

**The
STATUTORY COMPLAINTS PROCESS
for
CHILDREN'S SOCIAL CARE**



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1 | INTRODUCTION

- 1.1 Complaints covered by this policy are overseen by the Customer Engagement & Complaints Service ('the service') based in the Strategy Performance & Corporate Transformation division. The Head of Service for Customer Engagement & Complaints fulfils the statutory role of Complaints Manager. References in this policy to the Complaints Manager will by extension include members of the service. The service's role is to provide an impartial link between the complainant and the service complained of.
- 1.2 Complaints about the care and support provided by the London Borough of Bromley ('the Council') to children are governed by a specific set of rules contained in the Children Act 1989 Representation Procedure (England) Regulations 2006 ('the regulations'). This policy sets out when the Council will apply those regulations and how it will comply with them.
- 1.3 This policy principally applies therefore to the services provided by the Council as a result of its obligations under significant legislation such as the Children Act 1989, the Children & Families Act 2014 and the Care Act 2014.
- 1.4 The Council's experience is that only a small proportion of children's social care complaints it receives are actually from young people, or those acting on their behalf, which relate to the services they receive and therefore fall to be processed under the regulations.
- 1.5 All other complaints from parents, family or friends raising issues that do not sufficiently relate to the quality of the care and support the child in question receives are managed through the corporate complaints procedure. The service will carefully consider each complaint on its own merits and, if the complaint is not from or on behalf of a child or young person, or if in the Council's opinion it is not serving the interests of that child or young person, it will be handled through the Council's corporate complaints procedure. This is a separate process, details of which should be supplied at the time.
- 1.6 Whilst the Council is committed to providing the best possible services to children, their families and carers involved with them, we are realistic in acknowledging that there will be times where mistakes are made and that we will need to take action to apologise for and/or remedy them. We also aim to analyse what went wrong and, where appropriate, gather and share the learning that can be derived from each case.
- 1.7 We will follow guidance issued by bodies such as the Department for Education and the Local Government & Social Care Ombudsman. The Ombudsman oversees how Councils operate and acts as the final stage for

complaints about Councils. The Ombudsman will investigate complaints, free of charge, in a fair and independent way but will usually expect the Council's internal procedures to have been completed before they will accept a complaint for consideration.

- 1.8 A formal complaint may not always be necessary, or the best way of resolving a difficulty. Before a complaint is raised, consideration should be given to contacting the relevant team directly in case a way forward can be identified straightaway.
- 1.9 If that is not successful, or if a formal complaint is considered appropriate at the outset, the Customer Engagement & Complaints Team will :-
- provide information and guidance about the complaints process
 - offer support to make a complaint
 - provide details of any appropriate third parties who might be able to offer independent support
 - keep all involved updated with progress and timescales
 - work towards a prompt resolution of the concerns raised
- 1.10 A complaint can be withdrawn at any time by the person who has raised it, or by the person directly affected if somebody else has made the complaint on their behalf. A complaint can be withdrawn verbally and in those cases the Council will confirm the withdrawal by email or post.
- 1.11 The Council may decline to consider a complaint in certain circumstances. These include :-
- where the complaint has already been addressed
 - where the complaint does not concern the Council
 - where the subject matter of the complaint relates to anticipated or current court proceedings
 - where it is not possible to properly investigate complaints, perhaps because relevant staff have left or the subject matter is too historical
 - where the complainant conducts themselves in an unacceptable manner
- 1.12 Where the complaint relates to other organisations with whom the Council works in partnership, the service will liaise with the partner/s in question for a coordinated response.
- 1.13 Where a complaint is raised by someone on a child's behalf, the Council will take such steps as it considers appropriate to satisfy itself that the child is

content for that representative to act on their behalf, that the complaint properly reflects their concerns and that the representative is both suitable and has a sufficient interest in the child's welfare.



2 | WHO MAY MAKE A COMPLAINT?

2.1 The regulations allow for a complaint to be made by :-

- ⇒ Any child who is a Looked After Child or who, although not Looked After, is a Child in Need;
- ⇒ A parent or person with parental responsibility;
- ⇒ A Council foster carer;
- ⇒ Such other person as the Council considers has sufficient interest in a child's welfare to warrant a complaint being considered by them;
- ⇒ An Eligible Young Person, Relevant Young Person or former Relevant Young Person, such as a care leaver;
- ⇒ A Qualifying Young Person under the Leaving Care procedures;
- ⇒ A person aged up to 24 who is or was a Former Relevant or Qualifying young person and whom the Council may still assist in connection with education and training;
- ⇒ Special Guardians;
- ⇒ A child in respect of whom a Special Guardianship Order is in force;
- ⇒ Any person who has applied for an assessment for Special Guardianship support;
- ⇒ Any child who may be adopted, their parents and guardians;
- ⇒ Any person wishing to adopt a child;
- ⇒ Any person to whom arrangements for the provision of adoption support services extend;
- ⇒ Adopted persons, their adoptive parents, birth parents and former guardians.

2.2 Where a complaint is made on behalf of a child, the Complaints Manager should confirm where possible that the child is happy for this to happen and that the complaint submitted reflects his or her views.

3 | WHAT MAY BE COMPLAINED ABOUT?

3.1 A complaint may arise as a result of many aspects of the Council's statutory children's social care functions such as :-

- ⇒ 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 a child of the application of a Council policy; and
- ⇒ Assessment, care management and review.

3.2 This is not an exhaustive list and the Complaints Manager should seek legal advice as necessary.

3.3 The regulations specifically indicate that a complaint may relate to the following :-

- ⇒ The decision by the Council to initiate care proceedings;
- ⇒ The effect of a care order and the Council's actions and decisions where a care order is made;
- ⇒ Issues relating to contact between parents and children subject to care orders;
- ⇒ How supervisors perform their duties where a supervision order is in force;
- ⇒ Actions of the Council regarding applications for and duties in relation to child assessment orders;
- ⇒ Matters relating to applications for emergency protection orders and decisions relating to the return of children who have been removed;
- ⇒ The quality or accuracy of social work information or a social work report provided to a court;
- ⇒ The conduct of a social worker in court.

3.4 In relation to adoption, a complaint may be about the following :-


- The provision of Adoption Support Services insofar as these enable adoptive children to discuss matters relating to adoption;
- Assessments and related decisions for adoption support services;
- Placing children for adoption, including Parental Responsibility and contact issues;
- Removal of children who are or may be placed by adoption agencies;
- Removal of children in non-agency cases;
- The carrying out by the Council of its duties on receipt of a notice of intention to adopt;
- The carrying out by the Council of its duties in respect of :-
 - Considering adoption for a child;
 - A proposed placement of a child with prospective adopters;
 - Adoptive placements and reviews;
 - Adoption Case Records;
 - Contact; and
 - Parental Responsibility prior to adoption abroad.

3.5 In relation to Special Guardianship Order, a complaint may be about the following :-

- Financial support for Special Guardians;
- Support groups for children to enable them to discuss matters relating to Special Guardianship;
- Assistance in relation to contact with parents for children;
- Therapeutic services for children; and
- Assistance to ensure the continuation of the relationship between the child and their Special Guardian or prospective Special Guardian.

3.6 The Complaints Manager has discretion in deciding whether to consider complaints where to do so would prejudice any of the following concurrent investigations :-

- Court proceedings;
- Tribunals;



⇒ Disciplinary proceedings; or

⇒ Criminal proceedings.

3.7 If the Complaints Manager decides not to consider or further consider complaints subject to these concurrent investigations, s/he must write to the complainant explaining the reason for their decision and specifying the relevant concurrent investigation.

3.8 Once the concurrent investigation has been concluded the complainant may resubmit their complaint to the Council as long as it is within one year of the conclusion of the concurrent investigation.

4 | TIME LIMITS FOR COMPLAINTS

- 4.1 Local authorities are not required to consider complaints made more than one year after the grounds to make the complaint arose. In such cases, the Complaints Manager should write to advise the complainant that their complaint cannot be considered, explaining the reasons why. This response should also advise the complainant of their right to approach the Local Government & Social Care Ombudsman.
- 4.2 The time limit can be extended at the Council's discretion if it is still possible to consider the complaint effectively and efficiently and/or where it would be unreasonable to expect the complainant to have made the complaint earlier - for example, where the justification for the complaint only became known some time after the event itself.

5 | INFORMING CHILDREN ABOUT THE PROCEDURE

- 5.1 Where children or those acting on their behalf express a wish to make a complaint, they should be given any information or advice they require on how to use the Complaints Procedure. Their options must be carefully explained including information and advice on alternative methods for resolving their dissatisfaction.
- 5.2 Children should be informed about the Complaints Procedure in a variety of ways suitable to their needs and level of understanding.
- 5.3 An advocate is an independent adult who supports children and young people to have their voice heard, understand their rights and get their views across. For all complaints made by or on behalf of children, the information offered must include an explanation of the role of an advocate and provide contact details for advocates to make complaints on children's behalf.
- 5.4 Where a child wishes to make a complaint, s/he should be referred to the relevant manager or to the Complaints Manager.
- 5.5 If the complaint is made by or relates to a child in foster care or residential care, it may also be directed to the appropriate regulatory body, respectively OFSTED or the Care Quality Commission.

6 | RECEIVING COMPLAINTS

- 6.1 Complaints may be made verbally or in writing, including by email. There is a dedicated complaints section on the Council's website including an online form that can be completed. Some complaints are received via the Local Government & Social Care Ombudsman.
- 6.2 Complaints may also be taken over the phone or in person by a member of the service. Where a member of the service has received the complaint in one of these ways, a document summarising the elements of the complaint should be sent to the complainant for approval before the process is commenced.
- 6.3 All comments, complaints and compliments about services to children should be recorded by the front-line manager who receives them and forwarded to the Complaints Manager.
- 6.4 In relation to complaints, the emphasis should be on a speedy resolution reached locally wherever possible.
- 6.5 However, where a complaint includes an allegation of significant harm, the matter must be directed to be dealt with under the Child Protection Procedures and must be referred to the Referral and Assessment Team for this purpose immediately.
- 6.6 If the complaint includes an allegation of misconduct against a professional, prompt consideration should be given to whether it is appropriate to inform one or more of the Council's Human Resources division, the Local Authority Designated Officer, the Health and Care Professionals Council and the police.
- 6.7 Staff may not deal with complaints relating to their own practice and must pass such matters to their own manager.

7 | STAGE ONE – LOCAL RESPONSE

- 7.1 If comments made by users about a service indicate dissatisfaction with the service, the front-line service provider or the line manager receiving the complaint should in most instances try to resolve them quickly, if they have the delegated responsibility to do so. Wherever appropriate, complainants should be asked to agree to a 'local' resolution. In all cases where complaints are received, the Complaints Manager must be informed.
- 7.2 When the Complaints Manager receives a complaint directly, this will be considered under Stage One and the Complaints Manager will :-
- Acknowledge the complaint within two working days, notifying the complainant of where the complaint has been forwarded and the timescale within which a response will be sent, and establish whether the child has or requires an Advocate;
 - Notify the appropriate line manager;
 - Request that the line manager attempt to resolve the complaint within 10 working days and send a copy of the response to the Complaints Manager, together with a brief résumé of any points not covered in the letter.
- 7.3 If it is not possible to respond within the above timescale - e.g. where files or records need to be checked or a key member of staff is not available - the line manager must inform the Complaints Manager who will send a holding letter to advise the complainant of the delay. However the maximum period for a complaint to remain at Stage One is 20 working days, unless the complainant has agreed to an extension of time.
- 7.4 Where a complaint relates to the child's placement in residential care, the fact that the complaint was made and resolved should be noted in the home's Daily Log, and a summary of the complaint and the manner in which it was resolved should be recorded in the Complaints Log and in the child's Daily Record. Where the complaint involves sensitive personal information, such details should not be held in the Complaint Log, which is a public record. The manager should consult the complainant to ensure that the matter was dealt with appropriately before countersigning the Complaints Log.
- 7.5 Where the complaint relates to the child's foster home, the foster carer should record brief details in the child's Daily Record. The foster carer should inform the supervising social worker as soon as practicable as well as, where appropriate, the child's social worker. The complaint should be

recorded in the Complaints Log held by the Fostering Service and where appropriate in the child's electronic record.

- 7.6 The manager for each team or service has to keep a record of complaints dealt with 'locally' and their outcomes. This record should then be forwarded to the Complaints Manager.
- 7.7 If the matter cannot be resolved to the user's satisfaction within 20 working days, the complainant must be advised that he or she has a right to proceed to Stage Two and given assistance to do so as necessary. The complainant may, however, agree to extend the deadline for the Stage One process.

8 | STAGE TWO - INVESTIGATION

- 8.1 Complainants should be encouraged to make a written complaint, but do not have to do so. A complaint may be accepted in any form.
- 8.2 Where a complaint is not in writing, however, the Complaints Manager may arrange to meet the complainant to make a written record of the complaint which is then agreed with the complainant. Alternatively, this task may be delegated to the Investigating Officer.

Action on Receipt of Complaint


- 8.3 Upon receiving a complaint, the Complaints Manager will:
- In some circumstances, contact the complainant direct to discuss whether it may be possible to mediate or negotiate a settlement;
 - Record the complaint. At this stage the Complaints Manager will decide whether the complaint should be investigated under this procedure or whether it should be referred elsewhere, for example under staff disciplinary procedure;
 - Ensure that a copy of the complaint is sent to any staff member named in it and to that person's line manager, unless to do so would prejudice the investigation of the complaint in which case the Complaints Manager should inform the relevant senior manager of this decision;
 - Appoint and prepare terms of reference for an Investigating Officer (who is not involved in the management of the services to the child concerned) and an Independent Person (who cannot be an employee or an elected member of the authority) to the investigation. The Independent Person is appointed to shadow the Investigating Officer. Under the arrangement, the Independent Person accompanies the Investigating Officer throughout the investigation and may see the child concerned alone if considered necessary;
 - Acknowledge receipt of the complaint within seven days, and advise the complainant of how the complaint is being dealt with, the timescales and the name of the Investigating Officer.
- 8.4 The Complaints Manager and the Investigating Officer should consider whether it is necessary to halt a particular aspect of the case pending investigation, for example where there are ongoing Court proceedings.

The Investigation

- 8.5 Upon being appointed, the Investigating Officer will :-
- Conduct an investigation, interviewing the complainant and staff as appropriate;
 - Produce a report making recommendations about action to be considered;
 - Send a copy of the report to the Complaints Manager bearing in mind that this, together with the Council's response, needs to be sent to the complainant within 25 working days of the receipt of the complaint. If this timescale is not possible, the Investigating Officer should consult with the Complaints Manager and agree a timescale for extension. In any event, this extension must not exceed a full response to the complaint within 65 working days.
- 8.6 The Complaints Manager will inform the complainant of this agreement and the reason for the extension to the timescale, and wherever possible obtain the complainant's agreement to the new timescale;
- 8.7 Staff and carers need to be aware that it is a legal requirement upon the authority to undertake investigations when a complaint is made. It is therefore essential that they cooperate with the investigation and provide information to the Investigating Officer through their verbal responses to questions and access to written material.

Action Following Investigation

- 8.8 Upon receiving the Investigating Officer's reports and any supplementary report provided by the Independent Person, the Complaints Manager will:
- Send a copy of the report(s) to the relevant manager of the service complained about and, if the complaint concerns front-line service providers, the staff themselves;
 - Ask the appropriate Director / senior manager for his or her adjudication, in consultation with others as necessary, and what action the Council will be willing to take in relation to the investigation's recommendations;
 - Send a copy of the Investigating Officer's report, any supplementary report prepared by the Independent Person and the Council's response to the report(s) to the complainant. This must be sent within a maximum of 65 working days of receipt of the complaint;

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- Advise the complainant of the right to submit a request to the Complaints Manager within 20 working days that the complaint proceed to a Stage Three Review Panel;
 - Monitor the outcome of the complaint in terms of consumer satisfaction with the process and the eventual outcome, and the implications for future service delivery and training.

9 | STAGE THREE – REVIEW PANEL

- 9.1 If the complainant is not satisfied with the outcome of the complaint, s/he has 20 working days to ask for the response to be reviewed by a Review Panel. The request should be made to the Complaints Manager and acknowledged in writing within two working days. A Review Panel does not reinvestigate the complaint, nor does it consider new issues that were not part of the Stage Two investigation.
- 9.2 Save in circumstances where an early referral to the Local Government & Social Care Ombudsman is considered appropriate, the Complaints Manager will ensure a Review Panel is set up and meets within 30 working days of the complainant's request being made.
- 9.3 The Review Panel must be made up of three independent people, who are not :-
- Employees of the authority;
 - Elected members of the authority;
 - A spouse or partner of either of the above.
- 9.1 One member will be appointed as the Panel Chair. It is good practice that the Chair should not have been employed by, or an elected member of, the authority within the preceding three years.
- 9.2 The complainant should be notified of the Panel's date and location in writing at least 10 working days before the Review Panel meets and be invited to attend. The complainant should also be informed of his entitlement to be accompanied by another person and for this person to speak on his behalf.
- 9.3 Those persons involved with the investigation at Stage Two (such as the Investigating Officer and the Independent Person) should also be invited to attend.
- 9.4 The Chair should make the final decision on attendees (including asking the Council to make specific members of staff available to provide specialist advice or opinion).
- 9.5 Panel papers should be sent to Panel members and other attendees as soon as these have been agreed by the Chair and no later than 10 working days before the date of the Panel. These should normally include: information on Stage One (as relevant), the Stage Two investigation report(s), the Council's adjudication, any policy, practice or guidance information relevant to the complaint, and any comments that the

complainant has submitted to the Panel. The papers should also include information on any local practice around Panels, such as conduct, roles and responsibilities.

- 9.6 The Review Panel's recommendations should be recorded in writing and copies sent to the Head of Children's Social Care within five working days.
- 9.7 The Head of Children's Social Care must respond to the recommendations of the Review Panel and make the decisions known to the complainant within 15 working days, explaining the authority's decision and reasons.
- 9.8 In terms of the Complaints Procedure, there is no further action that the complainant can take to progress a complaint.
- 9.9 Complainants should be advised of their right to make representations to the Local Government & Social Care Ombudsman if they are still not satisfied.

10 | DATA PROTECTION & CONFIDENTIALITY

- 10.1 The Council is bound by the provisions of the General Data Protection Regulation and the Data Protection Act 2018 along with any associated legislation. This may necessitate the obtaining of written consent and/or affect the amount of information that can be provided.
- 10.2 A complaint cannot be discussed with, or information disclosed to, a third party without the customer's permission, which will invariably be required in writing.
- 10.3 Where the complainant approaches the Council via a local representative such as their ward councillor or constituency MP, the Council is entitled to presume that the representative has the complainant's consent for their personal information to be discussed and/or disclosed to the representative as required.

11 | USEFUL INFORMATION

Our contact details

To contact the Customer Engagement & Complaints service :-

Email : complaints@bromley.gov.uk

Telephone : (020) 8461 7706

Useful links

Our website...

www.bromley.gov.uk/complaints

Local Government & Social Care Ombudsman...

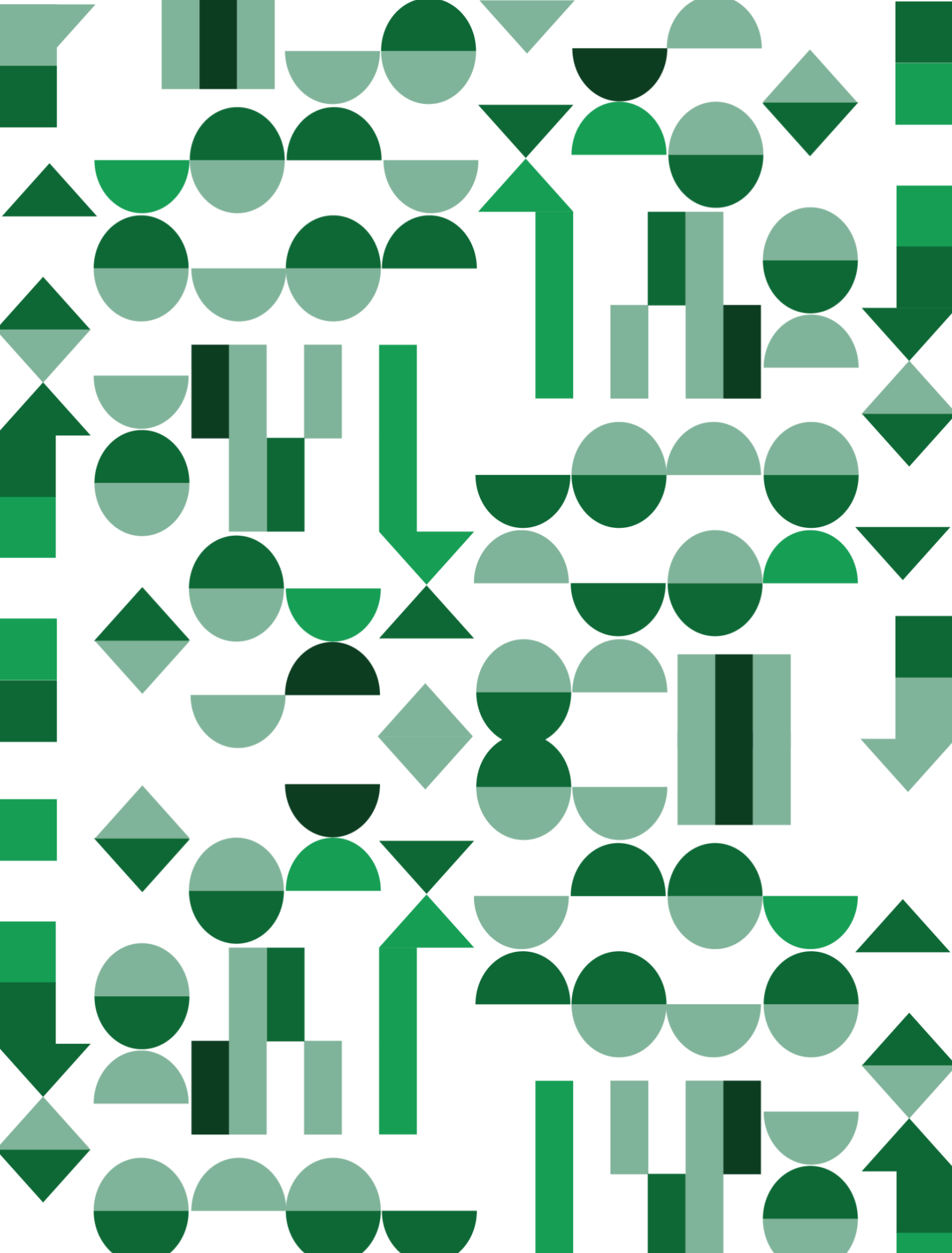
www.lgo.org.uk

Our detailed childcare procedures...

http://bromleychildcare.proceduresonline.com/p_fam_frien_care_pol.html

Our advocacy service...

<https://advocacyforbromley.org/advocacy-services/childrens-advocacy/>



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