

Education, Children and Young People Committee  
Wednesday 29 May 2024  
17th Meeting, 2024 (Session 6)

# Scottish Public Services Ombudsman Child Friendly Complaints Handling Principles

## Introduction

1. On 18 April 2024, the Scottish Public Services Ombudsman (SPSO) laid its proposed revision to the Complaint Handling Principles in anticipation of the enactment of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the UNCRC Act) which takes effect from 16 July 2024. The revision is related to child-friendly complaints principles which will apply to public bodies falling under the remit of SPSO, whenever a complaint involves a child.
2. This evidence session is an opportunity for members to explore the development of the Child Friendly Complaints Handling Principles with the SPSO. The Committee will take evidence from the following witness—
  - Rosemary Agnew, Ombudsman
  - Andrew Sheridan, Head of Improvement, Standards and Engagement
  - Josh Barnham, Improvement Standards and Engagement Reviewing Officer
3. A copy of the laying letter and the draft Principles are attached at **Annexe A**.

## Procedure

4. Under [section 16A](#) of the Scottish Public Services Ombudsman Act 2002, the SPSO Ombudsman is required to publish a Statement of principles concerning complaints handling.
5. The SPSO draft Statement of Complaints Handling Principles was laid on 5 November 2010 and on [12 January 2011](#), the Parliament approved the [complaints handling principles](#).
6. As the accompanying letter points out, the additional child-friendly complaints principles amount to material revisions to the existing complaint handling principles and therefore require parliamentary approval.
7. The Parliament has two months from the laying date within which to approve the draft Principles and the Committee will be required to report to Parliament.

**ECYP/S6/24/17/4**

Following this, the Parliament will consider a motion to approve the draft Principles.

## **Delegated Powers and Law Reform Committee**

3. The Delegated Powers and Law Reform Committee considered the draft Principles at its meeting on 30 April 2024 and [had no points to raise](#).

## **Next steps**

4. The Committee will produce a report on the draft Principles which will recommend whether or not the draft Principles should be approved.

## **Committee Clerks**

**May 2024**

Clerk to the Delegated Powers and  
Law Reform Committee  
Scottish Parliament  
Room T1.01  
Edinburgh

18 April 2024

By Email: [dplr.committee@parliament.scot](mailto:dplr.committee@parliament.scot)

Dear Clerk,

### **Proposed revision to the Complaint Handling Principles**

1. On 12 January 2011, the Scottish Parliament approved complaints handling principles under section 16A of the Scottish Public Services Ombudsman Act 2002 (the Act). These can be found here [Statement of Principles \(spsso.org.uk\)](http://www.spsso.org.uk)
2. For the last two years, supported by additional funding from the Scottish Government, I have been developing a new approach to the handling of complaints concerning, and from, children and young people. This was in anticipation of the enactment of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the UNCRC Act) which takes effect from 16 July 2024. This approach to “child-friendly complaints” handling will be applicable to all public bodies within my jurisdiction whenever they handle complaints that involve children.
3. I have prepared an addition to my already laid complaints handling principles which is specific to child-friendly complaints. These additional child-friendly complaints principles will apply whenever a complaint involves a child. As these amount to material revisions to my complaint handling principles, they are being laid today under section 16A for approval. I am not seeking to make any material changes to the existing complaint handling principles, which will remain in force.
4. In addition to these principles I am laying today, I have also developed guidance and procedures on how to apply child-friendly complaints principles in practice. Both the principles and procedure will be launched ahead of 16 July 2024, when public bodies’ new duties under the UNCRC Act come into effect.
5. The child-friendly approach was co-designed with a wide range of children and young people, parents, advocates, professionals working with children, statutory bodies, and complaints handlers from across all the sectors within my jurisdiction. I also ran a public consultation earlier this year and the principles laid before you today reflect the feedback received.

6. I am satisfied this demonstrates SPSO's compliance with section 16A (7) of the Act.
7. Further details of SPSO's child-friendly work can be found on our website here [Child Friendly Complaints | SPSO](#).
8. Please do not hesitate to contact me if you have any questions.

Yours sincerely

Rosemary Agnew  
**Scottish Public Services Ombudsman**





## About these principles

These principles underpin how to handle and investigate complaints from or involving children, in a way that respects their rights under the **United Nations Convention on the Rights of the Child (the UNCRC)**.

These principles are not intended to stand alone. Instead, they add to the main principles, adapting the complaints process to meet children's rights and needs.

They are supported by more detailed guidance on how to apply these principles in practice. This can be found in our **Child Friendly Complaints Handling Procedure**.





## For Everyone Under 18

- For the purposes of complaints handling, a child is defined as “anyone under the age of 18”.
- **All** complaints affecting **any** child will be handled in a way that meets **all** of their rights under the UNCRC.
- This includes complaints raised directly by a child, as well as complaints 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.



### Article 2 (non-discrimination)

The Convention applies to every child without discrimination, whatever their ethnicity, sex, religion, language, abilities or any other status, whatever they think or say, whatever their family background.



## 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.





## Trusting and Inclusive

- **Trust** will be placed in children to make decisions they can manage, recognising their increasing ability to make their own choices.
- Complaints will be handled in a way that empowers children to realise all of their rights.
- They will also be handled in a way that respects the rights of their parent/s or other responsible adult/s to guide, support and direct them.
- A child may not wish their parent/s or other responsible adult/s to be made aware of their complaints. If this is the case, adult involvement will be decided by carefully weighing the child's views, best interests, age, and capacity, with the rights of others 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.



## Centred on Children's Voices

- Children will be given the chance to express their views, feelings and wishes in **all** matters that affect them, to the extent they wish to.
- Children's voices and views will **always** be listened to and taken seriously. The impact of their views will be shared with them and explained.
- Children will be asked how they want to communicate and things will be done their way whenever possible.
- Children's communication needs will be met in a way that makes them feel safe and involved.
- Informed consent will be sought from the child affected where a complaint has been raised by parent/s or other responsible adult/s on behalf of the 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.







## Kind and Supportive

- Children will be treated with kindness and understanding at all times, and they will never be treated differently for raising a complaint. This is essential to foster trust and help children to feel able to openly express themselves.
- Every effort will be made to ensure children feel comfortable to express their thoughts and opinions freely and openly.
- Wherever possible, children will be supported to complain or voice concerns by people they know and trust.
- Where a child does not feel they have anyone to support them, they will be offered a referral to independent advocacy.



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## Private and Confidential

- Nothing a child shares will be passed on without their permission, unless doing so is required to raise a child protection concern, or meet another legal duty.
- 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 complaints have to be shared, or their parent/s or other responsible adult/s involved, they will be told this, and why it needs to happen.
- If a child's complaints 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.



## Knowing about Rights

- Information will be provided to children and any parent/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 42 (knowledge of rights)

Governments must actively work to make sure children and adults know about the Convention.

## Child Protection Concerns

Complaints procedures **should not be used** to investigate any concerns that suggest significant harm might have been caused to a child or that a child might be at risk of harm. If at any point, concerns are raised about possible harm to a child from abuse, neglect, or exploitation, these should always be shared with police or social work without delay. Complaints can subsequently be raised about the handling of child protection investigations, and such complaints should follow these Principles.

