rights. An advocate can also speak out on a person's behalf and help sort out problems that affect them.

Children and young people who want to make a complaint will be offered the assistance of an advocate to help them. Vulnerable adults may also need the help of an advocate to make a complaint.

It is completely up to the child or young person whether or not he or she wants to have an advocate. If the person is unsure, they can talk to their social worker or Independent Reviewing Officer (IRO), or contact the Customer Feedback Team for information and advice about getting an advocate.

12. Complaints and the media

Any complaints that do come to the attention of the media that Together for Children are made aware of, or contacted for comment on, will be handled on a case-by-case basis by the Together for Children communications team in conjunction with colleagues in the Customer Feedback Team.

13. The Statutory Complaints Process

Stage 1 – Local Resolution

The initial complaint that comes in can sometimes go directly to the Team Manager of the service rather than the Complaints and Feedback Manager. If this happens the Team Manager needs to inform the Customer Feedback Team so they can monitor and record the complaint. This can be emailed to complaints.children@togetherforchildren.org.uk

The stage one investigation and response is carried out by the team manager, or if the team manager has been named in the complaint, or the complainant requests then the service manager may be approached.

The complainant will receive a written response within 10 - 20 working days of making their complaint. If their complaint is complicated it may take longer, but if this is the case we will contact you to agree to an extension. The Customer Feedback Team will send the complainant an acknowledgement of their complaint, alongside an expected response date and the complaints leaflet.

At the conclusion of the response, the complainant must be informed of their right to progress their complaint to stage 2 if they remain dissatisfied. They have 20 working days in which to request this.

Stage 2 –Investigation

If the complainant is not satisfied with the Stage 1 response they are entitled to ask the Complaints and Feedback Manager to progress their complaint to Stage 2 of the procedure. An Investigating Officer will be appointed to investigate their complaint in full and an Independent Person (someone not employed by Together for Children) will also be appointed to ensure that the investigation has been conducted thoroughly and fairly and in accordance with DfE regulations. An advocate may also be appointed for the complainant where appropriate (e.g. where a young person is making the complaint).

The Investigating Officer and Independent Person will both produce reports within 25 to 65 working days of meeting with the complainant to discuss their concerns. The Director of Children's Social Care will then provide the complainant with a written response to their complaint based on the outcome of the Investigation. This is called an Adjudication Letter.

At the conclusion of the stage two responses, the complainant will be informed of their right to progress to stage 3 if they remain dissatisfied.

Stage 3 –Review Panel

If the complainant still remains dissatisfied after receiving their response from the Director of Children's Social Care they can ask the Complaints and Feedback Manager to arrange a Stage 3 Review Panel, which should take place within 30 working days of their request. This is a review of the Stage 2 investigation into their complaint by a panel made up of 3 people independent of Together for Children (panel members).

The complainant will be invited to attend the Review Panel hearing to have their say. Also present will be the Stage 2 Investigating Officer, Independent Person, Director of Children's Social Care and the Complaints and Feedback Manager. The Review Panel members will produce a report of their findings for the Director of Children's Services. The Director of Children's Services will then write to the complainant with his/her response.

If, after going through Stages 1 to 3, the complainant is still not satisfied with Together for Children's response they can take their complaint to the Local Government Ombudsman.

14. Local Government and Social Care Ombudsman (LGO)

If the complainant is not satisfied with the outcome of the Stage 3, they must be advised of their right to approach the Local Government and Social Care Ombudsman (LGO). The letter the complainant receives from the Director of Children's Services will contain information about how to complain to the LGO.

The LGO is an independent person who investigates complaints of injustice arising from maladministration by a Local Authority, which may include complaints both in relation to the provision of children's services and in relation to the operation of the complaints process.

If there is an enquiry about the Local Government Ombudsman's service they can telephone the LGO's Advice Line on 0845 602 1983 or visit . <https://www.lgo.org.uk/>

15. Unreasonably persistent and vexatious complaints

In the minority of cases people pursue their complaints in a way that is unreasonable which can either impede the investigation of their complaint or can have significant resource issues for Together for Children. They may behave unacceptably, or be unreasonably persistent in their contacts and submission of information. This can happen either while their complaint is being investigated, or once Together for Children has finished dealing with the complaint.

Together for Children do not expect staff to tolerate unacceptable behaviour by complainants, or any customer. Unacceptable behaviour includes behaviour which is abusive, offensive or threatening and may include;

- Using abusive or foul language on the telephone
- Using abusive or foul language face to face
- Any form of intimidating or threatening behaviour
- Sending multiple emails
- Leaving multiple voice mails

We will take action to protect staff from such behaviour. If a complainant behaves in a way that is unreasonable or persistent, we will follow this policy.

Raising legitimate queries or criticism of the complaints procedure as it progresses, for example, if agreed timescales are not met, should not in itself lead to the complainant being regarded as unreasonable or persistent.

This section is supported with reference to the Local Government Ombudsman's Guidance note on 'unreasonable or unreasonably persistent complainants' and 'unreasonable complainant behaviour'.

Together for Children have adopted the Local Government Ombudsman's (LGO) definition of "Unreasonable complainant behaviour" and "unreasonable persistent complainant" Together for Children define unreasonably persistent complainants as those which, because of the frequency or nature of their contacts with Together for Children, hinder Together for Children's consideration of their or other people's complaints.

Examples include the way or frequency that complainants raise their complaint with staff, or how complainants respond when informed of our decision about the complaint.

Features of an unreasonably persistent complainant include the following (the list is not exhaustive, nor does one single feature on its own necessarily imply that the complainant will be considered as being in this category):

An unreasonably persistent complainant may be where:

- A person who makes the same complaint repeatedly (with minor differences), but never accepts the outcomes
- A person who seeks an unrealistic outcome and persists until it is reached
- A person with a history of making other unreasonably persistent complaints
- An historic and irreversible decision or incident
- Frequent, lengthy, complicated and stressful contact with the local authority 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 Together for Children on an ongoing basis
- The complainant persistently approaching Together for Children through different route about the same issue in the hope of getting different responses.

Imposing Restrictions

In the first instance, the Manager investigating the complaint will consult the Complaints and Feedback Manager to request the issue of a warning to the complainant. The Complaints and Feedback Manager will contact the complainant either in writing or by email to explain why this behaviour is causing concern and ask them to change this behaviour. The Complaints Manager will explain the actions that Together for Children may take if the behaviour does not change.

The Complaints and Feedback Manager will explain the following:

- Why Together for Children may take the decision to apply the policy
- What action Together for Children may take
- The possible durations of that action
- The Customer Feedback Team will enclose a copy of this procedure in the letter to the complainant.

If the disruptive behaviour continues, and where a person's contact has been identified as unreasonable or persistent, the decision to declare them as such is made by The Complaints Manager, the Performance and Quality Assurance Manager, the Director and agreed by the Chief Executive of Together for Children.

The Complaints and Feedback Manager will write to the complainant advising them that the policy has been applied and the way in which they will be allowed to contact Together for Children in future. The Chief Executive will inform the complainant in writing of what procedures have been put in place and for what period.

Any restriction that is imposed on the complainant's contact with Together for Children will be appropriate and proportionate and the complainant will be advised of the period of the time restriction will be in place. In most cases, restrictions will apply for between three and six months but in exceptional cases may be extended. In such cases, the restrictions would be reviewed on a quarterly basis.

Restrictions will be tailored to deal with the individual circumstances of the complainant and may include:

- Restrict the complainant from making contact by telephone except through a third Party, for example, Solicitor, Councillor, Advocate or friend acting on their behalf
- Restrict the complainant from sending emails to an individual and insisting they only correspond by letter
- Restrict the complainant from accessing any Together for Children building except by appointment
- Requiring contact to take place with one named member of staff only
- Restricting telephone calls to specified days, times and duration
- Requiring any personal contact to take place in the presence of an appropriate witness
- Letting the complainant know that Together for Children will not reply to or acknowledge any further contact from them on the specific topic of that complaint (in this case, a designated member of staff should be identified who will read future correspondence)

All appropriate staff should be informed of the decision so that there is a consistent and co-ordinated approach across Together for Children.

Where a complainant continues to behave in a way which is unacceptable, the Complaints and Feedback Manager may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.

Where the behaviour is so extreme it threatens the immediate safety and welfare of staff, Together for Children will consider other options, for example, reporting the matter to the Police or taking legal action. In such cases, Together for Children may not give the complainant prior warning of that action.

New complaints where previous complainants have been treated as unreasonable or persistent

New complaints from people who have come under this policy will be treated on their merits. The Complaints and Feedback Manager will decide whether any restrictions which have been applied before are still appropriate and necessary in relation to the new complaint. Together for Children do not support a “blanket policy” of ignoring genuine service requests or complaints where they are founded.

The fact that a complainant is judged to be unreasonable or persistent and any restrictions imposed on contact with the complainant will be recorded and notified to those who need to know within Together for Children.

Record keeping

Adequate records will be retained by the appropriate Manager of the details of the case and the action that has been taken. In addition, a central record will be maintained by the Customer Feedback Team setting out:

- The name and address of each complainant who is deemed as persistent or unreasonably persistent
- When the restriction comes into force and ends
- What the restrictions are
- When the complainant and the relevant service areas were advised

16. Complaints Reporting and Lessons Learnt

The Customer Feedback Team report to Together for Children services and the Together for Children board at least monthly with a view to improving service delivery and the customer experience.

Complaint outcomes are discussed at senior team manager meetings and statistics are submitted monthly to Children’s Performance Clinic and quarterly to the Director Management Team.

In addition a 6 monthly report is issued to Sunderland City Council’s Education and Skills Committee. The report includes complaint figures, trends, themes, lessons learnt and compliments with a view to improving services. Reports also include recommendations from all stages of the complaint process. The Complaints and Feedback Team actively monitor the recommendations to ensure timely completion.

17. Compensation

Complainants are entitled to seek compensation through a court of law. Any such legal action is a separate process to the complaints procedure.

18. Data Protection

All functions of the complaint procedure must adhere to the requirements of the Data Protection Act 1998, the Freedom Information Act 2000, and from 25 May 2018 the General Data Protection Regulation.

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

Further information on data protection and individuals rights can be found at <https://ico.org.uk/for-the-public/>

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