

Complaints Handling Procedure

Staff Guidance



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Glossary and abbreviations

Term used	Explanation
CHP	Complaints Handling Procedure
SPSO	Scottish Public Services Ombudsman
Commissioner	Scottish Information Commissioner
SMT	Senior Management Team
Customer	Person making a complaint
VC	Virtual Cabinet

The Complaints Handling Procedure

Introduction

Our Complaints Handling Procedure (CHP) reflects our commitment to valuing complaints. It seeks to resolve dissatisfaction as close as possible to the point at which it arises and, where appropriate, to conduct thorough, impartial and fair investigations of complaints so that we can make evidence-based decisions on the facts of the case.

The Model Complaints Handling Procedure (MHCPs) issued by the Scottish Public Services Ombudsman's (SPSO) has been adopted. The aim of our procedures is to help us 'get it right first time'. Our objective is to achieve quick, simple and more streamlined complaints handling with local, early resolution by capable, well-trained staff.

All staff are given training on handling complaints as part of their induction and are given refresher training as required, to ensure they are confident in identifying complaints, able to resolve simple complaints on the spot and familiar with how to apply this procedure including how to record a complaint. Complaints give us valuable information which we can use to improve service provision and customer satisfaction.

Our CHP enables us to address dissatisfaction and may also prevent the same problems that led to the complaint from happening again. For our staff, complaints provide a first-hand account of the customer's views and experience and can highlight problems we may otherwise miss. Handled well, complaints can give a form of redress when things go wrong, and can also help us continuously improve our services.

Handling complaints early means they are less likely to escalate to the next stage of the procedure, which creates better relations and saves money. Complaints that we do not handle swiftly can add to our workload and take up more time and resource for all concerned.

The CHP will help us do our job better, enhance public perception of our organisation and may help us prevent the same problem from happening again. Complaints give us valuable information which we can use to improve service provision and enable us to better understand how to improve our services by learning from complaints.

This document explains how we handle complaints. Our Customer Guide provides information for people who wish to make a complaint.

Part 1: Structure and Overview of the Complaints Handling Procedure

Structure of the CHP

This Complaints Handling Procedure (CHP) explains to staff how to handle complaints. The CHP consists of:

Part 1 - Structure and Overview

Part 2 - When to use the procedure – guidance on identifying what is and what is not a complaint, handling complex or unusual complaint circumstances, the interaction of complaints and other processes and what to do if the CHP does not apply

Part 3 - The complaints handling process – guidance on handling a complaint through stages 1 and 2, and dealing with post-closure contact

Part 4 - Governance of the procedure – staff roles and responsibilities and guidance on recording, reporting, publicising and learning from complaints

Part 5 - Service users – information for service users on how we handle complaints

When using the CHP, members of staff should also refer to the “SPSO Statement of Complaints Handling Principles” and good practice guidance on complaints handling from the SPSO.

www.spsso.org.uk

Overview of the CHP

Anyone can make a complaint, either verbally or in writing, including face-to-face, by phone, letter or email.

We will try to determine complaints to the satisfaction of the person making the complaint wherever this is possible. Where this isn't possible, we will give a clear response to each of the points of complaint. We will always try to respond as quickly as we can (and on the spot where possible).

Our complaints procedure has two main stages. We expect the majority of complaints will be handled at Stage 1. If the person making the complaint remains dissatisfied after stage 1, they can request that we look at it again, at stage 2. If the complaint is complex enough to require an investigation, we will put the complaint into Stage 2 straight away and skip Stage 1.

A complaint can also be resolved when both the organisation and the customer agree what action (if any) will be taken to provide full and final resolution for the customer, without a decision about whether the complaint is upheld or not upheld.

With the introduction of a resolved category there are now four outcome categories – resolved, upheld, partially upheld, not upheld.

Stage 1: Frontline response	Stage 2: Investigation	Independent external review (SPSO or other)
<p>For issues that are straightforward and simple, requiring little or no investigation:</p> <p>“On-the-spot” apology, explanation or other action to put the matter right.</p> <p>Complaint resolved or a response provided in five working days or less (unless there are exceptional circumstances)</p> <p>A complaint is resolved when both the organisation and the customer agree what action (if any) will be taken to provide full and final resolution for the customer, without a decision about whether the complaint is upheld or not upheld. Complaints addressed by any member of staff, or alternatively referred to the appropriate point for frontline response</p> <p>Response normally face-to-face or by telephone (though sometimes we will need to put the decision in writing)</p> <p>We will tell the person making the complaint how to escalate their complaint to stage 2</p> <p>Extensions to the timescales can be authorised in exceptional circumstances. If an extension is authorised, the complaint resolution or decision is considered as “late”, that is, closed outwith the relevant timescales.</p>	<p>Where the person making the complaint is not satisfied with the frontline response, or refuses to engage at the frontline, or where the complaint is complex, serious or 'high-risk'</p> <p>Complaint acknowledged within three working days</p> <p>We will contact the person making the complaint to clarify the points of complaint and outcome sought (where these are already clear, we will confirm them in the acknowledgement)</p> <p>Complaint resolved or a definitive response provided within 20 working days following a thorough investigation of the points raised.</p> <p>A complaint is resolved when both the organisation and the customer agree what action (if any) will be taken to provide full and final resolution for the customer, without a decision about whether the complaint is upheld or not upheld.</p> <p>Extensions to the timescales can be authorised in exceptional circumstances. If an extension is authorised, the complaint resolution or decision is considered as “late”, that is, closed outwith the relevant timescales.</p>	<p>Where the person making the complaint is not satisfied with the stage 2 response.</p> <p>The SPSO will assess whether there is evidence of service failure or maladministration not identified by us.</p>

For detailed guidance on the process, see [Part 3: The complaints handling process.](#)

Expected behaviours

We expect all staff to behave in a professional manner and treat customers with courtesy, respect and dignity.

We also ask service users bringing a complaint to treat our staff with respect and engage actively with the complaint handling process by:

- telling us their key issues of concern and organising any supporting information they want to give us (we understand that some people will require support to do this)
- working with us to agree the key points of complaint when an investigation is required; and
- responding to reasonable requests for further information relating to the issue of concern that has been raised.

Managing unacceptable behaviour

We recognise that people may act out of character in times of trouble or distress. Sometimes a health condition or a disability can affect how a person expresses themselves. The circumstances leading to a complaint may result in the customer acting in an unacceptable way. Customers who have a history of challenging or inappropriate behaviour, or have difficulty expressing themselves, may still have a legitimate grievance.

A person's reasons for complaining may also contribute to the way in which they present their complaint.

Customers who have a history of challenging or inappropriate actions, or have difficulty expressing themselves, may still have a legitimate grievance and we will treat all complaints seriously. However, we also recognise that the actions of some customers may result in unreasonable demands on time and resources or unacceptable behaviour towards our staff. We will, therefore, apply our policies and procedures to protect staff from unacceptable actions such as unreasonable persistence, threats or offensive behaviour from customers. Where we decide to restrict access to a customer under the terms of our policy, we have a procedure in place to communicate that decision, notify the customer of their right of appeal, and review any decision to restrict contact with us

We should treat all complaints seriously and properly assess them. However, we also recognise that the actions of customers who are angry, demanding or persistent may result in unreasonable demands on time and resources or unacceptable behaviour towards our staff. We will, therefore, apply our policies and procedures to protect staff from unacceptable behaviour such as unreasonable persistence, threats or offensive behaviour from customers.

We have a policy in place for when these standards are not met which is our **Unacceptable Actions Policy**.

Where we decide to restrict access to a customer under the terms of the **Unacceptable Actions Policy**, we have a procedure in place to communicate that decision, notify the

customer of a right of appeal, and review any decision to restrict contact with us. This will allow the customer to demonstrate a more reasonable approach later.

If we decide to restrict a customer's contact, we will be careful to follow the process set out in our **Unacceptable Actions Policy** and to minimise any restrictions on the customer's access to the complaints process. We will normally continue investigating a complaint even where contact restrictions are in place (for example, limiting communication to letter or to a named staff member). In some cases, it may be possible to continue investigating the complaint without contact from the service user. Our policy allows us in limited circumstances to restrict access to the complaint process entirely. This would be as a last resort, should be as limited as possible (for a limited time, or about a limited set of subjects) and requires senior manager approval. Where access to the complaint process is restricted, we must signpost the customer to the SPSO ([see Part 3: Signposting to the SPSO](#)).

The SPSO [guidance on promoting positive behaviour and managing unacceptable actions](#).

Maintaining confidentiality and data protection

Confidentiality is important in complaints handling. This includes maintaining a customer's confidentiality and confidentiality in relation to information about staff members, contractors or any third parties involved in the complaint. This should not prevent us from being open and transparent, as far as possible, in how we handle complaints. This includes sharing as much information with the customer (and, where appropriate, any affected staff members) as we can. When sharing information, we should be clear about why the information is being shared and our expectations on how the recipient will use the information.

We must always bear in mind legal requirements, for example data protection legislation and requirements, as well as internal policies on confidentiality and the use of service users' information.

Here are some examples of situations where a response to a complaint may be limited by confidentiality, such as:

- where a complaint has been raised against a staff member and has been upheld – we will advise the customer that their complaint is upheld, but would not share specific details affecting staff members, particularly where disciplinary action is being considered or taken.
- where someone has raised a concern about a child or an adult's safety and is unhappy about how that has been dealt with – we would look into this to check whether the safety concern had been properly dealt with, but we would not share any details of our findings in relation to the safety concern.

Part 2: What is a complaint?

The Scottish Information Commissioner's (the Commissioner) definition of a complaint is:

'An expression of dissatisfaction by one or more members of the public about our action or lack of action, or about the standard of service provided by or on behalf of the Scottish Information Commissioner'

A complaint may relate to:

- failure or refusal to provide a service
- inadequate quality or standard of service, or an unreasonable delay in providing a service
- dissatisfaction with one of the Commissioner's policies or its impact on the individual
- failure to properly apply the law, procedure or guidance when delivering services
- conduct, treatment by or attitude of a member of staff or contractor (except where there are arrangements in place for the contractor to handle the complaint themselves)
- disagreement with a decision except where there is a statutory procedure for challenging that decision, for example an appeal to resolve the matter
- the Commissioner's failure to follow the appropriate administrative process.

The above list does not cover everything.

[Appendix 2](#) provides a range of examples of complaints we may receive, and how these may be handled.

A complaint is not:

- a routine first-time request for a service
- a request for compensation only
- issues that are in court or have already been heard by a court or a tribunal
- a request for information under the data protection legislation or freedom of information legislation
- a grievance by a staff member or a grievance relating to employment or staff recruitment
- a concern raised internally by a member of staff (which was not about a service they received, such as a whistleblowing concern)
- a concern about a child or an adult's safety
- disagreement with a decision where a statutory procedure for challenging that decision (such as for freedom of information and subject access requests) exists

- an attempt to reopen a previously concluded complaint or to have a complaint reconsidered where we have already given our final decision
- abuse or unsubstantiated allegations about our organisation or staff where such actions would be covered by our Unacceptable Actions Policy
- a concern about the actions or service of a different organisation, where we have no involvement in the issue (except where the other organisation is delivering services on our behalf: see [Complaints about contracted services](#)).

We will not treat these issues as complaints, and will instead direct customers to use the appropriate procedures. Some situations can involve a combination of issues, where some are complaints and others are not, and each situation should be assessed on a case-by-case basis.

If a matter is not a complaint, or not suitable to be handled under the CHP, we will explain this to the customer, and tell them what (if any) action we will take, and why.

If you are unsure about whether a matter is a complaint, you should seek advice from your line manager, head of department or the Head of Corporate Services (HOCS).

FOI Applications / Appeals

The Commissioner's Investigations Handbook sets out how we respond to applications for decision (sometime referred to as "appeals") in relation to the Commissioner's enforcement powers under the Freedom of Information (Scotland) Act 2002, the Environmental Information (Scotland) Regulations 2004 and the INSPIRE (Scotland) Regulations 2009. The application or appeal process should not be confused with the term "complaints" which are defined at paragraph 2, above.

The Commissioner is required by law to make decisions on applications made to them, except in limited circumstances. Decision notices are legally enforceable notices which may be appealed to the Court of Session on a point of law. Similarly, in certain circumstances, the Commissioner may issue determinations which can also be appealed to the Court of Session (e.g. a determination that an application is frivolous or has been abandoned). An appeal to the Court of Session is therefore the appropriate route which should be taken by an applicant or public authority who is dissatisfied with a decision or determination issued by the Commissioner. The Commissioner's Investigations Handbook provides guidance on dealing with questions in these circumstances.

In some cases, the applicant or public authority may seek further clarification of the Commissioner's decision because they do not understand it. The Freedom of Information Officer who undertook the investigation should seek to provide clarification, but will not enter into detailed discussion with either the applicant or the public authority following that.

A similar process applies in the case of dissatisfaction with other determinations by the Commissioner e.g., that an application for decision is not valid. Although there is not a statutory right of appeal, such matters could be subject to judicial review and therefore it is not appropriate that they should be dealt with as "complaints".

Requests for Information

A person may wish to complain about the outcome of an information request made to us. There is a statutory right of appeal in these cases, which should have been explained to the requester when we sent our response. We will look into the matter, but as a review under section 20 of the Freedom of Information (Scotland) Act 2002, rather than under our complaints handling procedure. You must not treat these issues as complaints under the CHP, and should instead direct customers to use the appropriate procedures.

Who can make a complaint?

Anyone who receives, requests or is affected by our services can make a complaint. In the CHP customers are referred to as “customers”, regardless of whether they are or were using a service.

We also accept complaints from the representative of a person who is dissatisfied with our service as long as the customer has given authority to the personal representative to do this

Supporting the customer

All members of the public have the right to equal access to the Commissioner’s CHP.

It is important to recognise the barriers that some customers may face complaining. These may be physical, sensory, communication or language barriers, but can also include their anxieties and concerns. Customers may need support to overcome these barriers.

We must always take into account our commitment and responsibilities to equality. This includes making reasonable adjustments to our service to help the customer, where appropriate.

We have a legal duty to make our complaints service accessible under equalities and mental health legislation. For example, the Equality Act 2010 gives people with a protected characteristic the right to reasonable adjustments to access our services. Examples of how we will meet our legal duty are:

- proactively checking whether members of the public who contact us require additional support to access our services
- providing interpretation and/or translation services for British Sign Language users

In addition to our legal duty, we will seek to ensure that we support vulnerable groups in accessing our complaints procedure. Actions that we may take include:

- helping vulnerable customers identify when they might wish to make a complaint
- providing a neutral point of contact for complaints (where the relationship between customers and frontline staff is significant and ongoing).

The above examples are not exhaustive, and we must always take account of our commitment and responsibilities to equality and accessibility.

What if the person contacting us does not want to complain?

If a person has expressed dissatisfaction in line with our definition of a complaint, but has told us they do not want this to be treated as a complaint, tell them that we do consider all expressions of dissatisfaction, and that complaints offer us the opportunity to improve services where things have gone wrong. Encourage the person to submit their complaint, where appropriate, and allow us to deal with it through the CHP. This will ensure that the person is updated on the action taken and gets a response to their complaint.

If, however, the person insists they do not wish to complain, you can record the issue as an anonymous complaint. This will ensure that the person's details are not recorded in Workpro and that they receive no further contact about the matter. It will also help to ensure the completeness of the complaints data recorded and will still allow us to fully consider the matter and take corrective action where appropriate.

How complaints may be made

Complaints may be made verbally or in writing, including face-to-face, by phone, letter or email.

Where a complaint is made **verbally**, we will make a record of the key points of complaint raised.

Where a complaint issue is raised via a digital channel managed and controlled by the Commissioner (for example an official X address), we will explain that we do not take complaints on social media, but we will tell the person how they can complain.

We must always be mindful of our data protection obligations when responding to issues online or in a public forum. See [Part 1: Maintaining confidentiality and data protection](#).

Time limit for making complaints

We will apply this time limit with discretion.

The customer must raise their complaint within six months of when they first knew of the problem, unless there are special circumstances for considering complaints beyond this time (for example, where a person was not able to complain due to serious illness or recent bereavement).

We will apply this time limit with discretion. If it is clear that a decision not to investigate a complaint will lead to a request for external review of the matter, we may decide that this satisfies the special circumstances criteria. This will enable us to consider the complaint and try to resolve it.

In decision making we will take account of the Scottish Public Services Ombudsman Act 2002 (section 10(1)), which sets out the time limit within which a member of the public can normally ask the SPSO to consider complaints. The limit is one year from when the person first knew of the problem they are complaining about, unless there are special circumstances for considering complaints beyond this time.

Where a customer has received a stage 1 response and wishes to escalate to stage 2, unless there are special circumstances they must request this either:

- within six months of when they first knew of the problem; or
- within two months of receiving their stage 1 response (if this is later).

We will apply these time limits with discretion, taking into account the seriousness of the issue, the availability of relevant records and staff involved, how long ago the events occurred, and the likelihood that an investigation will lead to a practical benefit for the customer or useful learning for the organisation. We will also take account of the time limit within which a member of the public can ask the SPSO to consider complaints (normally one year). The SPSO have discretion to waive this time limit in special circumstances (and may consider doing so in cases where we have waived our own time limit).

Particular circumstances

Complaints by (or about) a third party

Sometimes a customer may be unable or reluctant to make a complaint on their own. We will accept complaints from third parties, which may include relatives, friends, advocates and advisers. Where a complaint is made on behalf of a customer, we must ensure that the customer has authorised the person to act on their behalf.

It is good practice to ensure the customer understands their personal information will be shared as part of the complaints handling process (and where this includes sensitive personal information consent will be required). This can include complaints brought by parents on behalf of their child, if the child is considered to have capacity to make decisions for themselves.

In certain circumstances, a person may raise a complaint involving another person's personal data, without receiving consent from the other person. The complaint should still be investigated where possible but the investigation and response may be limited by considerations of confidentiality. The person who submitted the complaint should be made aware of these limitations and the effect this will have on the scope of the response. See [Part 1: Maintaining confidentiality and data protection](#).

Serious, high-risk or high-profile complaints

We will take particular care to identify complaints that might be considered serious, high-risk or high-profile, as these may require particular action or raise critical issues that need senior management's direct input. Serious, high-risk or high-profile complaints should normally be handled immediately at stage 2 (see [Part 3: Stage 2: Investigation](#)).

Examples of potential high-risk or high-profile complaints as those that may:

- involve a death or terminal illness*
- involve serious service failure, for example major delays in providing, or repeated failures to provide, a service*
- generate significant and ongoing press interest*
- pose a serious risk to an organisation's operations*
- present issues of a highly sensitive nature, for example concerning a particularly vulnerable person, or child protection.*

Anonymous complaints

We value all complaints. This means we treat all complaints including anonymous complaints seriously and will take action to consider them further, wherever this is appropriate. Generally, we will consider anonymous complaints if there is enough information in the complaint to enable us to make further enquiries. If, however, an anonymous complaint does not provide enough information to enable us to take action, we may decide not to pursue it further. Any decision not to pursue an anonymous complaint must be authorised by a member of the SMT.

If an anonymous complaint makes serious allegations, refer it to a member of the SMT immediately.

If we pursue an anonymous complaint further, we will record the issues as an anonymous complaint in Workpro. This will help to ensure the completeness of the complaints data we record and allow us to take corrective action where appropriate.

Complaints involving more than one team or organisation

If a complaint relates to the actions of two or more of our teams, you must tell the customer who will take the lead in dealing with the complaint and explain that they will get only one response covering all issues raised.

If a customer complains to us about the service of another agency or public service provider, but the Commissioner has no involvement in the issue, the person should be advised to contact the appropriate organisation directly.

Where, a complaint relates to a service provided by the Commissioner and the service of another agency or public service provider (for example a regulator, commissioner or a government department) and we have a direct interest in the issue, you must handle the complaint about the Commissioner through the CHP. If you need to make enquiries to an outside agency in relation to the complaint always take account of data protection legislation and our guidance on handling personal information – [see Part 1 Maintaining confidentiality and data protection](#). We may need to ask the customer if they agree to us sharing their details with the public authority concerned and may also need to obtain consent if the personal data is sensitive personal data.

Examples of such complaints may include:

- a person attending an external event organised by the Commissioner expresses dissatisfaction with a presentation made / workshop run by a speaker from another public authority
- a person attending an external event organised by the Commissioner raises concerns about the accessibility of the venue, which has been provided by another public authority

Complaints about contracted services

Where we use a contractor to deliver a service on our behalf we recognise that we may remain responsible and accountable for ensuring that the services provided meet the Commissioner's standards (including in relation to complaints). We will either do so by:

- ensuring the contractor complies with this procedure or
- ensuring the contractor has their own procedure in place, which meets the standards in this procedure. At the end of the investigation stage of any such complaints the contractor must ensure that the customer is signposted to the SPSO.

Complaints about senior staff

Complaints about senior staff can be difficult to handle, as there may be a conflict of interest for the staff investigating the complaint. When serious complaints are raised against senior staff, it is particularly important that the investigation is conducted by an individual who is independent of the situation, as far as possible. As far as possible, we will try to ensure that there are strong governance arrangements in place that set out clear procedures for handling such complaints.

Complaints and other processes

Complaints can sometimes be confused (or overlap) with other processes, such as disciplinary or whistleblowing processes. Specific examples and guidance on how to handle these are set out below.

Complaints and service requests

If a customer asks the Commissioner to do something (for example, provide a service or deal with a problem), and this is the first time the customer has contacted us, this would normally be a routine service request and not a complaint.

Service requests can lead to complaints, if the request is not handled promptly or the customer is then dissatisfied with how we provide the service.

Complaints and disciplinary or whistleblowing processes

If the issues raised in a complaint overlap with issues raised under a disciplinary or whistleblowing process, we still need to respond to the complaint.

Our response must be careful not to share confidential information (such as anything about the whistleblowing or disciplinary procedures, or outcomes for individual staff members). It should focus on whether the Commissioner failed to meet the relevant service standards and what we have done to improve things, in general terms.

Staff investigating such complaints will need to take extra care to ensure that:

- we comply with all requirements of the CHP in relation to the complaint (as well as meeting the requirements of the other processes)
- all complaint issues are addressed (sometimes issues can get missed if they are not also relevant to the overlapping process); and
- we keep records of the investigation that can be made available to the SPSO if required. This may be difficult when the other process is confidential, because SPSO will normally require documentation of any correspondence and interviews to show how conclusions were reached. We will need to bear this in mind when planning any elements of the investigation that might overlap (for example, if staff are interviewed for the purposes of

both the complaint and a disciplinary procedure, they should not be assured that any evidence given will be confidential, as it may be made available to the SPSO).

Complaints and compensation claims

Where a customer is seeking financial compensation only, this is not a complaint. However, in some cases the customer may want to complain about the matter leading to their financial claim, and they may seek additional outcomes, such as an apology or an explanation.

Where appropriate, we may consider that matter as a complaint, but deal with the financial claim separately. It may be appropriate to extend the timeframes for responding to the complaint, to consider the financial claim first.

Complaints and legal action

Where a customer says that legal action is being actively pursued, this is not a complaint.

Where a customer indicates that they are thinking about legal action, but have not yet commenced this, they should be informed that if they take such action, they should notify the member of staff dealing with the complaint and should be informed that the complaints process, in relation

- to the matters that will be considered through the legal process, will be closed. Any outstanding complaints will still be addressed through the CHP.
- If an issue has been, or is being, considered by a court, we must not consider the same issue under the CHP.
- the Commissioner and the HOCS will be informed of such notification

Part 3: The complaints handling process

Overview

The CHP aims to provide a quick, simple and streamlined process for resolving complaints early. Where possible, we should **resolve** the complaint to the customer’s satisfaction. Where this is not possible, we should give the customer a clear and reasoned response to their complaint.

A customer may complain either verbally or in writing, including face-to-face, by phone, letter or email.

Our complaints process provides two opportunities to resolve complaints internally:

Frontline response

Investigation

Complaint received A customer may complain either verbally or in writing, including face-to-face, by phone, letter or email.		
Stage 1: Frontline response For issues that are straightforward and simple, requiring little or no investigation. “On-the-spot” apology, explanation, or other action to put the matter right Complaint resolved or a response provided in five working days or less (unless there are exceptional circumstances) Complaints addressed by any member of staff, or alternatively referred to the appropriate point for frontline response Response normally face-to-face or by telephone (though sometimes we will need to put the decision in writing) We will tell the customer how to escalate their complaint to stage 2	Stage 2: Investigation Where the customer is not satisfied with the frontline response, or refuses to engage at the frontline, or where the complaint is complex, serious or “high-risk” Complaint acknowledged within three working days . We will contact the customer to clarify the points of complaint and outcome sought (where these are already clear, we will confirm them in the acknowledgement) Complaint resolved or a definitive response provided within 20 working days following an investigation of the points raised	Independent external review (SPSO or other) Where the customer is not satisfied with the stage 2 response from the service provider. The SPSO will assess whether there is evidence of service failure or maladministration not identified by the service provider

Resolution

The customer and organisation agree what action will be taken to resolve the complaint. Where a complaint is resolved, it is not usually necessary to continue investigating, although an organisation may choose to do so, for example to identify learning.

We must signpost the customer to stage 2 (for stage 1 complaints) or to the SPSO as usual.

Reporting, recording and learning

Action is taken to improve services on the basis of complaint findings, where appropriate.

We record details of all complaints, the outcome and any action taken, and use this data to analyse themes and trends.

Senior management have an active interest in complaints and use complaints data and analysis to improve services.

Learning is shared throughout the organisation.

For clarity, the term “frontline response” refers to the first stage of the complaints process. It does not reflect any job description within the Commissioner’s organisation but means seeking to determine complaints at the initial point of contact where possible.

Many of the complaints we receive relate to the application of our investigation procedures. As a general rule, unless the complaint is clearly something which can be determined using frontline response, we will go straight to the investigation stage in these cases.

Resolving the complaint

A complaint is **resolved** when both the Commissioner and the customer agree what action (if any) will be taken to provide full and final resolution for the customer, without making a decision about whether the complaint is upheld or not upheld.

We will try to resolve complaints wherever possible, although we accept this will not be possible in all cases.

A complaint may be resolved at any point in the complaint handling process, including during the investigation stage. It is particularly important to try to resolve complaints where there is an ongoing relationship with the customer or where the complaint relates to an ongoing issue that may give rise to future complaints if the matter is not fully resolved.

Where a complaint is resolved, we do not normally need to continue looking into it or provide a response on all points of complaint. There must be a clear record of how the complaint was resolved, what action was agreed, and the customer’s agreement to this as a final outcome. In some cases, it may still be appropriate to continue looking into the issue, for example where there is evidence of a wider problem or potential for useful learning.

In all cases, we must record the complaint outcome (resolved) and any action taken, and signpost the customer to stage 2 (for stage 1 complaints) or to the SPSO as usual (see [Signposting to the SPSO](#)).

If the customer and the Commissioner are not able to agree a resolution, we must follow this CHP to provide a clear and reasoned response to each of the issues raised.

What to do when you receive a complaint

Members of staff receiving a complaint should consider four key questions. This will help them to either respond to the complaint quickly (at stage 1) or determine whether the complaint is more suitable for stage 2:

What exactly is the customer's complaint (or complaints)?

Be clear about exactly what the customer is complaining about. We may need to ask the customer for more information to get a full understanding.

Decide whether the issue can be defined as a complaint and whether there are circumstances that may limit our ability to respond to the complaint (such as the time limit for making complaints, confidentiality, anonymity or the need for consent). We should also consider whether the complaint is serious, high-risk or high-profile.

If the matter is not suitable for handling as a complaint, we should explain this to the customer (and signpost them to SPSO). There is guidance on this step in [Part 2: When to use this procedure](#).

In most cases, this step will be straightforward. If it is not, the complaint may need to be handled immediately at stage 2 (see [Stage 2: Investigation](#)).

What does the customer want to achieve by complaining?

Clarify the outcome the customer wants.

The customer may not be clear about this, and we may need to obtain further information to find out what they expect, and whether they can be satisfied.

Can I achieve this, or explain why not?

If a staff member handling a complaint can achieve the expected outcome, for example by providing an on-the-spot apology or explain why they cannot achieve it, they should do so.

The customer may expect more than we can provide. If so, we should tell them as soon as possible.

Complaints which can be resolved or responded to quickly should be managed at stage 1 (see [Stage 1: Frontline response](#)).

If I cannot respond, who can help?

If the complaint is simple and straightforward, but the staff member receiving the complaint cannot deal with it because, for example, they are unfamiliar with the issues or area of service involved, they should pass the complaint to someone who can respond quickly.

If it is not a simple and straightforward complaint that can realistically be closed within five working days (or ten, if an extension is appropriate), it should be handled immediately at stage 2. If the customer refuses to engage at stage 1, insisting that they want their complaint investigated, it should be handled immediately at stage 2. See [Stage 2: Investigation](#).

Stage 1: Frontline response

Details of the complaint must be recorded in Workpro – see [Appendix 3](#).

It is important to keep a full and accurate record of the complaint received, how it was dealt with, how it was determined decision reached and how the customer was informed of the outcome. The complaint must also be advised of the right to seek a review by the SPSO.

Frontline response aims to respond quickly (within **five working days**) to straightforward complaints that require little or no investigation. Any member of staff may deal with complaints at this stage (including the staff member complained about, for example with an explanation or apology).

The main principle is to seek to respond to the complaint at the earliest opportunity and as close to the point of service delivery as possible. This may mean a face-to-face discussion, or asking an appropriate member of staff to deal directly with the complaint.

We may respond to the complaint by providing an on-the-spot apology where appropriate, or explaining why the issue occurred and, where possible, what will be done to stop this happening again.

We may also explain that, as an organisation that values complaints, we may use the information given when we review service standards in the future.

If we consider an apology is appropriate, we may wish to follow the [SPSO guidance on apology](#).

[Appendix 2](#) gives examples of the types of complaint we may consider at this stage, with suggestions on how to handle them.

Complaints which are not suitable for frontline response should be identified early, and handled immediately at Stage 2: Investigation.

Notifying staff members involved

If the complaint is about the actions of another staff member, the complaint should be shared with them and their line manager, where possible, before responding (although this should not prevent us responding to the complaint quickly, for example where it is clear that an apology is warranted).

Although a Workpro case will be opened for reporting purposes, the case title should be “Anonymous” and all documentation filed in VC using the case number in the subject line.¹

Timelines

Frontline response must be completed within **five working days**, although in practice we would often expect to respond to the complaint much sooner.

¹ As all cases in Workpro, generally, can be viewed by all members of staff this will ensure confidentiality as regards the complaint made in respect of a staff member. In due course, it is anticipated that for cases in Workpro, a permissions system will be in place which will enable only authorised staff to be able to view particular cases.

“Day one” is the date of receipt of the complaint (or the next working day if the complaint is received on a weekend or public holiday).

Extension to the timeline

In exceptional circumstances, a short extension of time may be necessary due to unforeseen circumstances (such as the availability of a key staff member). Extensions must be agreed with an appropriate manager.

We should tell the customer about the reasons for the extension, and when they can expect a response. The maximum extension that can be granted is five working days (that is, no more than **ten working days** in total from the date of receipt).

If a complaint will take more than five working days to look into, it should be handled at stage 2 immediately. The only exception to this is where the complaint is simple and could normally be handled within five working days, but it is not possible to begin immediately (for example, due to the absence of a key staff member). In such cases, the complaint may still be handled at stage 1 if it is clear that it can be handled within the extended timeframe of up to ten working days.

If a complaint has not been closed within ten working days, it should be escalated to stage 2 for a final response.

When you require an extension, you must get authorisation from a member of the SMT, who will approve the extension if it is needed to effectively resolve the complaint. For example, if a staff member is temporarily unavailable. If, the issues are complex and cannot be resolved in five days the complaint straight to Stage 2 Investigation.

You must tell the customer about the reasons for the delay, and when they can expect your response.

If the customer does not agree to an extension but it is unavoidable and reasonable, a member of the SMT must decide on the extension. You must then tell the customer about the delay and explain the reasons for the decision to grant the extension.

Extensions should only be approved where necessary and should not be routinely provided. All attempts to resolve the complaint at this stage must take no longer than ten working days from the date you receive the complaint.

Complaint statistics are monitored and reported to the SMT quarterly by the HOCS.

[Appendix 1](#) provides further information on timelines.

Closing the complaint at the frontline response stage

When you have informed the customer of the outcome, you are not obliged to confirm this in writing or by email, although you may choose to do so. You must ensure that your response to the complaint addresses all areas that we are responsible for and explains the reasons for your decision. It is also important to keep a full and accurate record of the decision reached and given to the customer.

If we provide the decision face-to-face or on the telephone, we should:

- tell the customer the outcome of the complaint (whether it is resolved, upheld, partially upheld or not upheld)
- explain the reasons for our decision (or the agreed action taken to resolve the complaint (see [Resolving the complaint](#))); and
- explain that the customer can escalate the complaint to stage 2 if they remain dissatisfied and how to do so (we should not signpost to the SPSO until the customer has completed stage 2).

A full and accurate record of the decision given to the customer must be recorded in **Workpro**. If we are not able to contact the customer by phone, or speak to them in person, we should provide a written response to the complaint where an email or postal address is provided, covering the points above.

If the complaint is about the actions of a particular staff member, we should share with them any part of the complaint response which relates to them, (unless there are good reasons not to do this).

The complaint should then be closed and Workpro updated accordingly.

At the earliest opportunity after the closure of the complaint, the staff member handling the complaint should consider whether any learning has been identified. See [Part 4: Learning from complaints](#).

Stage 2: Investigation

Not all complaints are suitable for frontline response and not all complaints will be satisfactorily addressed at that stage. Stage 2 is appropriate where:

- the customer is dissatisfied with the frontline response or refuses to engage at the frontline stage, insisting they wish their complaint to be investigated. Unless exceptional circumstances apply, the customer must escalate the complaint within six months of when they first knew of the problem or within two months of the stage 1 response, whichever is later (see [Part 2: Time limits for making a complaint](#))
- the complaint is not simple and straightforward (for example where the customer has raised a number of issues, or where information from several sources is needed before we can establish what happened and/or what should have happened); or
- the complaint relates to serious, high-risk or high-profile issues (see [Part 2: Serious, high-risk or high-profile complaints](#)).

An investigation aims to explore the complaint in more depth and establish all the relevant facts. The aim is to resolve the complaint where possible, or to give the customer a full, objective and proportionate response that represents our final position. Wherever possible, complaints should be investigated by someone not involved in the complaint (for example, a line manager or a manager from a different area).

Details of the complaint must be recorded in **Workpro**. Where appropriate, this will be done as a continuation of frontline response. If the investigation stage follows a frontline response, the officer responsible for the investigation should have access to all case notes and related information.

If the complaint involves the actions of a member of staff, a Workpro case will be opened for reporting purposes but the case title should be “Anonymous” and all documentation filed in VC using the case number in the subject line.²

You must escalate a complaint to the investigation stage when:

- you tried frontline response but the customer remains dissatisfied and requests an investigation. This may happen immediately when you communicate the decision at the frontline stage, or at a later point in time
- the customer refuses to take part in frontline response
- the issues raised are complex and require detailed investigation
- the complaint relates to serious, high-risk or high-profile issues.

When a previously closed complaint is escalated from the frontline response stage, the complaint should be reopened in Workpro.

Acknowledging the complaint

Complaints must be acknowledged within three working days of receipt at stage 2.

We must issue the acknowledgement in a format which is accessible to the customer, taking into account their preferred method of contact.

Where the points of complaint and expected outcomes are clear from the complaint, we must set these out in the acknowledgement and ask the customer to get in touch with us immediately if they disagree. See below- [Agreeing the points of complaint and outcome sought](#).

Where the points of complaint and expected outcomes are not clear, we must tell the customer we will contact them to discuss this.

Agreeing the points of complaint and outcome sought

It is important to be clear from the start of stage 2 about the points of complaint to be investigated and what outcome the customer is seeking. We may also need to manage the customer’s expectations about the scope of our investigation.

Where the points of complaint and outcome sought are clear, we can confirm our understanding of these with the customer when acknowledging the complaint (see above [Acknowledging the complaint](#)).

Where the points of complaint and outcome sought are not clear, we must contact the customer to confirm these. We will normally need to speak to the customer (by phone or face-to-face) to do this effectively. In some cases, it may be possible to clarify complaints in

² As all cases in Workpro, generally, can be viewed by all members of staff this will ensure confidentiality as regards the complaint made in respect of a staff member. In due course, it is anticipated that for cases in Workpro, a permissions system will be in place which will enable only authorised staff to be able to view particular cases.

writing. The key point is that we need to be sure we and the customer have a shared understanding of the complaint.

When contacting the customer, we should be respectful of their stated preferred method of contact.

We should keep a clear record of any discussion with the customer.

In all cases, we must have a clear shared understanding of:

What are the points of complaint to be investigated?

While the complaint may appear to be clear, agreeing the points of complaint at the outset ensures there is a shared understanding and avoids the complaint changing or confusion arising at a later stage. The points of complaint should be specific enough to direct the investigation, but broad enough to include any multiple and specific points of concern about the same issue.

We should make every effort to agree the points of complaint with the customer (alternative complaint resolution approaches may be helpful at this stage).

In rare cases, it may not be possible to agree the points of complaint (for example, if the customer insists on an unreasonably large number of complaints being separately investigated, or on framing their complaint in an abusive way). We should manage any such cases in accordance with our Unacceptable Actions bearing in mind that we should continue to investigate the complaint (as we understand it) wherever possible.

Is there anything we can't consider under the CHP?

We should explain if there are any points that are not suitable for handling under the CHP (see [Part 2: Complaints and other processes](#)).

What outcome does the customer want to achieve by complaining?

Ask what outcome the customer is seeking helps direct the investigation and enables us to focus on resolving the complaint where possible.

Are the customer's expectations realistic and achievable?

It may be that the customer expects more than we can provide, or has unrealistic expectations about the scope of the investigation. If so, we should make this clear to the customer as soon as possible.

Notifying staff members involved

If the complaint is about the actions of a particular staff member/s, we will notify the staff member/s involved (including where the staff member is not named, but can be identified from the complaint). We will:

- share the complaint information with the staff member/s (unless there are good reasons not to do so)
- advise them how the complaint will be handled, how they will be kept updated and how we will share the complaint response with them

- signpost the staff member/s to a contact person who can provide support and information on what to expect from the complaint process (this must not be the person investigating or signing off the complaint response).

If it is likely the Commissioner's internal disciplinary processes, as set out in the Employee Handbook, may be involved, we should also meet the requirements of that process. See also [Part 2: Complaints and disciplinary or whistleblowing processes](#).

Allocating a complaint for investigation

A Head of Department (HOD) will normally carry out the investigation.

On receipt, a complaint requiring investigation should be referred to the relevant HOD, as determined by the subject matter of the complaint.

The HOD should inform the Commissioner that the complaint has been received. Where the relevant Head of Department is not available, or is involved in the subject of the complaint, the complaint should be forwarded to the Commissioner, who will allocate responsibility for dealing with the complaint to another Head of Department.

For complaints where the subject matter relates to the work of the Enforcement Department, and where appropriate, the Head of Enforcement may delegate the investigation of the complaint and the preparation of the formal response to a Deputy Head of Enforcement who is not involved in the complaint. The Head of Enforcement should review the investigation case and outcome before the formal response is issued.

It is important to ensure that where a complaint involves a member of staff, particularly where there is an allegation of misconduct, that the member of staff's rights to a fair process are met. In cases where there is an allegation of misconduct, the Head of Enforcement should not delegate the investigation of the complaint to a Deputy Head of Enforcement.

Investigating the complaint

It is important to plan the investigation before beginning the investigation. The staff member investigating the complaint should consider what information they have and what they need about:

- what happened? (this could include, for example, records of phone calls or meetings, work requests, recollections of staff members or internal emails)
- what should have happened? (this should include any relevant policies or procedures that apply); and
- is there a difference between what happened and what should have happened, and is our office responsible?

In some cases, information may not be readily available. We should balance the need for the information against the resources required to obtain it, taking into account the seriousness of the issue (for example, it may be appropriate to contact a former employee, if possible, where they hold key information about a serious complaint).

If we need to share information within or outwith the organisation, we need to comply with our duties and responsibilities under data protection legislation. [See Part 1: Maintaining confidentiality and data protection.](#)

The SPSO has resources for conducting investigations, including:

[Investigation plan template](#)

[Decision-making tool for complaint investigators](#)

*Details of the complaint must be recorded in **Workpro**.*

If the complaint involves the actions of a member of staff, a Workpro case should be opened for reporting purposes but the case title should be marked “Anonymous”³ and all documentation filed in VC using the case number in the subject line.⁴

Meeting with the customer during the investigation

To effectively investigate the complaint, it may be necessary to arrange a meeting with the customer. Where a meeting takes place, we will always be mindful of the requirement to investigate complaints (including holding any meetings) within 20 working days wherever possible. Where there are difficulties arranging a meeting, this may provide grounds for extending the timeframe.

As a matter of good practice, a written record of the meeting should be completed and provided to the customer. Alternatively, and by agreement with the person making the complaint, we may provide a record of the meeting in another format. We will notify the person making the complaint of the timescale within which we expect to provide the record of the meeting.

Timelines

The following deadlines are relevant to cases at the investigation stage (counting day one as the day of receipt, or the next working day if the complaint was received on a weekend or public holiday):

- complaints must be acknowledged within **three working days**
- a full response to the complaint should be provided as soon as possible but not later than **20 working days** from the time the complaint was received for investigation.

Extension to the timeline

Not all investigations will be able to meet the 20 working days deadline. For example, some complaints are so complex that they require careful consideration and detailed investigation

³ That is, the section that asks for the name of the member of staff complained about will not be completed and the summary of the complaint will not name the members of staff

⁴ As all cases in Workpro, generally, can be viewed by all members of staff this will ensure confidentiality as regards the complaint made in respect of a staff member. In due course, it is anticipated that for cases in Workpro, a permissions system will be in place which will enable only authorised staff to be able to view particular cases.

beyond the 20-day limit. However, such cases should be the exception and you must always try to deliver a final response to a complaint within 20 working days.

It is important to be realistic and clear with the customer about timeframes, and to advise them early if we think it will not be possible to meet the 20 day timeframe, and why. We should bear in mind that extended delays may have a detrimental effect on the customer.

For complaints being handled at Stage 2, if there are clear and justifiable reasons for extending the timescale, approval should be sought from the Commissioner (or in the absence of the Commissioner, the HOCS⁵) who will set time limits on any extended investigation, as long as the customer agrees. Reasons for an extension could include the following:

- Essential accounts or statements, crucial to establishing the circumstances of the case, are needed from staff, or others but they cannot be provided because of long-term sickness or leave.
- You cannot obtain further essential information within normal timescales.
- Operations are disrupted by unforeseen or unavoidable operational circumstances, for example industrial action, pandemic or severe weather conditions.
- The customer has agreed to mediation as a potential route for resolution ([see below](#)).

You must keep the customer updated on the reason for the delay and give them a revised timescale for a final response.

We should contact the customer and any member/s of staff complained about at least once every 20 working days to update them on the progress of the investigation.

If the customer does not agree to an extension but it is unavoidable and reasonable, then the Commissioner (or in the absence of the Commissioner, the HOCS⁶) must be informed and consider and confirm the extension.

These are only a few examples, and you must judge the matter in relation to each complaint. However, any extension should be the exception and you must always try to deliver a final response to the complaint within 20 working days.

Complaint statistics are monitored and reported on quarterly to the SMT by the HOCS.

[Appendix 1](#) provides further information on timelines.

Closing the complaint at the investigation stage

The response to the complaint should be in writing (or by the customer's preferred method of contact) and must be signed by the Head of Department or the Commissioner.

⁵ If the Commissioner is absent and the HOCS is the investigator, approval for an extension should be sought from the HOE or the HOPI

⁶ If the Commissioner is absent and the HOCS is the investigator, approval for an extension should be sought from the HOE or the HOPI

We should tell the customer the outcome of the complaint (whether it is resolved, upheld, partially upheld or not upheld). The quality of the complaint response is very important and in terms of good practice we should:

- be clear and easy to understand, written in a way that is person-centred and non-confrontational
- avoid technical terms, but where these must be used, an explanation of the term should be provided
- address all the issues raised and demonstrate that each element has been fully and fairly investigated
- include an apology where things have gone wrong (this is different to an expression of empathy: see [the SPSO's guidance on apology](#))
- highlight any area of disagreement and explain why no further action can be taken
- indicate that a named member of staff is available to clarify any aspect of the letter; and
- indicate that if they are not satisfied with the outcome of the local process, they may seek a review by the SPSO (see [Signposting to the SPSO](#)).

Where a complaint has been **resolved**, the response does not need to provide a decision on all points of complaint, but should instead confirm the resolution agreed. See [Resolving the complaint](#).

If the complaint is about the actions of a particular staff member/s, we will share with them any part of the complaint response which relates to them, (unless there are compelling reasons not to).

You should record the decision, and details of how it was communicated to the customer, in **Workpro**.

The SPSO has guidance on responding to a complaint:

[Template decision letter](#)

[Apology guidance](#)

At the earliest opportunity after the closure of the complaint, the staff member handling the complaint should consider whether any learning has been identified. See [Part 4: Learning from complaints](#).

Signposting to the SPSO

Once the investigation stage has been completed, the customer has the right to approach the SPSO if they remain dissatisfied. We must make clear to the customer:

- their right to ask the SPSO to consider the complaint
- the time limit for doing so; and
- how to contact the SPSO.

The SPSO considers complaints from people who remain dissatisfied at the conclusion of our complaints procedure. The SPSO looks at issues such as service failure and

maladministration (administrative fault), and the way we have handled the complaint. There are some subject areas that are outwith the SPSO's jurisdiction, but it is the SPSO's role to determine whether an individual complaint is one that they can consider (and to what extent). All investigation responses must signpost to the SPSO.

The SPSO recommends that we use the wording below to inform customers of their right to ask the SPSO to consider the complaint. This information should only be included on the final response to the complaint.

Information about the SPSO

The Scottish Public Services Ombudsman (SPSO) is the final stage for complaints about public services in Scotland. This includes complaints about the Commissioner. The SPSO is an independent organisation that investigates complaints. It is not an advocacy or support service (but there are other organisations who can help you with advocacy or support).

If you remain dissatisfied when you have had a final response from the Commissioner, you can ask the SPSO to look at your complaint. You can ask the SPSO to look at your complaint if:

- you have gone all the way through the Commissioner's Complaints Handling Procedure
- it is less than 12 months after you became aware of the matter you want to complain about, and
- the matter has not been (and is not being) considered in court.

The SPSO will ask you to complete a complaint form and provide a copy of this letter (our final response to your complaint). You can do this online at www.spsso.org.uk/complain or call them on Freephone 0800 377 7330.

You may wish to get independent support or advocacy to help you progress your complaint. Organisations who may be able to assist you are:

- Citizens Advice Bureau
- Scottish Independent Advocacy Alliance

The SPSO's contact details are:

SPSO
Bridgeside House
99 McDonald Road
Edinburgh
EH7 4NS

(if you would like to visit in person, you must make an appointment first)

Their freepost address is: FREEPOST SPSO
Freephone: 0800 377 7330
Online contact www.spsso.org.uk/contact-us
Website: www.spsso.org.uk

Post-closure contact

If a customer contacts us for clarification when they have received our final response, we may have further discussion with the customer to clarify our response and answer their questions. However, if the customer is dissatisfied with our response or does not accept our findings, we will explain that we have already given them our final response on the matter and signpost them to the SPSO.

Mediation

Exceptionally, some complex complaints, or complaints where customer and other interested parties have become entrenched in their position, may require a different approach to resolving the complaint. Where appropriate, consideration may be given to using services such as mediation or conciliation using suitably trained and qualified mediators to try to resolve the matter and to reduce the risk of the complaint escalating further.

Mediation can help both parties to understand what has caused the complaint, and so is more likely to lead to mutually satisfactory solutions.

The Commissioner (or in the absence of the Commissioner, the HOCS) must approve the use of any mediation service.

If a customer agrees to mediation, revised timescales will need to be agreed.

Part 4: Governance

Roles and responsibilities

Overall responsibility and accountability for the management of complaints lies with the Commissioner.

Complaints for investigation will be approved by a member of the SMT. This ensures that the SMT owns and is accountable for the decision. It also reassures the customer that their concerns have been taken seriously.

The Commissioner

The Commissioner provides leadership and direction in ways that guide and enable us to perform effectively across all services. This includes ensuring that there is an effective CHP with a robust investigation process that demonstrates how we learn from the complaints we receive. The Commissioner may take a personal interest in all or some complaints or may delegate responsibility for the CHP to the SMT. Quarterly reports to the SMT provide assurance to the Commissioner on the quality of complaints performance.

Where services are outsourced, the Commissioner is also responsible for ensuring that there are governance and accountability arrangements in place in relation to complaints about contractors. This includes:

- ensuring performance monitoring for complaints is a feature of the service/management agreements between the Commissioner and contractors
- setting clear objectives in relation to this complaints procedure and putting appropriate monitoring systems in place to provide the Commissioner with an overview of how the contractor is meeting the CHP objectives.

Senior Management Team (SMT)

The SMT will ensure that:

- it maintains overall responsibility and accountability for the management and governance of complaints handling (including complaints about contracted services)
- it has an active role in, and understanding of, the CHP (although not necessarily involved in the decision-making process of complaint handling)
- mechanisms are in place to ensure a consistent approach to the way complaints handling information is managed, monitored, reviewed and reported at all levels in our organisation
- complaints information is used to improve services

Heads of Department (HOD)

On the Commissioner's behalf, HODs may be responsible for:

- managing complaints and the way we learn from them
- overseeing the implementation of actions required as a result of a complaint

- investigating and responding to complaints

HODs are also responsible for preparing and signing off decisions for customers, so they should be satisfied that the investigation is complete and their response addresses all aspects of the complaint.

Where a HOD assigns some elements of complaints handling (such as investigations and the drafting of response letters) to other senior staff, the HOD retains ownership and accountability for the management, recording and reporting of complaints.

The Head of Enforcement may delegate complaints concerning the work of the Enforcement Department for investigation to Deputy Heads of Enforcement. Where this happens, the Head of Enforcement will retain ownership and accountability for the management, recording and reporting of complaints.

Deputy Heads of Enforcement

Deputy Heads of Enforcement may investigate and prepare responses to complaints delegated to them by the Head of Enforcement.

The Head of Enforcement will review the investigation case file before a formal response is issued.

Head of Corporate Services (HOCS)

The HOCS is responsible for:

- collating and reporting on complaint statistics
- acting as the role of SPSO liaison officer which may include providing complaints information in an orderly, structured way within requested timescales, providing comments on factual accuracy on our behalf in response to SPSO reports, and confirming and verifying that recommendations have been implemented
- approving extension to timelines in complaint cases in the absence of the Commissioner

All staff

All staff should aware of:

- the Complaints Handling Procedure (CHP)
- how to handle and record complaints at the frontline response stage
- who they can refer a complaint to, in case they are not able to handle the matter
- the need to try and resolve complaints early and as close to the point of service delivery as possible
- their authority to attempt to resolve any complaints they may be called upon to deal with.

Training on this procedure will be part of the induction process for all new staff. Refresher training will be provided for current staff.

Complaints about senior staff

Complaints about senior staff can be difficult to handle, as there may be a conflict of interest for the staff investigating the complaint.

In these instances, it is particularly important that the arrangements for allocating cases are followed.

When serious complaints are raised against senior staff, it is particularly important that the investigation is conducted by an individual who is independent of the situation, and senior in grade to the staff member who is being complained about, as far as possible.

As far as possible, we will try to ensure that there are strong governance arrangements in place that set out clear procedures for handling such complaints.

Recording complaints

Complaints provide valuable feedback. One of the aims of the complaints handling procedure is to identify opportunities to improve the quality of our services. We record all complaints in a systematic way so that we can use the complaints data for analysis and management reporting. By recording and using complaints information in this way, we can identify and address the causes of complaints and, where appropriate, identify training opportunities and introduce service improvements.

We will publish complaints data quarterly and in our Annual Report.

Recording complaints

It is important to record suitable data to enable us to fully investigate and respond to the complaint, as well as using our complaint information to track themes and trends. As a minimum, we should record:

- the customer's name and address
- the date the complaint was received
- the nature of the complaint
- how the complaint was received
- the service the complaint refers to
- the issue the complaint refers to
- action taken and outcome at frontline response stage
- the date the complaint was closed at the frontline response stage (where appropriate)
- the date the complaint was escalated to the investigation stage (where appropriate)
- action taken at the investigation stage (where appropriate)
- the date the complaint was closed at the investigation stage (where appropriate)
- the outcome of the complaint at each stage
- the underlying cause of the complaint and any remedial action taken.

We have a case management system, Workpro, for recording complaints, their outcomes and any resulting action.

If the customer does not want to provide any of the above information, we should reassure them that it will be managed appropriately and record what we can.

Individual complaint files will be retained in line with our File Plan and Retention Schedule.

If the complaint involves the actions of a member of staff, a Workpro case should be opened for reporting purpose but the case title should be “Anonymous” and all documentation filed in VC using the case number in the subject line.⁷

Reporting of complaints

Complaints details are analysed for trend information to ensure we identify service failures and take appropriate action. Regularly reporting the analysis of complaints information helps to inform management of where services need to improve. The HOCS will report **quarterly** to the SMT on:

- performance statistics, in line with the complaints key performance indicators published by SPSO
- as appropriate, an analysis of the trends and outcomes of complaints (this should include highlighting where there are areas where few or no complaints are received, which may indicate either good practice or that there are barriers to complaining in that area).

Publicising complaints information

We publish on a **quarterly** basis information on complaints outcomes and actions taken to improve services.

We publish in our Annual Report the outcome of complaints and, where appropriate, the actions we have taken in response. This demonstrates the improvements resulting from complaints and shows that complaints can influence the service we provide. It also helps ensure transparency in our complaints handling service and demonstrate that we value complaints.

Learning from complaints

At the earliest opportunity after the closure of the complaint, the person who handled the complaint should always make sure that the customer and staff of the team involved understand the findings of the investigation and any recommendations made.

The SMT will review the information gathered from complaints regularly and consider whether our services could be improved or internal policies and procedures updated.

⁷ As all cases in Workpro, generally, can be viewed by all members of staff this will ensure confidentiality as regards the complaint made in respect of a staff member. In due course, it is anticipated that for cases in Workpro, a permissions system will be in place which will enable only authorised staff to be able to view particular cases.

As a minimum, we will:

- use complaints data to identify the root cause of complaints
- take action to reduce the risk of recurrence
- record the details of corrective action in the complaints file, and
- systematically review complaints performance reports to improve service delivery.

Learning may be identified from individual complaints (regardless of whether the complaint is upheld or not)

Where we have identified the need for service improvement:

- the action needed to improve services must be authorised by the appropriate Head of Department
- an officer (or team) should be designated as the “owner” of the issue, with responsibility for ensuring the action is taken
- a target date should be set for the action to be taken
- the designated individual should follow up to ensure that the action is taken within the agreed timescale
- where appropriate, performance in the service area should be monitored to ensure that the issue has been resolved
- we must ensure that staff learn from complaints and any learning points should be shared with relevant staff.

Part 5 – Customer guide

We value complaints and use information from them to help us improve our services.

If something goes wrong or you are dissatisfied with our services, please tell us. This leaflet describes our complaints procedure and how to make a complaint. It also tells you about how we will handle your complaint and what you can expect from us.

What is a complaint?

We regard a complaint as any expression of dissatisfaction about our action or lack of action, or about the standard of service provided [by or on behalf of the Scottish Information Commissioner \(the Commissioner\)](#)

What can I complain about?

You can complain about things like:

- failure or refusal to provide a service
- inadequate quality or standard of service, or an unreasonable delay in providing a service
- dissatisfaction with one of our policies or its impact on the individual
- failure to properly apply law, procedure or guidance when delivering services
- failure to follow the appropriate administrative process
- conduct, treatment by or attitude of a member of staff or contractor (**except** where there are arrangements in place for the contractor to handle the complaint themselves); or
- disagreement with a decision, (**except** where there is a statutory procedure for challenging that decision, or an established appeals process followed throughout the sector).

Your complaint may involve more than one of the Commissioner's services or be about someone working on our behalf.

What can't I complain about?

There are some things we can't deal with through our complaints handling procedure.

These include:

- a routine first-time request for a service
- a request for compensation only
- issues that are in court or have already been heard by a court or a tribunal (if you decide to take legal action, you should let us know as the complaint cannot then be considered under this process)
- disagreement with a decision where there is a statutory procedure for challenging that decision (such as for freedom of information and subject access requests), or an established appeals process followed throughout the sector

- a request under the UK General Data Protection Regulation or Data Protection Act 2018
- a request for information under the Freedom of Information (Scotland) Act 2002 or Environmental Information (Scotland) Regulations 2004
- a grievance by a staff member or a grievance relating to employment or staff recruitment
- a concern raised internally by a member of staff (which was not about a service they received, such as a whistleblowing concern)
- a concern about a child or an adult’s safety
- an attempt to reopen a previously concluded complaint or to have a complaint reconsidered where we have already given our final decision
- abuse or unsubstantiated allegations about our organisation or staff where such actions would be covered by our Unacceptable Actions Policy; or
- a concern about the actions or service of a different organisation, where we have no involvement in the issue (**except** where the other organisation is delivering services on our behalf).
- a routine first-time request for a service is not a complaint, but the issue may escalate into a complaint if it is not handled effectively and the person has to keep on asking for service.
- A decision made by the Commissioner related to an application made in relating to a freedom of information appeal – see the examples below:

Decisions by the Commissioner	
Example 1:	An appeal against a decision notice – these are legally enforceable notices which may be appealed to the Court of Session on a point of law
Example 2	An appeal against a determination that an application is frivolous, vexatious, withdrawn or abandoned – these are legally enforceable notices which may be appealed to the Court of Session on a point of law
Example 3:	In certain circumstances, the Commissioner may decide, for example, that an application is not valid. Although there is not a statutory right of appeal, such matters could be subject to judicial review and therefore it is not appropriate that they should be dealt with as “complaints”.
Freedom of Information Request to the Commissioner	
Example 4:	If the requester has expressed dissatisfaction with the outcome of an information request made to us, the requester has a statutory right to require us to review our response under section 20 of the Freedom of Information (Scotland) Act 2002 and regulation 16(1) of the Environmental Information (Scotland) Regulations 2004, rather than under our complaints handling procedure.

If other procedures or rights of appeal can help you resolve your concerns, we will give information and advice to help you.

Who can complain?

Anyone who receives, requests or is directly affected by our services can make a complaint to us. This includes the representative of someone who is dissatisfied with our service (for example, a relative, friend, advocate or adviser). If you are making a complaint on someone

else's behalf, you will normally need their written consent. Please also read the section on **Getting help to make your complaint** below.

How do I complain?

You can complain in person in the Commissioner's office, by phone, in writing or by email.

It is easier for us to address complaints if you make them quickly and directly to the service concerned. So please talk to a member of our staff at the service you are complaining about. Then they can try to resolve the issue.

When complaining, please tell us:

- your full name and contact details
- as much as you can about the complaint
- what has gone wrong; and
- what outcome you are seeking.

Our contact details are:

Email: enquiries@itspublicknowledge.info

Post:

Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS

Telephone: 01334 464610

You will be asked to leave a message, including your contact details, and an officer will then contact you.

How long do I have to make a complaint?

Normally, you must make your complaint within six months of:

- the event you want to complain about; or
- finding out that you have a reason to complain.

In exceptional circumstances, we may be able to accept a complaint after the time limit. If you feel that the time limit should not apply to your complaint, please tell us why.

What happens when I have complained?

We will always tell you who is dealing with your complaint. Our complaints procedure has two stages.

Stage 1: Frontline response

We aim to respond to complaints quickly (where possible, when you first tell us about the issue). This could mean an on-the-spot apology and explanation if something has clearly gone wrong, or immediate action to resolve the problem.

We will give you our decision at stage 1 in five working days or less, unless there are exceptional circumstances.

If you are not satisfied with the response we give at this stage, we will tell you what you can do next. If you choose to, you can take your complaint to stage 2. You must normally ask us to consider your complaint at stage 2 either:

- within six months of the event you want to complain about or finding out that you have a reason to complain; or
- within two months of receiving your stage 1 response (if this is later).

In exceptional circumstances, we may be able to accept a stage 2 complaint after the time limit. If you feel that the time limit should not apply to your complaint, please tell us why.

Stage 2: Investigation

Stage 2 deals with two types of complaint: where the customer remains dissatisfied after stage 1 and those that clearly require investigation, and so are handled directly at this stage. If you do not wish your complaint to be handled at stage 1, you can ask us to handle it at stage 2 instead.

When using stage 2:

- we will acknowledge receipt of your complaint within three working days
- we will confirm our understanding of the complaint we will investigate and what outcome you are looking for
- we will try to resolve your complaint where we can (in some cases we may suggest using an alternative complaint resolution approach, such as mediation); and
- where we cannot resolve your complaint, we will give you a full response as soon as possible, normally within 20 working days.

If our investigation will take longer than 20 working days, we will tell you. We will tell you our revised time limits and keep you updated on progress.

What if I'm still dissatisfied?

After we have given you our final decision, if you are still dissatisfied with our decision or the way we dealt with your complaint, you can ask the Scottish Public Services Ombudsman (SPSO) to look at it.

The SPSO are an independent organisation that investigates complaints. They are not an advocacy or support service (but there are other organisations who can help you with advocacy or support).

You can ask the SPSO to look at your complaint if:

you have gone all the way through the *[organisation]*'s complaints handling procedure
it is less than 12 months after you became aware of the matter you want to complain about;
and
the matter has not been (and is not being) considered in court.

The SPSO will ask you to complete a complaint form and provide a copy of our final response to your complaint. You can do this online at www.spsso.org.uk/complain/form or call them on Freephone 0800 377 7330.

You may wish to get independent support or advocacy to help you progress your complaint. See the section on **Getting help to make your complaint** below.

The SPSO's contact details are:

SPSO
Bridgeside House
99 McDonald Road
Edinburgh
EH7 4NS
(if you would like to visit in person, you must make an appointment first)

Their freepost address is:

FREEPOST SPSO

Freephone: 0800 377 7330
Online contact www.spsso.org.uk/contact-us
Website: www.spsso.org.uk

Getting help to make your complaint

We understand that you may be unable or reluctant to make a complaint yourself. We accept complaints from the representative of a person who is dissatisfied with our service. We can take complaints from a friend, relative, or an advocate, if you have given them your consent to complain for you.

You can find out about advocates in your area by contacting the Scottish Independent Advocacy Alliance:

Scottish Independent Advocacy Alliance

Tel: 0131 510 9410

Website: www.siaa.org.uk

You can find out about advisers in your area through Citizens Advice Scotland:

Citizens Advice Scotland

Website: www.cas.org.uk or check your phone book for your local citizens advice bureau.

We are committed to making our services easy to use for all members of the community. In line with our statutory equality duties, we will ensure that reasonable adjustments are made to help you access and use our services, as far as possible.

If you have trouble putting your complaint in writing, or want this information in another language or format, such as large font, or Braille, please tell us in person or contact us (see below).

Our contact details

Please contact us by the following means:

Email: enquiries@itspublicknowledge.info

Post

Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS

Telephone: 01334 464610

You will be asked to leave a message, including your contact details, and an officer will then contact you.

Quick guide to our complaints procedure

Complaints procedure

You can make your complaint in person, by phone, by email or in writing.

We have a **two-stage complaints procedure**. We will always try to deal with your complaint quickly. But if it is clear that the matter will need investigation, we

Stage 1: Frontline response

We will always try to respond to your complaint quickly, within **five working days** if we can. If you are dissatisfied with our response, you can ask us to consider your complaint at stage 2.

Stage 2: Investigation

We will look at your complaint at this stage if you are dissatisfied with our response at stage 1. We also look at some complaints immediately at this stage, if it is clear that they need investigation.

We will acknowledge your complaint within **three working days**.

We will confirm the points of complaint to be investigated and what you want to achieve.

Scottish Public Services Ombudsman

If, after receiving our final decision on your complaint, you remain dissatisfied with our decision or the way we have handled your complaint, you can ask the SPSO to consider it.

We will tell you how to do this when we send you our final decision.

If we cannot meet the extended timeframe at stage 1, the complaint should be escalated to stage 2. The maximum timeframe allowed for a stage 1 response is ten working days.

If we cannot meet the extended timeframe at stage 2, a further extension may be approved by an appropriate manager if there are clear reasons for this. This should only occur in exceptional circumstances (the original extension should allow sufficient time to realistically investigate and respond to the complaint). Where a further extension is agreed, we should explain the situation to the customer and give them a revised timeframe for completion. We must update the customer and any staff involved in the investigation at least once every 20 working days.

What happens when a customer asks for stage 2 consideration a long time after receiving a frontline response?

Unless exceptional circumstances exist, customers should bring a stage 2 complaint within six months of learning about the problem, or within two months of receiving the stage 1 response (whichever is latest). See [Part 2: Time limits for making a complaint](#).

Appendix 2 – Examples of complaints appropriate for frontline response

Here are some examples of complaints that may be considered at the frontline stage, along with possible actions to achieve resolution.

Complaint	Possible actions to achieve resolution
Customer expresses dissatisfaction because SIC has omitted to include enclosures with a letter	Apologise Send out missing enclosures
Customer expresses dissatisfaction because they cannot find a document on SIC's website / broken link on website	Apologise Ask for details of information the individual is seeking and help them to find / offer to send the information Inform CST of broken link and ask for it to be restored
Customer expresses dissatisfaction because the login details to the online data entry (Stats) portal do not work	Provide assistance Advise password can be reset from the login page of the portal: click 'Reset password' If necessary, reset the password for the customer
Customer expresses dissatisfaction because they received a reminder letter but didn't receive a letter before this	Apologise Explain problem and why reminder was issued Make an internal note that the original letter was not received
The person expresses dissatisfaction, in line with the definition of a complaint, but says they do not want to complain – they just want to tell us about the matter	Explain that we value complaints because they help to improve services In terms of improving service delivery and learning from mistakes, it is important that feedback such as this is recorded, evaluated and acted upon. If the person still insists they do not want to complain, record the matter as an anonymous complaint. This will avoid breaching the complaints handling procedure Reassure the person that they will not be contacted again about the matter

Appendix 3 Recording the complaint in Workpro

All Cases

If you have received and identified a complaint, record the details in Workpro as a 'Complaint' case type.

Use the 'Complaint Details' and 'Outcome Details' fields to capture succinct synopses of the complaint and the outcome.

The data in these fields is used to:

- monitor the complaints workload
- help prepare the QSMTM and annual report statistics and is useful qualitative information when the statistics are analysed. It allows us to see very quickly what kinds of complaints people have come to us about.

The synopsis should provide a succinct (no more than 200 characters) account of the subject of the complaint and not include personal data as far as possible. It should give sufficient information to allow any colleague to understand what the complaint was about.

The synopsis is NOT an alternative to making a note of the complaint.

Frontline Response

Cases for which Frontline Response is attempted

Starting at the 'Frontline Response' workflow stage, enter the customer's information on the 'Complainant' tab, as appropriate.

Complete the fields on the 'Complaint Details' tab as appropriate, selecting complaint type 'Frontline Response' from the dropdown menu. Where applicable, you should enter details of any related cases in the relevant field.

Case concluded at Frontline Response (FR)

Select the appropriate outcome code:

- Upheld
- Not upheld
- Partially Upheld
- Resolved

Close the case.

Frontline Response attempted, then escalated to Investigation: immediately apparent

If Frontline Response (FR) has been attempted but the customer remains dissatisfied and requests an investigation, and this is immediately apparent, select the following outcome code:

- FR Not Achieved – Escalated to Investigation

Progress the case to Investigation, using the 'Frontline Response to Investigation' button

Frontline Response attempted, then escalated to Investigation: not immediately apparent

Here, the case will have been regarded as concluded at Frontline Response (FR) and closed.

Go to 'Case Actions' and select 'Reopen Case'. Select 'Internal Review' as the case reopen reason

Navigate to the FR workflow stage and on the Complaint Details tab, change the outcome code to 'FR Not Achieved – Escalated to Investigation'

Progress the case to Investigation, using the 'Frontline Response to Investigation' button.

Investigation

Cases where Frontline Response was attempted

The steps described above will already have been completed as appropriate and the case will now be at the Investigation stage of the workflow.

Complete the 'Investigation' tab as appropriate.

Close the case.

Cases proceeding directly to Investigation (no Frontline Response attempted)

Starting at the 'Frontline Response' workflow stage, enter the customer's information on the 'Complainant' tab, as appropriate.

Complete the fields on the 'Complaint Details' tab as appropriate, selecting complaint type 'Investigation' from the dropdown menu. Where applicable, you should enter details of any related cases in the relevant field.

Then, select the outcome code 'Straight to Investigation' and progress the case to Investigation, using the 'Frontline Response to Investigation' button.

Complete the 'Investigation' tab as appropriate.

Close the case.

Cases referred to the SPSO

These cases will have already been closed at the Investigation stage.

On the 'Investigation – Formal' tab, change the outcome code to 'Referral to SPSO'.

Scottish Information Commissioner

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