

Complaints Policy

2019

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South Tyneside Council

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1. South Tyneside Complaints Principles

Complaints are welcomed at all levels, in the same way we welcome other feedback and compliments. They allow us to put things right where they have gone wrong and identify shortcomings which can then be addressed. We seek to reach speedy local resolution, and facilitate coordinated handling of cross-boundary complaints.

The following are our principles when dealing with complaints:

- We will deal with complaints impartially, objectively and professionally. Customers who complain can be assured that there will be no adverse treatment of themselves or their families because they have made a complaint.
- We will keep you informed about the progress of your complaint. Where complaints are complex or are likely to take time to investigate, the complainant will be kept informed of progress and, if there is going to be a delay, will be told why.
- Where a complaint relates to more than one department, a lead officer will be identified to co-ordinate a response that covers all aspects of the complaint.
- Where complaints cross organisational boundaries for example with the NHS, the Council, with the consent of the complainant, will aim to coordinate a single response.
- The identity of the person making a complaint will be managed in line with the Data Protection Act and only shared when it is necessary to do so to enable the investigation of the complaint. We will not make a complainant's identity public. Care will be taken to maintain confidentiality where particular circumstances demand (for example, information about third parties). Where it is not possible to preserve confidentiality, the customer will be advised about this.

1.1 How to make a Complaint

Complaints can be made verbally, in writing or electronically to any member of staff of South Tyneside Council. To ensure a rapid response, it is recommended that a complaint is made by:

Website: <https://www.southtyneside.gov.uk/article/56837/Leave-a-complaint>

Email: complaints@southtyneside.gov.uk

Telephone: 0191 427 7000 or 0191 424 4679 for social care complaints

Letter: Complaints,
South Tyneside Council,
Town Hall & Civic Offices,
Westoe Road,
South Shields,
Tyne & Wear,
NE33 2RL.

It is important to recognise that not all concerns raised will progress to formal complaints procedures. Where a concern is raised that can be dealt with at the point of contact, staff will aim to resolve the issue(s). Where this is not possible, the complainant will be advised how to escalate their concern as a formal complaint.

1.2 Unacceptable or Unreasonable Behaviour

Generally, dealing with feedback or requests is a straightforward process, but in a minority of cases, people pursue their complaint or request in a way that can either impede the investigation of their complaint or can have significant resource issues for the Council. These actions can occur either while their complaint or request is being investigated, or once we have concluded any investigation.

South Tyneside Council has a managing unacceptable and/or unreasonable behavior policy. The policy defines unacceptable and/or unreasonable behaviour and sets out the measures we can take to deal with complainants who display this behaviour. See Section 7.

2. Complaint Categories

There are different complaints processes depending on the category of complaint.

- Complaints regarding council services and staff – Section 3
- Complaints or representations regarding Adult Social Care under the Local Authority Social Services Complaints and National Health Service Complaints (England) Regulations 2009 – Section 4
- Complaints or representations regarding Children and Families Social Care under The Children Act 1989 Representations Procedure (England) Regulations 2006 – Section 5
- Complaints regarding personal information under the Data Protection Act. – Section 6
- Complaints regarding Elected Members – Section 2.3

2.1 Anonymous complaints

Anonymous complaints can play a significant part in revealing poor practice, particularly in relation to vulnerable people. Anonymous complaints will be considered under the Corporate Complaints Procedure (see section 3), where possible. If there are no means to provide a response in relation to allegations or issues raised, these this will be recorded as an initial report of concern and investigated as considered appropriate by the Lead Officer.

2.2 Complaints about the conduct of staff

Where a complaint involves the conduct or attitude of a member of staff, this will be investigated under the corporate complaints procedure to ensure that the customer receives a response to the concerns raised.

The corporate complaints procedure is a separate process from any internal disciplinary procedures that may follow as a result of the investigation of a complaint.

The relationship between employer and employee is confidential. It is appropriate to advise the customer of any action taken in response to their complaint, however the application or outcome of any HR process must remain confidential.

2.3 Complaints about Elected Members

Complaints about the conduct of Elected Members (Councillors) are overseen by the Council's Monitoring Officer.

The Monitoring Officer can be contacted as follows:

Head of Legal Services
South Tyneside Council
Town Hall and Civic Offices
Westoe Road
South Shields
Tyne and Wear
NE33 2RL
Tel: 0191 424 7009
Fax: 0191 456 0208
E-mail monitoring.officer@southtyneside.gov.uk

2.4 Complaints about Financial Impropriety

Allegations about financial impropriety will be considered under the corporate complaints procedure (see section 3) and will be shared with Internal Audit.

3. Corporate Complaints –Complaints regarding council services or staff

The majority of complaints will relate to council services and staff. These are known as corporate complaints.

3.1 What is a complaint?

It is important to determine whether a customer is making a complaint or simply requesting a service or asking the Council to explain a decision.

From the customer's point of view, a complaint is anything that the Council does or fails to do, that makes someone so unhappy that they feel the need to contact the Council. Examples may include where a customer:

- has problems or difficulties contacting the Council;
- finds Council services difficult to access;
- is unhappy with the quality of a service provided;
- believes that communication with them has been poor or non-existent;
- is unhappy with the attitude or actions of a Council employee;
- believes the Council has not followed policy and/or procedure;
- has experienced significant or unexplained delays;
- is unhappy with a decision we have made.

This is not an exhaustive list.

3.2 What isn't a complaint?

The following should not be recorded as corporate complaints:

- A request for a service
- An issue where there is an existing right of appeal (e.g. education appeals, parking tickets).
- Employment/recruitment matters
- Allegations of criminal action
- A complaint about historical services or experience with staff (usually of over 12 months unless any exceptional circumstances have prohibited this)
- Complaints about schools (these should be directed to the schools' governing body or school complaints procedure)
- Complaints about South Tyneside Homes (These are dealt with separately by South Tyneside Homes. Visit www.southtynesidehomes.org.uk or call Customer Services on 0300 123 6633)

- Complaints by Council staff about their employment

There may be other cases that are not dealt with under this corporate complaints procedure, such as insurance claims, and cases that are subject to legal action. The Monitoring Officer should be alerted about complaints involving alleged unlawful actions by the Council please see contact details in Section 2.3.

3.3 Corporate Complaints Procedure

Most complaints are dealt with through the corporate complaints procedure.

Complaints follow a 3 stage process:

Stage 1

The focus at Stage 1 is on putting things right. A formal written response will not always be provided, unless requested. A service manager or a senior colleague will look into the problem and let the customer know within 10 working days how they aim to resolve the issue.

If a customer is still unhappy, they can request a formal investigation of the complaint under Stage 2 of the complaints procedure. This should be within 28 days of receiving the Stage 1 response. Customers should set out why they are unhappy and any issues they feel have not been addressed.

Stage 2

The complaint will be referred to a senior manager to carry out an investigation. That person will not have had any prior involvement in investigating the complaint.

A letter to acknowledge that the complaint has moved to Stage 2 will be sent, followed by a full response. The target response time is 15 working days. If more time is needed to complete the investigation, an update will still be sent within 15 working days.

If a customer is not happy with the response at Stage 2 they can write to the Office of the Chief Executive within 28 days, requesting the complaint be investigated at Stage 3 (the final stage) of the complaints procedure.

Stage 3

The Chief Executive will appoint a colleague to investigate the complaint on their behalf. That officer will not have had any prior involvement in dealing with the complaint and will not be employed in the service area that is being complained about. That person will respond directly to the complainant with their findings.

A letter to acknowledge that the complaint has moved to Stage 3, detailing the Lead Officer will be sent. A full response will be sent within 20 working days. If more time

is needed to complete the investigation, an update will still be sent within 20 working days.

If a customer is not happy with the response, they can approach the Local Government Ombudsman who may investigate the complaint.

Local Government & Social Care Ombudsman

The Local Government & Social Care Ombudsman is an independent service set up by the Government to investigate complaints about Council matters. Customers can complain to the Ombudsman at any time. However, the Ombudsman may refer a complainant to the council procedure first.

You can visit the Ombudsman's website: www.lgo.org.uk or contact their advice line on 0300 061 0614.

Sometimes we will exercise discretion about the stage at which we investigate a complaint. Very serious or complex complaints may be escalated direct to Stage 3 and complex cases may start at Stage 2.

3.4 Assistance with Complaints

It is important that no one is excluded from the complaints system due to any difficulties they may have in representing themselves or accessing information. Customers may have a significant difficulty which may not be immediately apparent (for example, an inability to read or write). Complaints may be made by someone who is acting on a customer's behalf, with their consent. We recognise that some people may need a significant amount of help to make a complaint and we aim to provide this where necessary in a way that meets the individual customer's needs.

4. Complaints regarding Adult Social Care

The Local Authority Social Services Complaints and National Health Service Complaints (England) Regulations 2009 requires local authorities to have a formal complaints procedure in place for those people who want to make a complaint or representation about adult social services. This sets out South Tyneside Council's procedure.

4.1 What is a complaint?

The Adult Social Services Complaints procedure only covers those functions set out in the Local Authority Social Services Act (1970). Essentially, this means that the procedure applies to a specified range of adult social care issues and functions delivered or arranged by the local authority.

This includes, but is not limited to:

- An unwelcome or disputed decision.
- Concern about the quality or 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 an individual of the application of a local authority policy.
- Assessment, care management and review.
- The quality, accuracy and content of reports compiled by the local authority about service users and carers.

4.2 What isn't a complaint?

There are some limitations or exclusions to this procedure. These include but are not limited to:

- Complaints where the person making the complaint does not meet the "Who can complain" requirements set out in Paragraph 5.3 below.
- Complaints which are not about the actions or decisions of South Tyneside Council, or a body acting on its behalf (such as independent or registered social care providers).
- Where the complaint has previously been investigated.
- Where the complaint is about matters which are being dealt with under other proceedings, including, but not limited to:
 - The council's disciplinary procedure or grievance procedure.
 - Criminal investigations where court action is pending.
 - The council's corporate complaints procedure.
 - Services for which alternative appeals processes apply

- Complaints made more than one year after the event that gave rise to the complaint. However, each complaint will be considered on a case-by-case basis, and where appropriate, the complaint will be investigated.
- Where the complainant demonstrates unacceptable and unreasonable behaviour – see Section 7 for details.

If it is decided that a complaint is not eligible for consideration, you will be informed in writing of the reasons for this, and any alternative methods of redress you can pursue.

4.3 Who Can Complain?

A person is eligible to make a complaint where South Tyneside Council has a power or a duty to provide, or secure a service for the person, and the need or possible need for such a service has come to our attention. This also applies to a person acting on behalf of someone else.

A complaint can be made by either the person who is receiving, or who believes they need, a social care service, or a person acting on their behalf as a representative. South Tyneside Council will normally require written confirmation, as far as this is possible to give, from the service user that they are happy for this representation to take place and, if appropriate, for relevant information to be shared directly with their representative.

South Tyneside Council has the discretion to decide upon the appropriateness of a person to act as a representative for a service user. If the representation is considered unsuitable, or not in the service user's best interests, the person acting as representative will be informed in writing of the reasons why their representation has been refused. This test of suitability will be applied when the complaint is first made, and also at relevant stages of the complaint, as appropriate.

An independent and confidential advocacy service is available free of charge for complainants who would like support in representing their views. They can ask for this at any time.

4.4 The process of the complaint investigation

The Council operates a single local resolution stage procedure followed where necessary, by a single system for independent review by the, Local Government & Social Care Ombudsman.

4.4.1 Acknowledgement

Upon receipt of a complaint, it will be triaged to determine how the complaint will be handled to ensure any associated investigation is proportionate to the severity of the complaint and any related risks. An acknowledgement will be sent within three

working days and the complainant will be offered the opportunity to discuss, either by telephone or face-to-face.

4.4.2 Investigation

An investigating officer will be appointed to undertake an investigation of the complaint.

The investigating officer will be appointed from

- within adult services
- another area of the Council
- an independent agency

The investigation will be carried out in a manner appropriate to resolve it speedily and efficiently. The Investigating Officer and Independent Person will be given access to all records and staff that are relevant to the complaint. These will be released within the bounds of normal confidentiality and with regard to relevant legislation on Freedom of Information and Data Protection Act.

4.4.3 Timescales

Should the person making the complaint amend the content, scope, or preferred outcomes of their complaint, then the timescale for completing the investigation will need to be reviewed. In the event that it is not possible to complete the investigation within the designated timescales the Investigating Officer will consult with the complainant to decide a revised timetable.

4.4.4 Independent Person

Where there are significant concerns about the vulnerability of the person making the complaint and the seriousness of the complaint, the Council will consider appointing an Independent Person as well as an Investigating Officer. This Independent Person must be involved in all aspects of consideration of the complaint.

The primary role of the Independent Person is to observe the investigation process to ensure it is open, transparent and fair, and the vulnerability of the person making the complaint is not compromised. The Independent Person will not be an employee or a Councillor of South Tyneside Council or the spouse or civil partner of such a person or a person who has been employed by the Local Authority in the previous three years.

4.4.5 Findings

Following the conclusion of the Investigating Officer's consideration of the complaint, a report will be written setting out the findings of the investigation. The report will be proportionate to the assessed seriousness of the complaint.

If appointed, the Independent Person will also provide a report setting out their view.

Following completion of the Investigating Officer and where appropriate the Independent Person's report, South Tyneside Council reserves the right to correct significant factual errors within the report, so as to avoid recommendations being made on the basis of false information.

4.4.6 South Tyneside Council Response

Following completion of the reports, the Head of Adults Social Care or a senior manager acting on their behalf will adjudicate on the reports' findings and recommendations. This involves considering the complaint and the reports and deciding the authority's response to the issues raised therein.

A letter will then be sent to the complainant to:

- Confirm the Local Authority is satisfied with the way that the complaint has been addressed and the action taken.
- Make clear to the complainant that all appropriate action has been taken at local level.
- Inform the complainant that they are able to take the case to the Ombudsman.

Included with the letter will be a written explanation of how the complaint has been considered, conclusions reached on the basis of the facts and an explanation of what action, if any, the Local Authority intends to take as a consequence.

4.4.7 Appeal

If the complainant is dissatisfied with the response to their complaint then the Council in consultation with the investigating officer will consider:

- The reasons for the dissatisfaction.
- Whether this is a new complaint.
- Whether the investigation adequately answered the issues in the first instance.
- Whether there is any new information.

If it is felt that after this consideration there are grounds to revisit some or all elements of the complaint then this will be agreed with the complainant. If it is decided there are not grounds then the complainant will be advised of the next stage of the process, which is referral to the Local Government Ombudsman. They will be given the necessary information to enable them to do this.

4.5 Safeguarding Adults

South Tyneside Council is part of a multiagency Safeguarding Adults procedure, which is designed to protect vulnerable adults from abuse. Should issues arise during a complaint which suggests that the abuse of a vulnerable adult may have

taken place, the Council may raise a Safeguarding Adults' concern, in which case the Safeguarding procedure will take precedence and it may be necessary to freeze the complaint. In these circumstances consideration will be given to any outstanding issues of complaint on a case-by-case basis when the complaint is reopened.

4.6 Independent providers

When a complaint is made about a service provided on South Tyneside Council's behalf by another provider (e.g. a home care, residential care, or day care service) then with the consent of the complainant, the Council will share with the provider. The complaint will be the responsibility of the independent provider to address under its procedure. When issues relate to both the independent provider and the local authority the complainant will be notified which parts of the complaint will be handled by the local authority under these regulations and will aim to produce a coordinated response to the complaint.

5. Complaints regarding Children and Families Social Care

The Children Act 1989 Representations Procedure (England) Regulations 2006 require local authorities to have a formal procedure in place for those children, young people and their representatives who wish to make a representation or complaint about Children and Families Social Care. This sets out South Tyneside Council's procedure.

5.1 What is a complaint?

Section 26(3) of the Children Act 1989 defines the functions that are delivered or arranged by the local authority that may form the subject of a complaint. This includes, but is not limited to:

- An unwelcome or disputed decision.
- Concern about the quality or 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 or eligibility and assessment criteria.
- The impact on a child or young person of the application of a local authority policy.
- Assessment, care management and review.
- Issues concerning services regulated under the Care Standards Act 2000 and delivered on behalf of the Local Authority will be considered where appropriate under this procedure.
- Special Guardianship Support Services

Where the Local Authority is involved in Court proceedings under Part 4 of the Children Act 1989, including care and supervision order proceedings, a complaint may be made about:

- The decision by the Local Authority to initiate care and supervision orders (Section 31).
- The effect of the care order and the Local Authority's actions and decisions where a care order is made (Section 33).
- Control of parental contact with children in care (Section 34).
- Supervisors conduct where a supervision order is in force (Section 35).

In respect of the Council's duty to protect children under Part 5 of the Children Act 1989, a complaint may be made about matters not relating to the Court which are specifically actions of the local authority, such as:

- Applications for and duties in relation to child assessment orders (Section 43).
- Matters relating to applications for emergency protection orders and decisions relating to the return of children who have been removed (Section 44).

Whilst a complaint may be made about the quality or accuracy of social work information or a report provided to the Court, it cannot relate to the subsequent actions of the Court.

5.2 What isn't a complaint?

There are some limitations or exclusions to this procedure. These include but are not limited to:

- Complaints where the person making the complaint does not meet the “Who can complain” requirements set out in Paragraph 6.3 below or is not acting on behalf of such an individual.
- Complaints which are not about the actions or decisions of South Tyneside Council, or of agents acting on its behalf.
- Where the complaint has already been dealt with at all stages of the procedure.
- Where the complaint is about matters which are being or will be dealt with under other proceedings or investigations, including those listed below, and the Council decides it would be prejudicial to the conduct of those proceedings or investigations to consider the complaint:
 - The Council's disciplinary or grievance procedure.
 - Criminal investigations.
 - Court proceedings.
 - The council's corporate complaints procedure.
 - Services for which alternative appeals processes apply.
- Complaints made more than one year after the event that gave rise to the complaint. However, each complaint will be considered on a case-by-case basis, and where appropriate, the complaint will be investigated.
- Where the complainant demonstrates unacceptable and unreasonable behaviour – see Section 7 for details.
- Complaints relating to adoption services –see paragraph 6.10

If it is decided that a complaint is not eligible for consideration, you will be informed in writing of the reasons for this, and any alternative methods of redress you can pursue.

5.3 Who Can Complain?

A complaint can be made by a child or young person (or their representative) who is being looked after by the local authority or is not looked after them but is in need. Other people eligible to complain are:

- Local Authority foster carers (including those caring for children placed through independent fostering agencies).
- Children leaving care.
- Special Guardians, including a child or young person in respect of whom a Special Guardian order is in force.
- Any person who has applied for assessment for Special Guardianship.

support services under section 14F(3) or (4) of the Children Act 1989.

- Children or young people who may be adopted, their parents and guardians.
- Adopted persons, their parents, natural parents and former guardians.
- Such other person as the local authority considers to have a sufficient interest in the child or young person.

If there is a person acting as a representative of the complainant South Tyneside Council will normally require written confirmation, as far as this is possible to give, from the service user that they are happy for this representation to take place and, if appropriate, for relevant information to be shared directly with his representative.

South Tyneside Council has the discretion to decide upon the appropriateness of a person to act as a representative for a service user. If the representation is considered unsuitable, or not in the service user's best interests, the person acting as representative will be informed in writing of the reasons why their representation has been refused. This test of suitability will be applied when the complaint is first made, and also at relevant stages of the complaint, as appropriate.

An independent and confidential advocacy services is available free of charge for children and young people who would like support in representing their views. They can ask for this at any time.

On occasion the Local Authority may receive complaints by adults that relate to a child or young person but are not made on the child's behalf. The Children Act 1989 gives discretion to Local Authorities to decide in cases where eligibility is not automatic whether or not an individual has sufficient interest in the child's welfare to justify his own complaint being considered by them. When appropriate the Local Authority will check with the child or young person that they are in agreement with the person making the complaint.

5.4 The process of the complaint investigation

The complaints procedure features three stages, namely:

- Stage 1 – Local Resolution
- Stage 2 – Investigation
- Stage 3 – Review Panel

5.5 Stage 1 –Local Resolution

Stage 1 of the procedure involves an attempt to resolve the issues raised by the complaint at the point of service delivery. It is expected that the vast majority of complaints will be resolved at this stage.

The complaint will be allocated to an appropriate manager, who will review the issues and provide the person making a complaint with a response. In most cases, this "appropriate manager" will be the line manager responsible for the service, or

services, that are the subject of the complaint. However, in some situations, the Stage 1 work will be allocated to a manager not directly involved in the services that are the subject of the complaint – this will typically occur when the complaint involves decisions or actions taken by the direct line manager.

Where the matter is not resolved as a result of Stage 1 work, or the person making the complaint is dissatisfied with the Local Authority's response, the person making the complaint then has 20 working days from the expiry of the Stage 1 time limit or the date the Stage 1 response was sent in which to request consideration at Stage 2.

Requests at Stage 2 must set out the reasons the complainant is dissatisfied with the response at Stage 1 and the preferred outcome they are seeking.

5.6 Stage 2 –Investigation

5.6.1 Appointment of Investigating Officer

Once a complaint enters Stage 2 an Investigating Officer will be appointed to lead the investigation of the complaint and prepare a written report. Normally, the Investigating Officer will be a senior manager from within the Council's Children and Families Social Care service who is not part of the direct line management of the service or a person about whom the complaint is being made. However, an Investigating Officer external to the Council may be appointed if the Council considers that this is appropriate.

5.6.2 Independent Persons

An Independent Person must also be appointed to the investigation. This person should be in addition to the Investigating Officer and must be involved in all aspects of consideration of the complaint.

The primary role of the Independent Person is to observe the investigation process to ensure that it is open, transparent and fair. The Independent Person will not be an employee or a Councillor of South Tyneside Council or the spouse or civil partner of such a person or a person who has been employed by the Local Authority in the previous three years.

5.6.3 Findings

Following the conclusion of the Investigating Officer's consideration of the complaint, a report will be written setting out the findings of the Stage 2 investigation.

The Independent Person will also provide a report setting out their view.

Following completion of the Investigating Officer and the Independent Person's report, South Tyneside Council reserves the right to correct significant factual errors within the report, so as to avoid recommendations being made on the basis of false

information.

Following this process, the Investigating Officer and Independent Person's report will be sent to the person making the complaint. The Investigating Officer and Independent Person will meet with the person making the complaint to discuss and present their findings.

5.6.4 South Tyneside Council's response

Following completion of the reports, the Head of Children and Families Social Care or a senior manager acting on their behalf will adjudicate on the reports' findings and recommendations. This involves considering the complaint and the reports and deciding the authority's response to the issues raised therein. Where appropriate the Head of Children and Families Social Care will consult with the Independent Person as part of this process and may also consult with the Investigating Officer and the complainant.

Following this adjudication process, the Head of Children and Families Social Care will write to the person making the complaint, setting out the action proposed in response to the report, and the timescale for these actions. The complainant will also be sent a copy of the reports of the Investigating Officer and Independent Person. On occasion it may be appropriate for the Head of Children and Families Social Care to meet with the complainant to discuss the adjudication.

If the person making the complaint is dissatisfied with the Head of Children and Families Social Care's response they may, within 20 working days from receipt of this response, request that the complaint be considered at Stage 3 of the procedure.

A request for complaint to be considered at Stage 3 should be in writing and must set out the reasons for the complainant's dissatisfaction with the outcome of the Stage 2 investigations and response.

5.7 Stage 3 –Review Panel

5.7.1 Review Panel Purpose

The Review Panel stage of the process is designed to provide a detailed, independent consideration of whether South Tyneside Council has adequately dealt with the complaint in the Stage 2 investigation. The Review Panel does not reinvestigate the complaint, and does not consider new information or new elements of the complaint – such new information or new elements need to be the subject of Stage 1 and Stage 2 of the process prior to being considered by Review Panel.

5.7.2 Review Panel Members

The Review Panel consists of a Chair and two other people appointed by South Tyneside Council. The Panel members are independent of the Local Authority and will not be an employee or a Councillor of South Tyneside Council or the spouse or

civil partner of such a person. One of the panelists will typically be an “expert” panelist, with detailed professional knowledge of Children’s Social Care Services as defined by the regulations.

5.7.3 Timeframes

The Review Panel will be arranged within 30 working days of a request for a Panel being made, subject to the availability of all attendees. In addition to the panelists, the Review Panel meeting will also be attended by:

- The person making the complaint and any representative and/or advocate they may have.
- A representative from Customer Advocates Team
- A Senior Manager from the service that is subject of the complaint, unless the findings of the investigation have been rejected wherein the Adjudicating Officer will attend.
- The Stage 2 Investigating Officer and Independent Person.
- A legal adviser from South Tyneside Council, who has had no previous involvement in the matter, to act as the Clerk to the Panel.
- A minute taker.

The complainant and the Council must submit any written representations that they wish the Panel to consider within 15 working days of the request for the it to be held. Papers for the Panel meeting will be circulated at least 10 working days in advance of the panel meeting. The Chair of the Panel will decide whether to accept any written information that is submitted for consideration by the panel outside of these timescales or any information that raises issues not previously considered during the investigation of the complaint.

South Tyneside Council reserves the right to hold a Review Panel in the absence of the person making the complaint if the person does not attend a previously arranged Panel they have agreed to attend more than once.

5.7.4 What happens at the Review Panel?

At the Panel meeting, the person making the complaint or their representative will be invited to make a statement as to why they are not in agreement with the Stage 2 report and the Local Authority’s response.

The Investigating Officer will also be invited to present their findings, and the service Senior Manager will be invited to give the Council’s position in relation to any action it intends to take to provide redress to the person making the complaint.

Opportunities will be offered to ask questions, but the panel’s purpose is about clarifying what each party’s opinion of the complaint is rather than an opportunity to cross-examine attendees. The Chair will ensure that the statements and subsequent discussions remain relevant, and focused on the how the complaint has been dealt with.

The Panel members will then go into closed session to deliberate on their findings and conclusions. A written record of the Panel and its findings and conclusions will be provided within 5 working days to:

- The person making the complaint.
- The Council's Corporate Director of Children, Adults and Health.
- The Independent Person.
- Any other person whom the Council believes to have sufficient interest.

The Council's Corporate Director of Children, Adults and Health will respond to the person making the complaint (and other participants as necessary) within 15 working days of receiving the Panel's report. In developing his response the Director should invite comment from all the attendees including the Independent Person.

The response will set out how the Council will respond to the recommendations, what action will be taken and the reasons why the Council is deviating from the Panel's recommendations (if applicable). If the Corporate Director deviates from the Panel's recommendations, the matter will be reported to the next People Select Committee, for approval.

The response will also provide the person making the complaint with details of how to contact the Local Government Ombudsman, if they are dissatisfied with the Council's response.

5.8 Complaint Timescales

5.8.1 Stage 1

Most Stage 1 complaints will be concluded within 10 working days of the complaint being made. The period of 10 working days may be extended where:

- South Tyneside Council cannot provide a complete response, in which case it can implement a further 10 days' extension.
- The person making the complaint agrees to an extension to ensure a fuller response to their concerns.

In addition, where the person making the complaint has requested that an advocate or representative be arranged, in which case, Stage 1 of the complaint will not commence until an advocate has been appointed

If, once started, the Stage 1 process takes more than 20 working days in total, the person making the complaint has the right to move on to Stage 2 of the process immediately.

A complaint may also move directly to stage 2 of the procedure where both the complainant and the Council agree that it would not be appropriate to consider the matter at Stage 1.

5.8.2 Stage 2

South Tyneside Council aims for the Stage 2 investigation to be completed and the response sent to the complainant within 25 working days from the start of the Stage 2 process.

This will normally be the date on which the complainant's request for a Stage 2 investigation was received. Stage 2 timescale is 25-65 working days.

5.9 Safeguarding Children Board

South Tyneside Council is part of a multi agency Safeguarding Children Board, which is responsible for safeguarding and promoting the welfare of children. On occasion children and young people (or their representatives) may wish to make representations or complain about an aspect of a child protection conference i.e. the management of the meeting, the actions of a staff member or the decision made regarding registration. Should a complaint arise this will be addressed in line with the Safeguarding Children Board complaints procedure.

5.10 Adoption Complaints

Adoption services are managed regionally by Adopt North East – complaints about related functions can be made by contacting:

Adopt North East, Telephone: 0191 643 5000

Email: adoptnortheast@northtyneside.gov.uk

Website: www.adoptnortheast.org.uk

6. Complaints Regarding Personal Information under Data Protection Act

6.1 Making Requests under Data Protection Act

South Tyneside Council has separate processes for individuals to exercise their rights under the Data Protection Act 2018. Common requests individuals make are:

- Right to Access
- Right to Rectification
- Right to Erasure
- Right to Restriction of processing

If you have a request you can make this by contacting

Data.protection@southtyneside.gov.uk

Or by calling the Information Governance Team on
0191 424 6539

6.2 Making a Complaint about Data Protection

If you have concerns about the processing of your personal information you should in the first instance contact the Information Governance Team (details above).

If you are not satisfied with the response you can raise a complaint under the Corporate Complaints Procedure see section 3

Or you can go direct to the Information Commissioners Office

Information Commissioner's Office,
Wycliffe House, Water Lane,
Wilmslow,
SK9 5AF.

More information can be found on the ICO's website at www.ico.org.uk.

7. Managing unacceptable and/or unreasonable behaviour

South Tyneside Council is committed to providing an inclusive and accessible service for all of our customers, but we also need to ensure we provide a safe working environment for our staff.

South Tyneside Council recognises that, in some circumstances, customers actions may be affected by disability, including mental illness, substance misuse or other factors and may need additional support. Where this is the case, the individual needs and circumstances of the customer will be considered before deciding how best to manage the situation.

Customers may make unreasonable demands that could affect the service we provide to other customers, or communicate with us in a manner which causes offence to our staff. Where this occurs, the Council reserves the right to manage customer communication so that we protect our staff and maintain our service to other customers.

Also in a minority of cases, people can pursue their complaints in a way that can either impede the investigation of their complaint or can have significant resource issues for the Council.

This policy sets out our approach to managing those customers whose actions or behaviour are considered unacceptable, unreasonable or unreasonably persistent and are either having a harmful impact on our staff or their ability to provide an excellent service to other customers.

7.1 What is Unacceptable Behaviour?

7.1.1 Aggressive, abusive or offensive language or behavior

All of our staff have the right not to be subjected to aggressive, abusive or offensive language or behaviour, regardless of the circumstances. Some examples of this behaviour include:

- threats of physical violence;
- swearing;
- inappropriate cultural, racial or religious references; and rudeness, including derogatory remarks.

Violence is not restricted to acts of aggression that may result in physical harm. It also includes behaviour or language (written or spoken) that may cause staff to feel distressed, threatened or abused.

This type of behaviour is not covered by this procedure - when a customer behaves in this way, members of staff will call the police and log any incident with Health and Safety via a V1 form found [here](#).

In these circumstances the council reserves the right to restrict contact access to buildings, staff and types of contact, please see paragraph 9.4.

7.2 What is Unreasonable Behaviour?

On occasions, our customers may make unreasonable demands through the amount of information they seek, an unrealistic level of service they expect or the number of enquiries they make.

For example some customers may not accept that the Council is unable to assist beyond the level of service that has already been provided and may persist in disagreeing with an action or decision, or contact the Council repeatedly about the same issue. The method or tone in which these communications are received may not be unreasonable - it is the persistent behaviour in continuing to raise the issues that is considered to be unreasonable.

Examples of the behaviours include:

- demanding responses within an unreasonable time-scale;
- repeatedly contacting or insisting on speaking to a particular member of staff who is not directly dealing with the matter;
- excessive telephone calls, emails or letters;
- sending duplicate correspondence requiring a response to more than one member of staff;
- persistent refusal to accept a decision; persistent refusal to accept explanations;
- continuing to contact us without presenting new and relevant information
- sending multiple correspondence through various routes of access (e.g. complaints, FOI requests, data protection, grievance) in order to harass
- Refusing to specify the grounds of a complaint, despite offers of assistance with this from members of staff.
- Refusing to accept that issues are not within the remit of our complaints procedure, despite having been provided with information about the procedure's scope.

- Making what appear to be groundless complaints about the staff dealing with the complaint, and/or seeking to have them replaced.
- Adopting a 'scattergun' approach: pursuing a complaint or complaints with the authority and, at the same time, with a Member of Parliament/a councillor/independent auditor/the Standards Board/local police/solicitors/the Local Government Ombudsman/the press.

7.3 Decision to Restrict

In most instances when we consider someone's behaviour is unreasonable we will explain why and ask them to change it. We will also warn them that, if the behaviour continues, we may take action to restrict their contact with our offices.

Where the behaviour is so extreme that it threatens the immediate safety and welfare of our staff we may report the matter to the police or consider taking legal action. In such cases, we may not give the complainant prior warning.

The decision to designate someone as an unreasonable or unreasonably persistent is difficult and could have serious consequences for the individual. Before deciding whether the policy should be applied we need to be satisfied that:

- the complaint or issue is being or has been investigated properly
- any decision reached on it is the right one
- communications with the customer have been adequate, and
- the customer is not now providing any significant new information that might affect our view on the complaint or issue

If we are satisfied on these points we need to consider whether further action is necessary before we take a decision to designate the customer as unreasonable or unreasonably persistent.

7.4 Potential Restrictions

Where a customer continues to communicate in an unacceptable manner, using the above criteria, the Council will exercise its right to restrict contact.

When making a decision to restrict contact, we will take into account any special requirements of those affected by our decision. For example, where someone cannot read, we would not limit communications to writing only unless we are satisfied there are reasonable adjustments in place to enable the customer to read our response. Examples of possible restrictions are:

- block telephone calls and/or emails from being received;
- arrange for a single, named member of staff to deal with all future enquiries from the customer;
- put in place an arrangement whereby there will be no lone visits to a property

- limit future contact to a particular form and/or frequency - for example, emails or letters only - and these will be reviewed once per week/month;
- restrict the customer from attending Council offices or other council-owned premises except by appointment.
- inform the customer that their correspondence will be read to ensure no new issues have been raised, but then filed, without further acknowledgement.

7.5 Telephone Calls

Our staff do not have to tolerate unacceptable behaviour over the telephone. Where this occurs, all of our staff have the right to end the call. However, before taking such action, it is reasonable to expect that the caller is warned about their behaviour to allow them the opportunity to moderate their behaviour.

7.6 Email and Letters

As with telephone calls, none of our staff has to tolerate unacceptable behaviour communicated via email or letter. Where there is a legitimate request for information contained within the communication, irrespective of the language used, it is reasonable to provide that information, but at the same time the customer will be warned that their conduct is considered to be offensive and will not be tolerated in the future.

Where no legitimate information is being requested, staff do not have to respond to an abusive email or letter.

7.7 Informing the Customer about a Restriction

Where contact is being restricted, the customer should be told of the decision.

The communication should inform the customer of the following:

- the reason why the Council considers their behaviour to be unacceptable;
- details of any earlier warnings issued about their conduct;
- the restriction(s) the Council is imposing; and, if appropriate;
- how long the restriction(s) will last — initial restrictions will normally last for 6 months in the first instance;
- In the event of a complete restriction, the customer must also be informed of their right of appeal and how to do this.
- Include a copy of the policy.

7.8 Customer Appeals

A customer may only appeal a decision to restrict contact where all forms of contact have been restricted. Appeals should be submitted in writing and sent to the Customer Advocacy Team

Document Control

The Corporate Lead Officer, Strategy & Performance is the owner of this document and is responsible for ensuring it is reviewed.

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