

# **Complaints Handling Procedures for Staff**

Issue 1: August 2014

## **The Mental Welfare Commission for Scotland**

### **Complaint handling procedure for staff**

#### **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. 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.

The complaints handling procedure 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.

Mr Colin McKay

Chief Executive

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## **How to use this Complaints Handling Procedure (CHP)**

This document guides staff on how to handle complaints. Another document provides information for individuals on the complaints procedure. Together, these documents form our complaints handling procedure (CHP).

Complaints about the NCF (National Confidential Forum) will not be handled by Commission staff. The NCF have their own CHP and NCF staff will follow their own procedures. Separate guidance will be produced in order to advise individuals about how to make a complaint about the NCF.

This document is designed to be adopted as an internal document. It contains references and links to more details on parts of the procedure, such as how to record complaints, and the criteria for signing off and agreeing time extensions. These explain how to process, manage and reach decisions on different types of complaints.

When using this document, please also refer to the 'SPSO Statement of Complaints Handling Principles' and best practice guidance on complaints handling from the Complaints Standards Authority at the SPSO.

<http://www.valuingcomplaints.org.uk>

## What is a complaint?

The Commission’s definition of a complaint is:

“An expression of dissatisfaction by one or more members of the public about the Commission’s lack of action, or about the standard of service provided by or on behalf of the Commission”

Complaints may be about the behaviour, attitudes or actions of an employee, visitor or Board member of the Commission. It may also be about the work of the Commission as a whole.

A complaint may relate to:

- failure to provide a service where there was an expectation that the Commission had a duty to do so
- inadequate standard of service
- dissatisfaction with Commission policy
- treatment by, or attitude of, a member of staff
- disagreement with a decision where individuals cannot use another procedure to resolve the matter
- failure to follow the appropriate administrative process.

This list is not exhaustive.

**Appendix 1** 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
- disagreement with a decision where a statutory right of appeal already exists (*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 Data Protection Act (1998)*)
- an attempt to reopen a previously concluded complaint or to have a complaint reconsidered where we have already given our final decision.

We must not treat these issues as complaints, and should instead direct individuals to use the appropriate procedures.

[Appendix 2](#) gives more examples of 'what is not a complaint' and how to direct people appropriately.

### **Handling anonymous complaints**

We value all complaints. This means we treat all complaints seriously including those made anonymously, 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 further action, we may decide not to pursue it further. Any decision not to pursue an anonymous complaint must be authorised by a senior manager.

If an anonymous complaint makes serious allegations, we will refer it to a senior officer immediately.

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

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

If someone has expressed dissatisfaction in line with our definition of a complaint but does not want to complain, we will 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. We will encourage the individual to submit their complaint as this will allow us to deal with it through our complaints handling procedure. This will ensure that the person is given information about the action taken and receives a response to their complaint.

If, however, the individual insists they do not wish to complain, record the issue as an anonymous complaint. This will ensure that the individual's details are not recorded on the complaints database 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.

Please refer to the example in **Appendix 1** for further guidance.

### **Who can make a complaint?**

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.

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.

Scottish Independent Advocacy Alliance  
Melrose House  
69A George Street  
Edinburgh EH2 2JG  
Telephone: 0131 260 5380  
Email: [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>

### **Complaints involving other organisations**

If an individual complains to the Commission about the service of another agency or public service provider, but the Commission has no involvement in the issue, they should normally be advised to contact the appropriate organisation directly and, if necessary, given information about how to take forward a complaint.

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.

There is a leaflet, produced by Health Information Rights Scotland (HIRS) which provides details of how to make a complaint against the NHS in Scotland. More details are available from the HIRS website from the link below.

<http://www.hris.org.uk/patient-information/information-about-health-rights/making-a-complaint/>

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 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.

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.

### **Joint working**

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

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 in the basis of the complaint but, in all likelihood it would be the Commission who would carry out the complaint investigation.

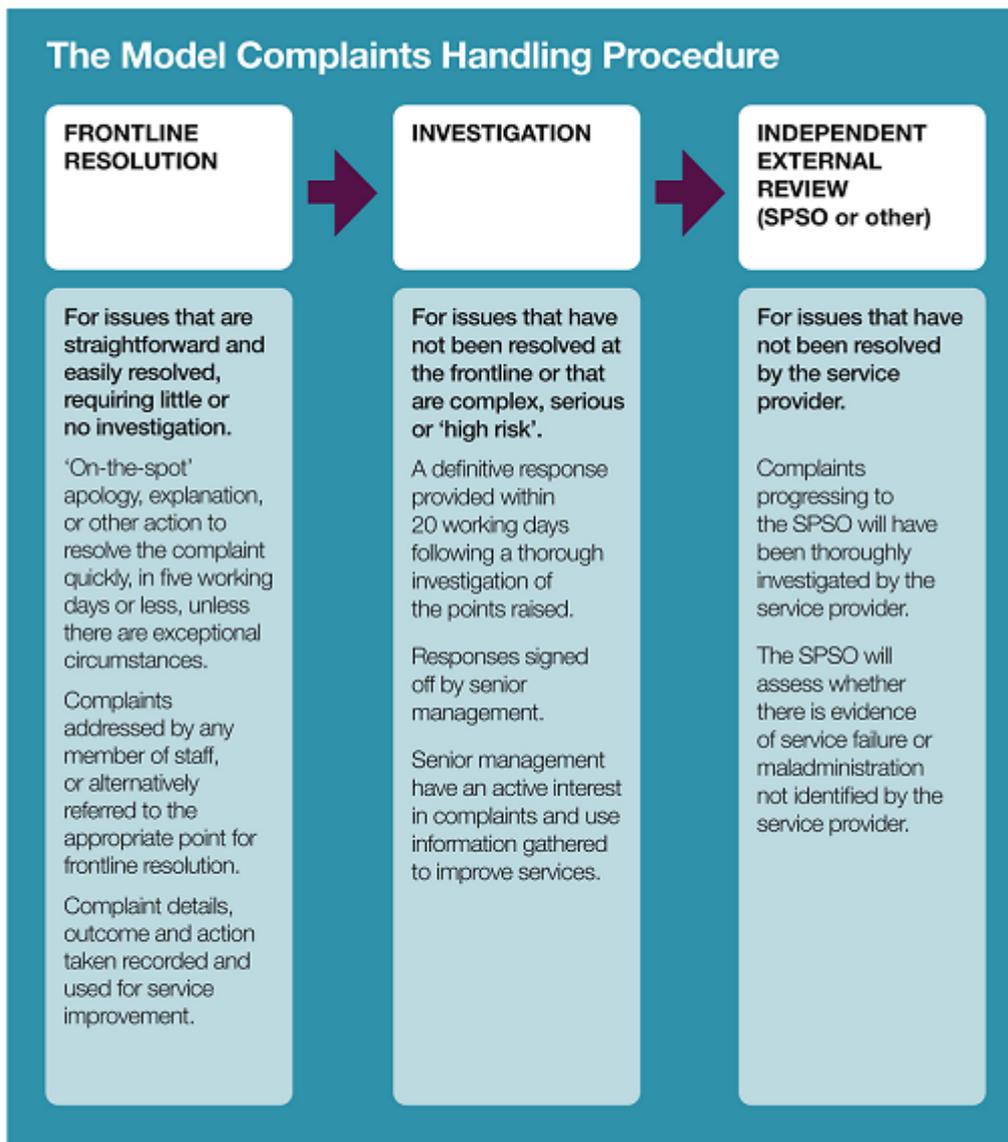
Should there be a complaint arising from any joint working arrangement, the Commission will contact the partner or partners involved and agree who is best placed to address the concerns of the complainant, based on the nature of that complaint. Should the onus for conducting an investigation into a complaint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

## The complaints handling process

The CHP aims to provide a quick, simple and streamlined process for resolving complaints early and locally by capable, well-trained staff.

Our complaints process provides two opportunities to resolve complaints internally:

- **frontline resolution**, and
- **investigation**.



For clarity, the term 'frontline resolution' refers to the first stage of the complaints process. It does not reflect any job description within the Commission but means seeking to resolve complaints at the initial point of contact, where possible.

### Stage one: frontline resolution

Frontline resolution aims to quickly resolve straightforward complaints that require little or no investigation. Any member of staff may deal with complaints at this stage. Complaints relating to

the behaviour or action of an individual member of staff should be passed to the most appropriate line manager for their consideration.

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

**Appendix 1** gives examples of the types of complaint we may consider at this stage, with suggestions on how to resolve them.

In practice, frontline resolution means resolving the complaint at the first point of contact with an individual, either by the member of staff receiving the complaint or other identified staff.

In either case, we may settle the complaint by providing an on-the-spot apology, where this is felt to be 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.

Individuals can make a complaint in writing, by telephone, by email or online, or by having someone complain on their behalf. We must always consider frontline resolution, regardless of how we have received the complaint.

### ***What to do when we receive a complaint***

- 1 On receiving a complaint, we must first decide whether the issue can be defined as a complaint. The individual may express dissatisfaction about more than one issue. This may mean we treat one element as a complaint, while directing the individual to pursue another element through an alternative route (see **Appendix 2**).
- 2 If we have received and identified a complaint, record the details on the IIMP screen designed for this purpose.
- 3 Next, decide whether or not the complaint is suitable for frontline resolution. Some complaints will need to be fully investigated before we can give a suitable response. We must escalate these complaints immediately to the investigation stage.
- 4 Where you think frontline resolution is appropriate, we must consider four key questions:
  - What exactly is the complaint (or complaints)?
  - What does the individual want to achieve by complaining?
  - Can we achieve this, or explain why not?
  - If we cannot resolve this, who can help with frontline resolution?

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

It is important to be clear about the precise nature of the complaint. We may need to ask the individual supplementary questions to obtain a full picture.

**What does the individual want to achieve by complaining?**

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

**Can we achieve this, or explain why not?**

If we can achieve the expected outcome by providing an on-the-spot apology or explain why we cannot achieve it, we should do so.

**SPSO guidance on apology**

The individual may expect more than we can provide. If the individual's expectations appear to exceed what the organisation can reasonably provide, we must tell them as soon as possible in order to manage expectations about possible outcomes.

Most often, complaints are brought to the Commission's attention by email, or in writing. Increasingly, we have found that people prefer email as the medium of receiving responses to complaints, though people who complain by letter usually prefer to receive a letter in return. Frontline resolution, however, will happen on the telephone or, less frequently, face to face. Where we do convey the decision by telephone, face to face or by email, we are not also required to write to the individual, although we may choose to do so. It is important, however, that we keep a full and accurate record of the decision reached and how this has been conveyed to the individual.

**If I can't resolve this, who can help with frontline resolution?**

If you cannot deal with the complaint because, for example, you are unfamiliar with the issues or area of service involved, pass details of the complaint to an appropriate colleague who can try to resolve it.

**Timelines**

Frontline resolution must be completed within **five working days** although in most instances, we would expect to resolve the complaint much sooner.

We may need to get more information from other people to resolve the complaint at this stage. However, it is important that we respond to the complainant within five working days, either resolving the matter or explaining that the Commission will investigate their complaint.

### **Extension to the timeline**

In exceptional circumstances, where there are clear and justifiable reasons for doing so, we may agree an extension of no more than five working days with the individual. This must only happen when there is an expectation that the extension will increase the prospects of resolving the complaint at the frontline resolution stage.

When we ask for an extension, authorisation must first be obtained from a senior manager, who will decide whether we need an extension to effectively resolve the complaint. Examples of when this may be appropriate include staff or contractors being temporarily unavailable. If, however, the issues are so complex that they cannot be resolved in five days, it may be more appropriate to escalate the complaint straight to the investigation stage. We must inform the individual of the reasons for the delay, and when they can expect our response.

If an individual does not agree to an extension but it is unavoidable and reasonable, a senior manager must decide on the extension. We must then explain the reasons for the delay and for the decision to grant the extension to the individual.

It is important that such extensions do not become the norm. Rather, the timeline at the frontline resolution stage should be extended only rarely. All attempts to resolve the complaint at this stage must take no longer than **ten working days** from the date we receive the complaint.

The proportion of complaints that exceed the five-day limit will be evident from reported statistics.

[Appendix 3](#) provides further information on timelines.

### **Closing the complaint at the frontline resolution stage**

When we have informed an individual of the outcome, we are not obliged to write to them to explain this, although we may choose to do so. We must ensure that our response to the complaint addresses all areas that we are responsible for and that it explains the reasons for our decision. It is also important to keep a full and accurate record of the decision reached and given to the individual. The complaint should then be closed and the complaints recording system updated accordingly.

### **When to escalate to the investigation stage**

We must escalate a complaint to the investigation stage when:

- we have tried frontline resolution but an individual remains dissatisfied and requests an investigation. This may happen immediately when we communicate the decision at the frontline stage, or some time later
- an individual refuses to take part in frontline resolution
- 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 resolution stage, the complaint should be reopened on the complaints recording system.

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. The SPSO defines 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
  - child protection.

### **Stage two: investigation**

Some complaints will not be suitable for frontline resolution while, in other instances, attempts at frontline resolution will be unsuccessful. In either of these scenarios, an investigation will be carried out. Complaints handled at the investigation stage of the complaints handling procedure are typically complex, or require a detailed examination before we can state our position.

An investigation aims to establish all the facts relevant to the points made in the complaint and to give the individual a full, objective and proportionate response that represents our final position.

### **What to do when we receive a complaint for investigation**

It is important to be clear from the start of the investigation stage exactly what we are investigating, and to ensure that both the Commission and the individual understand the investigation's scope.

It may be helpful to confirm these points with the individual at the outset, to establish why they are dissatisfied and whether the outcome they are looking for seems realistic. In discussing the complaint with the individual, we need to consider three key questions:

1. What specifically is the individual's complaint or complaints?
2. What does the individual want to achieve by complaining?
3. Are the individual's expectations realistic and achievable?

It may be that the complainant expects more than we can provide. If so, we must make this clear to them as soon as possible.

Where possible, we should also clarify what additional information we will need to investigate the complaint. The individual may need to provide more evidence to help us reach a decision.

Details of the complaint must be recorded on the complaints recording system. Where appropriate, this will be done as a continuation of frontline resolution. The details must be updated when the investigation ends.

If the investigation stage follows attempted frontline resolution, all case notes and associated information must be handed over to the person responsible for the investigation, and record that we have done so.

### **Timelines**

The following deadlines are appropriate to cases at the investigation stage:

- 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 this deadline. For example, some complaints are so complex that they require careful consideration and detailed investigation beyond the 20-day limit. However, these cases will be the exceptions and our aim must always be to deliver a final response to a complaint within 20 working days.

If there are clear and justifiable reasons for extending the timescale, senior management will set time limits on any extended investigation and the agreement of the individual will be sought to this. We must keep the individual updated about the reason for the delay and give them a revised timescale for completion. If they do not agree to an extension but it is, in our view, unavoidable and reasonable, then senior management must consider and confirm the extension. 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, customers or others but they cannot help because of long-term sickness or leave.
- We cannot obtain further essential information within normal timescales.
- Operations are disrupted by unforeseen or unavoidable operational circumstances, for example industrial action or severe weather conditions.

These are only a few examples, and decisions must be taken on the basis of the circumstances of individual complaints. 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.

**Appendix 3** provides further information on timelines.

### **Closing the complaint at the investigation stage**

We must inform the individual of the outcome of the investigation, in writing or by their preferred method of contact. Our response to the complaint must address all areas that we are responsible for and explain the reasons for our decision. We must record the decision, and details of how it was communicated to the individual, on the complaints recording system. We must also make clear to the individual:

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

### ***Independent external review***

Once the investigation stage has been completed, individuals have the right to approach the SPSO if they remain dissatisfied.

The SPSO considers complaints from people who remain dissatisfied at the conclusion of our complaints procedure. The SPSO looks at issues such as service failures and maladministration (administrative fault), as well as the way the Commission handled 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 Scottish Government, NDPBs, agencies and other government sponsored organisations. If the complainant remains dissatisfied with an organisation after its complaints process, he/she can ask the SPSO to look at their complaint. The SPSO cannot normally look at complaints:

- where they have not gone all the way through the organisation's complaints handling procedure
- more than 12 months after the complainant became aware of the matter they want to complain about, or
- that have been or are being considered in court.

The SPSO's contact details are:

SPSO  
4 Melville Street  
Edinburgh  
EH3 7NS

SPSO  
Freepost EH641  
Edinburgh  
EH3 0BR

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)  
Mobile site: <http://m.spsso.org.uk>

## **Governance of the Complaints Handling Procedure**

### **Roles and responsibilities**

#### **Chief Executive**

Overall responsibility and accountability for the management of complaints lies with Mr Colin McKay, Chief Executive of the Commission.

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.

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.

#### **Head of Corporate Services**

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

#### **Frontline Resolution**

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 resolution 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.

#### **Investigations**

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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, who will not be the manager of the staff member.

Where the complaint involves an expression of dissatisfaction relating to a member of the executive team, the Chief Executive will be responsible for the investigation and the decision.

Where the complaint involves an expression of dissatisfaction relating to the Chief Executive, the Chair will be responsible for the investigation and the decision.

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.

## **Administration Manager and Information Manager**

### **Investigations**

The Information Manager and Administration 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.

### **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. Where a complaint is received which relates to the Chief Executive, then the matter will be investigated by the Chair of the Commission or a Board member delegated by the Chair.

## **Recording, reporting, learning and publicising**

Complaints provide valuable feedback. One of the aims of the complaints handling procedure is to identify opportunities to improve services across the Commission. We must 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 for staff and introduce service improvements.

### ***Recording complaints***

To collect suitable data it is essential to record all complaints in line with SPSO minimum requirements, as follows:

- the individual'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 date the complaint was closed at the frontline resolution 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 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.

**IIMP Complaint casework screen guidance documentation should be uploaded here or a link inserted taking staff to separate guidance.**

### ***Reporting of complaints***

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.

We publish on a quarterly basis the outcome of complaints and the actions we have taken in response. This demonstrates the improvements resulting from complaints and shows that complaints can influence our services. It also helps ensure transparency in our complaints handling service and will help reassure people that we value their complaints.

We must:

- publicise on a quarterly basis complaints outcomes, trends and actions taken
- use case studies and examples to demonstrate how complaints have helped improve services.

This information will be reported regularly (and at least quarterly) to our senior management team, and annually to the Board. We will also prepare vignettes of significant complaints, e.g. complaints which have resulted in important lessons being learned or which have caused us to change existing practice, for inclusion in the Annual Report, which is published on our website.

### ***Learning from complaints***

At the earliest opportunity after the closure of the complaint, the complaint handler should always make sure that the complainant and any Commission staff involved understand the findings of the investigation and any recommendations made.

Senior management will regularly review the information gathered from complaints and consider whether our services could be improved or internal policies and procedures updated as a consequence of the outcomes of the complaints.

At a minimum, we must:

- 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.

Where we have identified the need for service improvement:

- the action needed to improve services must be authorised
- an officer (or team) should be designated the '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
- we must ensure that staff learn from complaints.

### ***Publicising complaints performance information***

We also report on our performance in handling complaints annually in line with SPSO requirements. This includes performance statistics showing the volumes and types of complaints and key performance details, for example on the time taken and the stage at which complaints were resolved.

### ***Maintaining confidentiality***

Confidentiality is important in complaints handling. It includes maintaining the individual's confidentiality and explaining to them the importance of confidentiality generally. We must always bear in mind legal requirements, for example, data protection legislation, as well as internal policies

on confidentiality and the use of personal information. Complaints reports presented to OMG and to the Board, or included in the annual report or on the website, will not include personal data.

### **Managing unacceptable behaviour**

People may act out of character in times of trouble or distress. The circumstances leading to a complaint may result in the individual acting in an unacceptable way. Individuals who have a history of challenging or inappropriate behaviour, or have difficulty expressing themselves, may still have a legitimate grievance.

An individual's reasons for complaining may contribute to the way in which they present their complaint. Regardless of this, we must treat all complaints seriously and properly assess them. However, we also recognise that the actions of individuals 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 individuals. Where we decide to restrict access to an individual under the terms of an unacceptable actions policy, we have a procedure in place to communicate that decision, notify the individual of a right of appeal, and review any decision to restrict contact with us. This will allow the individual to demonstrate a more reasonable approach later.

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

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. In any such case the investigator will provide a summary of the complaint and the action taken, which will be presented to Operational Management Group (OMG) for consideration. If OMG decides that the complaint is habitual, vexatious or unreasonable, then the Chief Executive will advise the complainant that the Commission will not enter into any further correspondence about the complaint and, where appropriate, will remind the complainant of the role of the Scottish Public Services Ombudsman.

### **Supporting the complainant**

All members of the community have the right to equal access to our complaints handling procedure. Those who do not have English as a first language may need help with interpretation and translation services, and other people may have specific needs that we will seek to address to ensure easy access to the complaints handling procedure.

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

Several support and advocacy groups are available to support people in pursuing a complaint and individuals should be signposted to these as appropriate. *(see earlier entry for contact details of advocacy organisations and Citizens Advice Bureau)*

### **Time limit for making complaints**

This complaint handling procedure sets a time limit of six months from when the complainant first knew of the problem, within which time they may ask us to consider the complaint, unless there are special circumstances for considering complaints beyond this time.

We will apply this time limit with discretion. 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.

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.

## Appendix 1 - Complaints

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

Complaint	Possible actions to achieve resolution
<p>An individual calls our phone duty line and asks to speak to an individual practitioner who is not in the office. The caller is unhappy and expresses this to the member of administrative staff on phones,</p>	<p>The member of administrative staff explains the possible reasons for the unavailability of the staff member and, as the matter is described as urgent, the member of staff offers to take the person's details and arrange a call back from the duty practitioner that day.</p>
<p>An individual calls our advice line and insists that they want to speak to one of our medically qualified practitioners. They are not pleased when told that there is a social work officer on duty and not a medically qualified individual.</p>	<p>The member of administrative staff on duty explains that one of our social work officers is duty practitioner that day and they will be the one giving a call back. The member of administrative staff explains that all Commission practitioners are experienced and able to give advice, and will confer with colleagues from other disciplines if that is felt to be necessary. They are able to provide reassurance to the caller</p>
<p>Someone telephones the Commission and explains that they want to see all of the data we hold about them on file.</p>	<p>The call handler explains that the individual needs to complete a Subject Access Request form, which must be submitted to the Commission with a form of valid ID to allow us to consider releasing data to them. This could lead to the caller being annoyed about the bureaucracy involved, in which instance he/she will be put through to the Information Manager who will explain that this process is necessary to protect the data we hold about them and to prevent it being released inadvertently to anyone who is not entitled to access it. This explanation may satisfy them.</p>
<p>An individual expresses dissatisfaction in line with the definition of a complaint, but says they do 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> </ul>

<b>Complaint</b>	<b>Possible actions to achieve resolution</b>
	<ul style="list-style-type: none"><li data-bbox="855 241 1437 734">• In terms of improving service delivery and learning from mistakes, it is important that feedback from individuals 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 - What is not a complaint**

A concern may not necessarily be a complaint. For example, an individual might make a routine first-time request for information or 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.

An individual may also be concerned about a decision made by the organisation. This decision 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.**

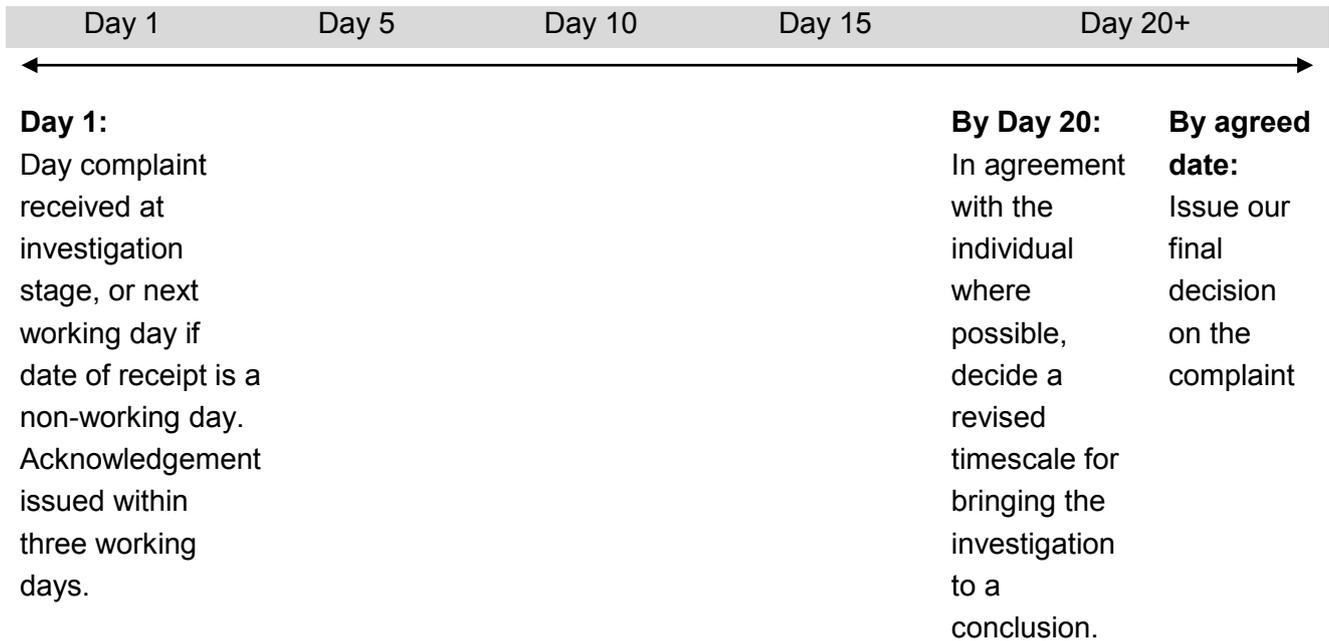
**Example 2: The individual complains that they are unhappy with the level of medication and/or the care and treatment they are receiving from their GP, Social Worker, Health Board etc. In these circumstances, individuals need to complain directly to the service provider. The Commission has a signposting 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.**



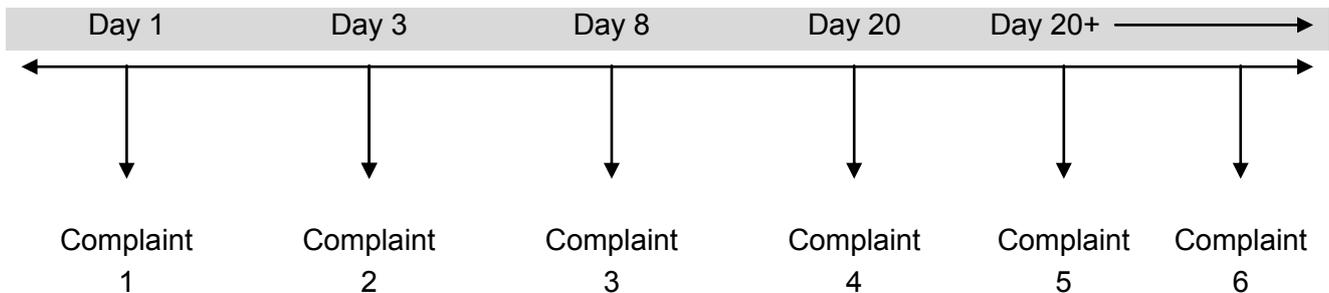


Exceptionally we may need longer than the 20-day limit for a full response. If so, we must explain the reasons to the individual, and agree with them a revised timescale.



**Timeline examples**

The following illustration provides examples of the point at which we conclude our consideration of a complaint. It is intended to show the different stages and times at which a complaint may be resolved.



The circumstances of each complaint are explained below:

**Complaint 1**

Complaint 1 is a straightforward issue that may be resolved by an on-the-spot explanation and, where appropriate, an apology. Such a complaint can be resolved on day 1.

**Complaint 2**

Complaint 2 is also a straightforward matter requiring little or no investigation. In this example, resolution is reached at day three of the frontline resolution stage.

### **Complaint 3**

Complaint 3 refers to a complaint that we considered appropriate for frontline resolution. We did not resolve it in the required timeline of five working days. However, we authorised an extension on a clear and demonstrable expectation that the complaint would be satisfactorily resolved within a further five days. We resolved the complaint at the frontline resolution stage in a total of eight days.

### **Complaint 4**

Complaint 4 was suitably complex or serious enough to pass to the investigation stage from the outset. We did not try frontline resolution; rather we investigated the case immediately. We issued a final decision to the customer within the 20-day limit.

### **Complaint 5**

We considered complaint 5 at the frontline resolution stage, where an extension of five days was authorised. At the end of the frontline stage the customer was still dissatisfied. At their request, we conducted an investigation and issued our final response within 20 working days. Although the end-to-end timeline was 30 working days we still met the combined time targets for frontline resolution and investigation.

### **Complaint 6**

Complaint 6 was considered at both the frontline resolution stage and the investigation stage. We did not complete the investigation within the 20-day limit, so we agreed a revised timescale with the customer for concluding the investigation beyond the 20-day limit.

## Appendix 4 - The complaints handling procedure

