



# The Model Complaints Handling Procedure

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## **Foreword**

In the course of our statutory duties, we come into contact with, among others, service users and their relatives, carers and advocates, service providers; NHS Boards; local authorities; legal representatives; the Scottish Government. There may be occasions when an individual, or group, is not satisfied with the service offered by the Commission. This document sets out how we will respond in such situations, and guide staff about how they should handle such expressions of dissatisfaction. Staff should follow this guidance, or seek clarification if a situation arises where they are unsure how to respond.

Our complaints handling procedure reflects the Mental Welfare Commission's commitment to valuing complaints. It seeks to resolve issues as close as possible to the point of service delivery and to conduct thorough, impartial and fair investigations of complaints received from individuals or groups so that, where appropriate, we can make evidence-based decisions on the facts of the case.

This procedure introduces a standardised approach to handling complaints across the public sector which complies with the Scottish Public Services Ombudsman's (SPSO) guidance on a model complaints handling procedure. The procedure was first developed by the SPSO in consultation with the relevant stakeholders and was revised in 2019. This procedure aims to help us 'get it right first time'. We want quicker, simpler and more streamlined complaints handling with local, early resolution by capable, well-trained staff.

Complaints give us valuable information we can use to improve service delivery. Our complaints handling procedure will enable us to address an individual's dissatisfaction and may also prevent the problems from happening again. For our staff, complaints provide a first-hand account of the people's views and experience, and can highlight problems we may otherwise miss.

Having a clear process will help us do our job better, improve relationships with the public and enhance public perception of the Commission. It will help us keep our stakeholders at the heart of the process, while enabling us to understand better how to improve our services by learning from complaints.

Julie Paterson

Chief Executive

## Structure of the Complaints Handling Procedure

1. This Complaints Handling Procedure (CHP) explains to staff how to handle complaints. The CHP consists of:
  - Overview and structure (part 1) –
  - When to use the procedure (part 2) – 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
  - The complaints handling process (part 3) – guidance on handling a complaint through stages 1 and 2, and dealing with post-closure contact
  - Governance of the procedure (part 4) – staff roles and responsibilities and guidance on recording, reporting, publicising and learning from complaints
  - The complainant-facing CHP (part 5) – information for complainants on how we handle complaints
2. When using the CHP, please also refer to the 'SPSO Statement of Complaints Handling Principles' and good practice guidance on complaints handling from the SPSO.

[www.spsso.org.uk](http://www.spsso.org.uk)

## **PART 1. Introduction and overview**

## Overview of the CHP

3. Anyone can make a complaint, either verbally or in writing, including face-to-face, by phone, letter or email.
4. We will try to resolve complaints to the satisfaction of the complainant wherever this is possible. Where this isn't possible, we will give the complainant a clear response to each of their points of complaint. We will always try to respond as quickly as we can (and on the spot where possible).
5. Our complaints procedure has two stages. We expect the majority of complaints will be handled at stage 1. If the complainant 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.

<b>Stage 1: Frontline response</b>	<b>Stage 2: Investigation</b>	<b>Independent external review (SPSO or other)</b>
<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 <b>five working days</b> or less (unless there are exceptional circumstances)</p> <p>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 complainant how to escalate their complaint to stage 2</p> 	<p>Where the complainant 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 <b>three working days</b></p> <p>We will contact the complainant 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 <b>20 working days</b> following a thorough investigation of the points raised</p> 	<p>Where the complainant is not satisfied with the stage 2 response from the service provider</p> <p>The SPSO will assess whether there is evidence of service failure or maladministration not identified by the service provider</p>

6. For detailed guidance on the process, see **Part 3: The complaints handling process.**

## Expected behaviours

7. We expect all staff to behave in a professional manner and treat complainants with courtesy, respect and dignity. We also ask complainants bringing a complaint to treat our staff with respect. We ask complainants to 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 information.
8. We have a policy in place for when these standards are not met which is our Unacceptable behaviour Policy (add link). The SPSO has also some [guidance on promoting positive behaviour and managing unacceptable actions](#).
9. 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 also result in the complainant acting in an unacceptable way.
10. Complainants 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 complainants 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 complainants. Where we decide to restrict access to a complainant under the terms of our policy, we have a procedure in place to communicate that decision, notify the complainant of their right of appeal, and review any decision to restrict contact with us. *[Link to unacceptable behaviour policy ]*
11. The complainant has the right to ask the Scottish Public Services Ombudsman to investigate further, however. Sometimes, the complainant might continue to contact the Commission. This could happen when:
  - The complainant remains dissatisfied with the Commission's response
  - He/she either fails to use the process of appeal to the Ombudsman or is dissatisfied with the outcome
  - The nature and substance of the complaint appears to arise solely from the mental state of the complainant
  - The complainant changes the nature and substance of the complaint
  - The complainant lodges several different complaints over a short time period
12. The Commission will take all reasonable steps to answer the issues raised by the complainant. However, in some cases, the Commission may consider that further attempts to answer the complaint are unlikely to be helpful to the complainant. If the complaint is unreasonable or repeated, a member of the executive will advise the complainant that the Commission will not enter into any further correspondence. Where appropriate, will remind the complainant of the role of the Scottish Public Services Ombudsman
13. If we decide to restrict a complainant's contact, we will be careful to follow the process set out in our policy and to minimise any restrictions on the complainant'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 complainant. 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 manager approval. Where access to the complaint process is restricted, we must signpost the complainant to the SPSO (see [Part 3: Signposting to the SPSO](#)).

## Maintaining confidentiality and data protection

14. Confidentiality is important in complaints handling. This includes maintaining the complainant's confidentiality and confidentiality in relation to information about staff members, contractors or any third parties involved in the complaint.
15. 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 complainant (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.
16. We must always bear in mind legal requirements, for example data protection legislation, as well as internal policies on confidentiality and the use of complainant information. Staff must contact their line manager or the Information Governance Manager if they have any doubts about which information can be shared. The **Information Commissioner's Office** has also prepared detailed guidance on data sharing and has issued a data sharing code of practice.
17. Some examples of situations where a response to a complaint may be limited by confidentiality, are:
  - where a complaint has been raised against a staff member and has been upheld – we will advise the complainant that their complaint is upheld, but would not share specific details affecting staff members, particularly where disciplinary action is 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. When to use this procedure**

## What is a complaint?

18. The Commission's definition of a complaint is: 'An expression of dissatisfaction by one or more members of the public about the Commission's action or lack of action, or about the standard of service provided by or on behalf of the Commission'
19. For clarity, where an employee also receives a service from the Commission as a member of the public, they may complain about that service.

A complaint may relate to the following, but is not restricted to this list:

- failure or refusal to provide a service where there was an expectation that the Commission had a duty to do so.
- 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: see **Complaints about contracted services**); or
- disagreement with a decision where individuals cannot use another procedure to resolve the matter.

20. **Appendix 1** provides a range of examples of complaints we may receive, and how these may be handled.

21. A complaint **is not**:

- a routine first-time request for a service (see **Complaints and service requests**)
- a request for compensation only (see **Complaints and compensation claims**)
- issues that are in court or have already been heard by a court or a tribunal (see **Complaints and legal action**)
- 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 (*for example an appeal against our response to a Freedom of Information (Scotland) Act request (FOISA) or our handling of a Subject Access Request (SAR) under GDPR*)
- 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 Unreasonable contact and behaviour 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: see **Complaints about contracted services**).
22. **Appendix 2** gives more examples of 'what is not a complaint' and how to direct complainants appropriately.
23. We will not treat these issues as complaints, and will instead direct individuals 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.
24. If a matter is not a complaint, or not suitable to be handled under the CHP, we will explain this to the complainant, and tell them what (if any) action we will take, and why. See **What if the CHP does not apply**.

## Who can make a complaint?

25. Anyone who receives, requests, or is affected by our services can make a complaint. Sometimes an individual may be unable or reluctant to make a complaint on their own. We will accept complaints brought by third parties as long as the complainant has given their personal consent to this. See **Complaints by (or about) a third party**.

## Supporting the complainant

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26. All members of the community have the right to equal access to our complaints procedure. It is important to recognise the barriers that some individuals may face complaining. These may be physical, sensory, communication or language barriers, but can also include their anxieties and concerns. Individuals may need support to overcome these barriers.

27. We have legal duties to make our complaints service accessible under equalities and mental health legislation.

- *the Equality Act (Scotland) 2010 – this gives people with a protected characteristic the right to reasonable adjustments to access our services (such as large print or BSL translations of information); and*
- *the Mental Health (Care and Treatment) (Scotland) Act 2003 – this gives anyone with a ‘mental disorder’ (including mental health issues, learning difficulties, dementia and autism) a right to access independent advocacy. This must be delivered by independent organisations that only provide advocacy. They help people to know and understand their rights, make informed decisions and have a voice.*

28. Our accessible information policy ([https://www.mwscot.org.uk/sites/default/files/2019-06/accessible\\_information\\_policy\\_2018.pdf](https://www.mwscot.org.uk/sites/default/files/2019-06/accessible_information_policy_2018.pdf)) sets out how we make our printed and electronic information and our face-to-face and telephone contact accessible.

When we visit individuals using (external) services we ensure that any interpretation they require is provided through the service they are using.

We provide BSL users with access to our Advice Line using the ContactScotland interpretation service

Our Equality outcomes and how we plan to achieve them action plan includes the introduction of an interpretation service on the Advice Line

29. In addition to our legal duties, we will seek to ensure that we support vulnerable groups in accessing our complaints procedure. The people we work with include individuals who may be particularly vulnerable or have difficulty making a complaint because of mental illness, learning disability, dementia or related conditions.

Actions that we may take include:

- Training frontline staff to help vulnerable individuals who may wish to make a complaint, and to recognise when someone may need assistance and respond appropriately.
- If individuals need assistance to make a complaint but do not know someone who can help them, we can suggest that they contact the Scottish Independent Advocacy Alliance (SIAA). The SIAA can advise people of advocacy organisations in their area. Alternatively, they could ask for help from the Citizens Advice Bureau. Citizens Advice Scotland can signpost to local Bureaux.

Scottish Independent Advocacy Alliance 18 York Place, Edinburgh EH1 3EP  
0131 510 9410 [enquiry@siaa.org.uk](mailto:enquiry@siaa.org.uk) <http://www.siaa.org.uk>

Citizens Advice Scotland 1st Floor, Spectrum House, 2 Powderhall Road, Edinburgh EH7 4GB  
Tel: 0131 550 1000 <http://www.cas.org.uk/bureaux>

30. These lists are not exhaustive, and we must always take into account our commitment and responsibilities to equality and accessibility.

## How complaints may be made

31. Complaints may be made verbally or in writing, including face-to-face, by phone, letter or email.
32. Where a complaint issue is raised via a digital channel managed and controlled by the Commission (for example an official twitter address or facebook page), we will explain that we do not take complaints on social media, but we will tell the person how they can complain.
33. In exceptional circumstances, we may respond to very simple complaints on social media. This will normally only be appropriate where an issue is likely to affect a large number of people, and we can provide a very simple response,
34. We may also become aware that an issue has been raised via a digital channel not controlled or managed by us (for example a youtube video or post on a private facebook group). In such cases we **may** respond, where we consider it appropriate, by telling the person how they can complain.
35. 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

36. The individual 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).
37. Where a individual 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).
38. 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 individual or useful learning for the organisation.
39. 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

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40. Sometimes a individual 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 individual, we must ensure that the individual has authorised the person to act on their behalf. It is good practice to ensure the individual understands their personal information will be shared as part of the complaints handling process (particularly where this includes sensitive personal information). 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.
41. The provision of a signed mandate from the individual will normally be sufficient for us to investigate a complaint. If we consider it is appropriate we can take verbal consent direct from the individual to deal with a third party and would normally follow up in writing to confirm this.
42. In certain circumstances, a person may raise a complaint involving another person's personal data, without receiving consent. 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.
43. See also [Part 1: Maintaining confidentiality and data protection](#).

### Serious, high-risk or high-profile complaints

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44. 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 [P n](#)). The Chief Executive will be informed of all high risk complaints.
45. We define 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

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46. We value all complaints, including anonymous complaints, 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. Executive directors will make the decision regarding whether or not to accept an anonymous complaint. Any decision not to pursue an anonymous complaint must be confirmed with the Chief executive.

47. If we pursue an anonymous complaint further, we will record it as an anonymous complaint together with any learning from the complaint and action taken.
48. If an anonymous complainant makes serious allegations, these should be dealt with in a timely manner under relevant procedures. This may not be the complaints procedure and could instead be relevant child protection, adult protection or disciplinary procedures.

## **What if the individual does not want to complain?**

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49. If a individual has expressed dissatisfaction in line with our definition of a complaint but does not want to complain, we will explain that complaints offer us the opportunity to improve services where things have gone wrong. We will encourage the individual to submit their complaint and allow us to handle it through the CHP. This will ensure that the individual is updated on the action taken and gets a response to their complaint.
50. If the individual insists they do not wish to complain, we are not required to progress the complaint under this procedure. However, we should record the complaint as an anonymous complaint (including minimal information about the complaint, without any identifying information) to enable us to track trends and themes in complaints. Where the complaint is serious, or there is evidence of a problem with our services, we should also look into the matter to remedy this (and record any outcome).
51. Please refer to the example in **Appendix 1** for further guidance.

## **Complaints involving more than one area or organisation**

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52. If a complaint relates to the actions of two or more areas within our organisation, we will tell the individual who will take the lead in dealing with the complaint, and explain that they will get only one response covering all issues raised.
53. If a individual complains to us about the service of another organisation or public service provider, but we have no involvement in the issue, the individual should be advised to contact the appropriate organisation directly.
54. We will advise people of the option of seeking independent advocacy to assist them and, where appropriate, the right of persons with 'mental disorder' to advocacy in terms of the Mental Health (Care and Treatment) (Scotland) Act 2003, and also signpost them to other sources of help and advice where appropriate.
55. More information about how to make a complaint against the NHS in Scotland is available on the NHS inform website from the link below
56. [NHS Feedback, complaints and your rights - Health rights | NHS inform](#)
57. Where the complaint involves a registered care service, the individual also has the option of complaining to the Care Inspectorate. The Care Inspectorate does not have the authority to deal with complaints about local authority social work departments, only registered care services. If an individual wants to make a complaint about a local authority then they should should contact the authority directly and ask for details of their complaints procedure. The Care Inspectorate has produced a leaflet which is available from this link; '[Unhappy about a care service?](#)' which helps people understand how to make a complaint about a registered care service.

58. The Commission is not a 'complaints body' and has no authority to pursue complaints on behalf of others. There may be circumstances where it will be appropriate to make further enquiries following an expression of dissatisfaction with another organisation – for example to consider whether there may be grounds for an investigation under s11 of the 2003 Act, or a visit under s13 of the Act. In particular, the Commission will consider carefully if a complainer is vulnerable or would find it difficult to pursue a complaint, or if the issues complained of raise wider concerns about care and treatment of others which would justify further action by the Commission. In doing so, the Commission will seek to ensure that the parties involved are clear that the Commission is not pursuing a complaint, and any further work by it is without prejudice to the rights of others to use a local complaints procedure.

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59. If a complaint relates to our service and the service of another organisation or public service provider, and we have a direct interest in the issue, we will handle the complaint about the Commission through the CHP. If we need to contact an outside body about the complaint, we will be mindful of data protection. See **Part 1: Maintaining confidentiality and data protection**.

60. Such complaints may include:

- *[organisation to identify an example specific to its business]*
- *[organisation to identify an example specific to its business]*

## Joint working

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61. From time to time the Commission will undertake joint investigations or work alongside scrutiny bodies, for example the Care Inspectorate or Health Improvement Scotland.

62. The Scottish Government may ask the Commission to conduct an investigation, utilising their expertise and powers under legislation. While the investigation would be carried out by the Commission it would be at the behest of the Scottish Government. Any complaint arising would be dealt with under the appropriate complaint regime depending on the basis of the complaint but, in all likelihood it would be the Commission who would carry out the complaint investigation.

63. Should there be a complaint arising from any joint working arrangement, the Commission will contact the partner or partners involved and agree who is best placed to address the concerns of the complainant, based on the nature of that complaint. Should the onus for conducting an investigation into a complaint fall to the Commission then the matter would be dealt with in accordance with the Commission's established complaint handling procedures.

## Complaints about contracted services

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64. Where we use a contractor to deliver a service on our behalf we recognise that we remain responsible and accountable for ensuring that the services provided meet the current 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 fully meets the standards in this procedure. At the end of the investigation stage of any such complaints the contractor must ensure that the individual is signposted to the SPSO.
65. We will confirm that service users are clearly informed of the process and understand how to complain. We will also ensure that there is appropriate provision for information sharing and governance oversight where required.
66. The Commission has discretion to investigate complaints about organisations contracted to deliver services on its behalf even where the procedure has normally been delegated.

## Complaints about senior staff

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67. 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. We must ensure we have strong governance arrangements in place that set out clear procedures for handling such complaints.
68. Where a member of the Executive Team is the subject of a complaint, the investigation will be undertaken by the Chief Executive. Where the Chief Executive or the Head of the NCF is the subject of the complaint, the response will issue from the Chair.
69. Complaints about Board Members breaching their Code of Conduct will be investigated by the Standards Commission for Scotland, as states in the Ethical Standards in Public Life etc. (Scotland) Act 2000. Information about their process can be found in their website:
70. <https://www.standardscommissionscotland.org.uk/codes-of-conduct/routemap-for-complaining>

## Complaints and other processes

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71. 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 below.

### Complaints and service requests

72. If a individual asks the Commission to do something (for example, provide a service or deal with a problem), and this is the first time the individual has contacted us, this would normally be a routine service request and not a complaint.
73. Service requests can lead to complaints, if the request is not handled promptly or the individual is then dissatisfied with how we provide the service.

### Complaints and disciplinary or whistleblowing processes

74. 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.
75. 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 Commission failed to meet our expected standards and what we have done to improve things, in general terms.

76. 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 can be problematic 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).

77. The SPSO's report [Making complaints work for everyone](#) has more information on supporting staff who are the subject of complaints.

### **Contact from MPs, MSPs or Councillors**

78. When MPs, MSPs or Councillors bring complaints about the Commission on behalf of constituents, they will be handled following this Complaints Handling Procedure – see paragraphs 40 to 42 for further information about complaints about third parties.

79. Other elected member inquiries will be responded to as soon as possible and within 5 working days of us receiving it. Where the information requested is sensitive and relates to an individual, the Commission will inform the elected member that they require to provide a signed mandate providing the consent of the individual to release the information. For more information see [Constituency casework of Members of Parliament and the processing of sensitive personal data \(ico.org.uk\)](#)

### **Complaints and compensation claims**

80. Where an individual is seeking financial compensation only, this is not a complaint. However, in some cases the individual 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**

81. Where an individual says that legal action is being actively pursued, this is not a complaint.

82. Where an individual 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 complaints handler and that the complaints process, in relation to the matters that will be considered through the legal process, will be closed. Any outstanding complaints must still be addressed through the CHP.

83. If an issue has been, or is being, considered by a court, we must not consider the same issue under the CHP.

## What to do if the CHP does not apply

84. If the issue does not meet the definition of a complaint or if it is not appropriate to handle it under this procedure (for example, due to time limits), we will explain to the individual why we have made this decision. We will also tell them what action (if any) we will take (for example, if another procedure applies), and advise them of their right to contact the SPSO if they disagree with our decision not to respond to the issue as a complaint.
85. Where a individual continues to contact us about the same issue, we will explain that we have already given them our final response on the matter and signpost them to the SPSO. We may also consider whether we need to take action under our *[unacceptable actions policy (or equivalent)]*.
86. The SPSO has issued a [template letter for explaining when the CHP does not apply](#).

## **PART 3. The complaints handling process**

## The complaints handling process

87. Our Complaints Handling Procedure (CHP) aims to provide a quick, simple and streamlined process for responding to complaints early and locally by capable, well-trained staff. Where possible, we will **resolve** the complaint to the complainant's satisfaction. Where this is not possible, we will give the complainant a clear and reasoned response to their complaint.

<p><b>Complaint received</b></p> <p>A complainant may complain either verbally or in writing, including face-to-face, by phone, letter or email.</p>		
		
<p><b>Stage 1: Frontline response</b></p> <p>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</p> <p>Complaint resolved or a response provided in <b>five working days</b> or less (unless there are exceptional circumstances)</p> <p>Complaints addressed <b>by any member of staff, or alternatively referred to the appropriate point for frontline response</b></p> <p>Response normally by email or by telephone, it could also be face-to-face (though sometimes we will need to put the decision in writing)</p> <p><b>We will tell the complainant how to escalate their complaint to stage 2</b></p>	<p><b>Stage 2: Investigation</b></p> <p>Where the complainant 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 <b>three working days</b>.</p> <p>We will contact the individual 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 <b>20 working days</b> following a thorough investigation of the points raised</p>	<p><b>Independent external review (SPSO or other)</b></p> <p>Where the complainant is not satisfied with the stage 2 response from the service provider</p> <p>The SPSO will assess whether there is evidence of service failure or maladministration not identified by the service provider</p>
		
<p><b>Resolution</b></p> <p>The complainant and organisation agree what action will be taken to resolve the complaint.</p> <p>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.</p> <p>We must signpost the individual to stage 2 (for stage 1 complaints) or to the SPSO.</p>		
<p><b>Reporting, recording and learning</b></p>		

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.

## Resolving the complaint

88. A complaint is **resolved** when both the Commission and the individual agree what action (if any) will be taken to provide full and final resolution for the complainant, without making a decision about whether the complaint is upheld or not upheld.
89. We will try to resolve complaints wherever possible, although we accept this will not be possible in all cases.
90. 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 complainant or where the complaint relates to an ongoing issue that may give rise to future complaints if the matter is not fully resolved.
91. It may be helpful to use alternative complaint resolution approaches when trying to resolve a complaint. See **Alternative complaint resolution approaches**.
92. 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 complainant'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. We will use our professional judgment in deciding whether it is appropriate to continue looking into a complaint that is resolved.
93. In all cases, we must record the complaint outcome (resolved) and any action taken, and signpost the individual to stage 2 (for stage 1 complaints) or to the SPSO as usual (see **Signposting to the SPSO**).
94. If the complainant and the Commission 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

95. 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 individual's complaint (or complaints)?

96. It is important to be clear about exactly what the individual is complaining about. We may need to ask the complainant for more information and probe further to get a full understanding.
97. We will need to 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.
98. If the matter is not suitable for handling as a complaint, we will explain this to the complainant (and signpost them to SPSO). There is detailed guidance on this step in [Part 2: When to use this procedure](#).
99. 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 individual want to achieve by complaining?

100. At the outset, we will clarify the outcome the individual wants. Of course, the complainant may not be clear about this, and we may need to probe further to find out what they expect, and whether they can be satisfied.

### Can I achieve this, or explain why not?

101. 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.
102. The complainant may expect more than we can provide. If so, we will tell them as soon as possible.
103. 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?

104. 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.
105. 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 complainant 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.** [

106. If we have received and identified a complaint, record the details on the IIMP screen designed for this purpose.

107. Inform about the complaint to your manager and the complaints officer.

## Stage 1: Frontline response

108. Frontline response aims to respond quickly (within five working days) to straightforward complaints that require little or no investigation.
109. 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 respond to complaints at the earliest opportunity and as close to the point of service delivery as possible.
110. 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](#).
111. **Part 2, Appendix 1** gives examples of the types of complaint we may consider at this stage, with suggestions on how to handle them.
112. Complaints which are not suitable for frontline response should be identified early, and handled immediately at **stage 2: investigation**.

## Notifying staff members involved

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113. If the complaint is about the actions of another staff member, the complaint should be shared with them, 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).

## Timelines

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

115. 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 will tell the individual 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).
116. 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.
117. If a complaint has not been closed within ten working days, it should be escalated to stage 2 for a final response.
118. The proportion of complaints that exceed the five-day limit will be evident from reported statistics

119. **Appendix 1** provides further information on timelines.

## Closing the complaint at the frontline response stage

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120. If we convey the decision face-to-face or on the telephone, we are not required to write to the complainant as well (although we may choose to). We must:

- tell the complainant 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 complainant 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 individual has completed stage 2).

121. We will keep a **full and accurate record of the decision given to the complainant** . If we are not able to contact the complainant by phone, or speak to them in person, we will provide a written response to the complaint where an email or postal address is provided, covering the points above.

122. 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).

123. The complaint should then be closed and the complaints system updated accordingly.

124. 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

125. 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 complainant 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 individual 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 complainant 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](#)).
126. 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 complainant 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).
127. Details of the complaint must be recorded on the complaints system in Imps. 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 associated information.
128. The beginning of stage 2 is a good time to consider whether complaint resolution approaches other than investigation may be helpful (see **Alternative complaint resolution approaches**).

## Acknowledging the complaint

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129. Complaints must be acknowledged within three working days of receipt at stage 2.
130. We must issue the acknowledgement in a format which is accessible to the complainant, taking into account their preferred method of contact.
131. Where the points of complaint and expected outcomes are clear from the complaint, we must set these out in the acknowledgement and ask the individual to get in touch with us immediately if they disagree. See **Agreeing the points of complaint and outcome sought**.
132. Where the points of complaint and expected outcomes are not clear, we must tell the complainant we will contact them to discuss this.

## Agreeing the points of complaint and outcome sought

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

134. Where the points of complaint and outcome sought are clear, we can confirm our understanding of these with the individual when acknowledging the complaint (see **Acknowledging the complaint**).

135. Where the points of complaint and outcome sought are not clear, we must contact the complainant to confirm these. We will normally need to speak to the complainant (by phone or face-to-face) to do this effectively. In some cases it may be possible to clarify complaints in writing. The key point is that we need to be sure we and the complainant have a shared understanding of the complaint. When contacting the complainant we will be respectful of their stated preferred method of contact. We should keep a clear record of any discussion with the complainant .

136. 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 will make every effort to agree the points of complaint with the complainant (alternative complaint resolution approaches may be helpful at this stage). In very rare cases, it may not be possible to agree the points of complaint (for example, if the complainant insists on an unreasonably large number of complaints being separately investigated, or on framing their complaint in an abusive way). We will manage any such cases in accordance with our *[unacceptable actions policy, or equivalent]*, 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 must explain if there are any points that are not suitable for handling under the CHP (see [Part 2: What to do if the CHP does not apply](#)).

- **What outcome does the complainant want to achieve by complaining?**

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

- **Are the complainant 's expectations realistic and achievable?**

It may be that the complainant 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 complainant as soon as possible.

## Notifying staff members involved

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137. 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 compelling reasons not to)
- advise them how the complaint will be handled, how they will be kept updated and how we will share the complaint response with them
- discuss their willingness to engage with alternative complaint resolution approaches (where applicable); and
- 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).

138. If it is likely that internal disciplinary processes may be involved, the requirements of that process should also be met [*organisations may wish to link to their grievance process*]. See also [Part 2: Complaints and disciplinary or whistleblowing processes](#).

## Investigating the complaint

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139. It is important to plan the investigation before beginning. 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 [*the organisation*] responsible?

140. In some cases, information may not be readily available. We will 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).

141. If we need to share information within or outwith the organisation, we will be mindful of our obligations under data protection legislation. See [Part 1: Maintaining confidentiality and data protection](#).

142. The SPSO has resources for conducting investigations, including:

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

## Alternative complaint resolution approaches

143. Some complex complaints, or complaints where complainants and other interested parties have become entrenched in their position, may require a different approach to resolving the matter. Where we think it is appropriate, we may use alternative complaint resolution approaches such as complaint resolution discussions, mediation or conciliation to try to resolve the matter and to reduce the risk of the complaint escalating further. If mediation is attempted, a suitably trained and qualified mediator should be used. Alternative complaint resolution approaches may help

both parties to understand what has caused the complaint, and so are more likely to lead to mutually satisfactory solutions.

144. Alternative complaint resolution approaches may be used to resolve the complaint entirely, or to support one part of the process, such as understanding the complaint, or exploring the individual's desired outcome.

145. The SPSO has [guidance on alternative complaint resolution approaches](#).

146. If the Commission and the complainant (and any staff members involved) agree to using alternative complaint resolution approaches, it is likely that an extension to the timeline will need to be agreed. This should not discourage the use of these approaches.

### Meeting with the complainant during the investigation

147. To effectively investigate the complaint, it may be necessary to arrange a meeting with the complainant. 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.

148. As a matter of good practice, a written record of the meeting should be completed and provided to the complainant. 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

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149. The following deadlines are appropriate 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

150. Not all investigations will be able to meet this deadline. For example, some complaints are so complex that they require careful consideration and detailed investigation beyond the 20 working day timeline. It is important to be realistic and clear with the complainant 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 complainant.

151. Any extension must be approved by an appropriate manager. We will keep the complainant and any member/s of staff complained about updated on the reason for the delay and give them a revised timescale for completion. We will contact the complainant and any member/s of staff complained about at least once every 20 working days to update them on the progress of the investigation.

152. *The reasons for an extension might include the following:*

- *essential accounts or statements, crucial to establishing the circumstances of the case, are needed from staff, complainant s or others but the person is not available because of long-term sickness or leave*
- *we cannot obtain further essential information within normal timescales; or*
- *the individual has agreed to alternative complaint resolution approaches as a potential route for resolution.*

These are only a few examples, and we will judge the matter in relation to each complaint. However, an extension would be the exception and we must always try to provide a final response to the complaint within 20 working days.

As with complaints considered at the frontline stage, the proportion of complaints that exceed the 20-day limit will be evident from reported statistics.

153. **Appendix 1** provides further information on timelines.

## Closing the complaint at the investigation stage

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154. The response to the complaint should be in writing (or by the complainant 's preferred method of contact) and must be signed off by a member of the Executive Team or someone on their behalf empowered to provide the final response.

155. We will tell the complainant 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 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**).

156. 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**.

157. 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).

158. We will record the decision, and details of how it was communicated to the complainant , on the complaints system.

159. The SPSO has guidance on responding to a complaint:

- [Template decision letter](#)
- [Apology guidance](#)

160. 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

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

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

162. 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.

163. The SPSO recommends that we use the wording below to inform complainants of their right to ask the SPSO to consider the complaint. This information should only be included on the Commission's 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 Mental Welfare Commission. 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 Commission, 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 Mental Welfare Commission'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](http://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](http://www.spsso.org.uk/contact-us)

Website: [www.spsso.org.uk](http://www.spsso.org.uk)

## Post-closure contact

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164. If a complainant contacts us for clarification when they have received our final response, we may have further discussion with the individual to clarify our response and answer their questions. However, if the complainant 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.

## **PART 4. Governance**

## Roles and responsibilities

### Chief Executive

165. Overall responsibility and accountability for the management of complaints lies with the Chief Executive of the Commission.
166. The Chief Executive provides leadership and direction for Commission staff in order that we discharge our statutory functions effectively. This includes ensuring that there is an effective CHP, incorporating a robust investigation process, that demonstrates how we learn from the complaints we receive. The Chief Executive may take a personal interest in all or some complaints, or may delegate responsibility for the CHP to senior staff. Regular management reports assure the Chief Executive of the quality of complaints performance.
167. Our final position on any complaint which has reached investigation stage is that it must be signed off by an appropriate member of the Executive Team, or Chair (if the complaint is about the actions of the Chief Executive). The letter will make clear that this is our final response. This ensures that members of senior management at the Commission own and are accountable for the decision. It also provides reassurance to individuals that their concerns have been taken seriously.
168. All response letters will be seen by the Chief Executive before they are sent out to the complainer. Members of the Executive Team will ensure that the final position is ready at least 3 days before is due (day 17<sup>th</sup>).

### Head of Corporate Services

169. Operational responsibility for complaints handling at the Commission has been delegated to the Head of Corporate Services who is responsible for:
- ensuring that the complaints handling procedure is regularly reviewed
  - managing complaints and ensuring that lessons learned are implemented in partnership with Executive Directors. See also section Learning from complaints.

### All staff –frontline response

170. A complaint may be made to any member of staff at the Commission so all staff must be aware of the CHP and how to handle and record complaints at the **frontline response stage**. They should also be aware of who to refer a complaint to, in the event that they are not able to personally handle the matter. When in doubt, staff should discuss matters with their line manager but we encourage all staff to try to resolve complaints early and quickly in order to prevent escalation. This includes making an apology where this is appropriate in the circumstances. Staff must record all instances of frontline resolution using the casework screens devised for the purpose.

### Information Governance Manager

The Information Manager will have oversight of the complaints process, to ensure that there is consistency in how we handle complaints. Specific areas of responsibility include:

- assisting staff to decide whether the complaint is valid
- ensuring that staff involved in complaint handling have received appropriate training
- formally acknowledging the complaint and trying to ascertain at an early stage the nature and scope of the complaint
- allocating the complaint to an appropriate member of staff and ensuring they are aware of the timescales involved
- providing advice to the staff member carrying out the investigation of a complaint
- compiling statistical reports with data taken from IIMP casework screens and ensuring that reports are submitted to the executive team and the Board as appropriate, making sure that lessons learnt and action taken as a result are reported in full
- liaison with the SPSO should the complaint be referred there following the conclusion of the Commission's complaints process
- ensuring that information gleaned from complaints handling is publicised on the website and in the annual report.

## Investigation

171. The investigation of a complaint will be assigned to an appropriate member of staff, based on the circumstances of the complaint. Where a complaint involves a member of staff, the investigation of the complaint will be assigned to a manager at an appropriate level.

## Complaints about senior staff

172. 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.

173. Where a member of the Executive Team is the subject of a complaint, the investigation will be undertaken by the Chief Executive. Where the Chief Executive or the Head of the NCF is the subject of the complaint, the response will issue from the Chair.

174. Complaints about Board Members breaching their Code of Conduct will be investigated by the Standards Commission for Scotland, as states in the Ethical Standards in Public Life etc. (Scotland) Act 2000. Information about their process can be found in their website:

<https://www.standardscommissionscotland.org.uk/codes-of-conduct/routemap-for-complaining>

175. In accordance with guidance issued by the SPSO, this complaints procedure does not have an internal review stage. After the investigation is complete and the findings and decision have been sent to the complainant, the internal complaint handling process is exhausted. Complainants who remain dissatisfied should be encouraged to approach the SPSO

## Recording, reporting, learning from and publicising complaints

176. Complaints provide valuable customer feedback. One of the aims of the CHP is to identify opportunities to improve services across the Commission. By recording and analysing complaints data, we can identify and address the causes of complaints and, where appropriate, identify training opportunities and introduce service improvements.

177. We also have arrangements in place to ensure complaints about contractors are recorded, reported on and publicised in line with this CHP

178. Recording complaints

179. 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 complainant's name and contact details
- the date the complaint was received
- the nature of the complaint
- the service the complaint refers to
- staff member responsible for handling the complaint
- action taken and outcome at frontline response stage
- date the complaint was closed at the frontline response stage
- date the investigation stage was initiated (if applicable)
- action taken and outcome at investigation stage (if applicable)
- date the complaint was closed at the investigation stage (if applicable); and
- the underlying cause of the complaint and any remedial action taken.

180. We use a specially designed IIMP casework screen to record complaints, their outcomes and any resulting action. These provide a detailed record of services that have failed to satisfy individuals.

Mental Welfare Commission For Scotland  
Information Management Portal

Navigation icons: Home, About, Complaint, etc.

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Name of complainant:

Category of complainant:  If other specify:

Title of Complaint:

Service User (If Applicable):

---

Address/ Contact details/ Preferred Communication Method:

ABC

**Complaint received ...**

On phone duty by administrative staff:

On Phone Duty by Practitioner Staff:

Via Personal Work Email Address:

Via Enquiries Email Address:

By letter:

Face to face:

Please state where this complaint was received – e.g. on a guardianship visit:

---

Details of the complaint:

ABC

**Frontline Resolution**

Name of handler:

Start date:

Agreed extension days:

Why has an extension been agreed?:

ABC

---

Date resolved:

Resolution status:

Resolution details (summary of response/ apology and how it was communicated to complainant, e.g. phone/ letter/ email):

ABC

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**Investigation**

Name of handler:

Start date:

Acknowledgement date:

Acknowledgement details (e.g. how it was communicated to the complainant):

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

182. Individual complaint files will be stored in line with our document retention policy.

## Learning from complaints

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183. We must have clear systems in place to act on issues identified in complaints. As a minimum, we must:

- seek to identify the root cause of complaints
- take action to reduce the risk of recurrence; and
- systematically review complaints performance reports to improve service delivery.

184. Learning may be identified from individual complaints (regardless of whether the complaint is upheld or not) and from analysis of complaints data.

185. All complaints will be reported quarterly to the Executive team. During these meetings, it will also be discussed whether there are any lessons learned from these complaints and the possible actions identified to improve our service.

- *Imps complaints screen has a section where the lesson learned or possible actions can be recorded.*
- *The IGM will collate the information uploaded in the Imps and this information will be part of the quarterly reports.*
- *The OMG will discuss the proposed actions.*
- *Approved actions will have a designated 'owner' of the issue, with responsibility for ensuring the action is taken*
- *a target date must be set for the action to be taken*
- *the designated individual must 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; and*
- *any learning points should be shared with relevant staff.*

186. SPSO has guidance on **Learning from complaints**.

187. Senior management will review the information reported on complaints regularly to ensure that any trends or wider issues which may not be obvious from individual complaints are quickly identified and addressed. Where we identify the need for service improvement, we will take appropriate action (as set out above). Where appropriate, performance in the service area should be monitored to ensure that the issue has been resolved.

## Reporting of complaints

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188. The casework screens also provide the information for our statistical reporting, both internally and to the SPSO. Complaints details are analysed for trend information, to ensure we identify service failures and take appropriate action. Regular reporting on the analysis of complaints information helps to inform management of where services need to improve

189. We have a process for the internal reporting of complaints information, including analysis of complaints trends. Regularly reporting the analysis of complaints information helps to inform management of where services need to improve.

190. We will report at least **quarterly** to senior management on:

- 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

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191. We aim to publish on a quarterly basis information on complaints outcomes and actions taken to improve services. Information will be published anonymously and without details that could lead to identify the individual.

192. This demonstrates the improvements resulting from complaints and shows that complaints can help to improve our services. It also helps ensure transparency in our complaints handling service and will help to show our complainants that we value their complaints.

193. We will publish an **annual** complaints performance report on our website in line with SPSO requirements, and provide this to the SPSO on request. This summarises and builds on the quarterly reports we have produced about our services. It includes:

- performance statistics, in line with the complaints performance indicators published by the SPSO; and
- complaint trends and the actions that have been or will be taken to improve services as a result.

194. These reports must be easily accessible to members of the public and available in alternative formats as requested.

## Appendix 1 PART 2 Complaints examples

Here are some specific examples of complaints that may be considered at the frontline stage, and possible actions to achieve a resolution.[to be completed after the training scheduled for August – September 2021]

Complaint	Possible actions
<p>The individual expresses dissatisfaction in line with the definition of a complaint, but says she does not want to complain – just wants to tell us about the matter.</p>	<ul style="list-style-type: none"> <li>• Tell the individual that we value complaints because they help to improve services. Encourage them to submit the complaint.</li> <li>• In terms of improving service delivery and learning from mistakes, it is important that individual feedback, such as this, is recorded, evaluated and acted upon. Therefore, if the individual still insists that they do not want to complain, record the matter as an anonymous complaint. This will avoid breaching the complaints handling procedure. Reassure the individual that they will not be contacted again about the matter.</li> </ul>

## Appendix 2 Part 2– What is not a complaint?

A concern may not necessarily be a complaint. For example, a individual might make a routine first-time request for a service. This is not a complaint, but the issue may escalate into a complaint if it is not handled effectively and the individual has to keep on asking for service.

A individual may also be concerned about a decision made by the organisation. These decisions may have their own specific review or appeal procedures, and, where appropriate, individuals must be directed to the relevant procedure. Below are examples of the types of issues or concerns that must not be handled through the CHP. This list is not exhaustive.

**Example 1:** An individual is not content following a response issued by the Commission to a request for information made under freedom of information or data protection legislation. The individual has the right to ask the Commission to review their decision and receive a response but the ultimate review process will be referred to the Information Commissioner, for data protection matters or the Scottish Information Commissioner for matters relating to Freedom of Information.

**Example 2:** The individual complains that they are unhappy with the level of medication and/or the care and treatment they are receiving from their GP, Social Worker, Health Board etc. In these circumstances, individuals need to complain directly to the service provider. The Commission has a signposting role here but this is NOT a complaint about the Commission.

**Example 3:** An individual wishes the Commission to pursue a complaint on their behalf against another organisation. The Commission will not become involved in a complaint against another public authority that is a matter to be resolved under the complaints procedures of that organisation.

## Appendix 1 PART 3 Timelines

### General

1. References to timelines throughout the CHP relate to working days. We do not count non-working days, for example weekends, public holidays and days of industrial action where our service has been interrupted.

### Timelines at frontline response (stage 1)

2. We will aim to achieve frontline response within five working days. The date of receipt is **day one**, and the response should be provided (or the complaint escalated) on **day five**, at the latest.
3. If we have extended the timeline at the frontline response stage in line with the CHP, the response should be provided (or the complaint escalated) on **day ten**, at the latest.

### Transferring cases from frontline response to investigation

4. If the complainant wants to escalate the complaint to the investigation stage, the case must be passed for investigation without delay. In practice this will mean on the same day that the complainant is told this will happen.

### Timelines at investigation (stage 2)

5. For complaints at the investigation stage, **day one** is:
  - the day the case is transferred from the frontline stage to the investigation stage
  - the day the complainant asks for an investigation or expresses dissatisfaction after a decision at the frontline response stage; or
  - the date we receive the complaint, if it is handled immediately at stage 2.
6. We must acknowledge the complaint within three working days of receipt at stage 2 i.e. by **day three**.
7. We should respond in full to the complaint by **day 20**, at the latest. We have 20 working days to investigate the complaint, regardless of any time taken to consider it at the frontline response stage.
8. Exceptionally, we may need longer than the 20 working day limit for a full response. If so, we will explain the reasons to the individual, and update them (and any staff involved) at least once every 20 working days.

### Frequently asked questions

*What happens if an extension is granted at stage 1, but then the complaint is escalated?*

9. The extension at stage 1 does not affect the timeframes at stage 2. The stage 2 timeframes apply from the day the complaint was escalated (we have 20 working days from this date, unless an extension is granted).

*What happens if we cannot meet an extended timeframe?*

10. 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.
11. 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 complainant and give them a revised timeframe for completion. We must update the complainant and any staff involved in the investigation at least once every 20 working days.

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

12. Unless exceptional circumstances exist, complainants 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 PART 3– The complaint handling process (flowchart for staff)

<p>A complainant may complain verbally or in writing, including face-to-face, by phone, letter or email.</p> <p>Your first consideration is whether the complaint should be dealt with at stage 1 (frontline response) or stage 2 (investigation).</p>	
	
<p><b>Stage 1: Frontline response</b></p> <p>Always try to respond quickly, wherever we can</p>	<p><b>Stage 2: Investigation</b></p> <p>Investigate where:</p> <ul style="list-style-type: none"> <li>• The complainant is dissatisfied with the frontline response or refuses to engage with attempts to handle the complaint at stage 1</li> <li>• It is clear that the complaint requires investigation from the outset</li> </ul>
	
<p>Record the complaint in Imps and notify any staff complained about</p>	<p>Record the complaint and notify any staff complained about</p> <p>Acknowledge the complaint within <b>three working days</b></p>
	
<p>Respond to the complaint within <b>five working days</b> unless there are exceptional circumstances</p>	<p>Contact the complainant to agree:</p> <ul style="list-style-type: none"> <li>• Points of complaint</li> <li>• Outcome sought</li> <li>• Manage expectations (where required)</li> </ul> <p><i>(these can be confirmed in the acknowledgement where the complaint is straightforward)</i></p>
	
<p>Respond to the complaint as soon as possible, but within <b>20 working days</b> unless there is a clear reason for extending the timescale</p>	<p>Is the complainant satisfied?</p> <p>You must always tell the complainant how to escalate to stage 2</p>
	
<p>(Yes) Record outcome and learning, and close complaint.</p> <p>(No) -&gt; to stage 2 </p>	<p>Communicate the decision, normally in writing</p> <p>Signpost the complainant to SPSO and advise of time limits</p>
	
<p>Follow up on agreed actions flowing from the complaint</p>	

Share any learning points



