

Complaints Handling Procedure

Staff Guidance



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Glossary and abbreviations

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

Cross-referenced documents (for internal use)

VC No	VC name
55673	How to Make a Complaint
29132	Unacceptable Actions Policy

The Complaints Handling Procedure

Introduction

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

The procedure adopts a standardised approach to handling complaints 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'. Our objective is to achieve quick, simple and streamlined complaints handling with early resolution by capable, well-trained staff.

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

Resolving complaints early means they are less likely to escalate to the next stage of the procedure, which creates better relations and saves money. Complaints that we do not resolve swiftly can greatly add to our workload.

The CHP will help us do our job better and enhance public perception of our organisation.

This document explains how we handle complaints. Another document ('How to Make a Complaint') provides information for people who wish to make a complaint.

Daren Fitzhenry
Scottish Information Commissioner

What is a complaint?

1. The Scottish Information Commissioner's (SIC) definition of a complaint is:
'An expression of dissatisfaction by one or more members of the public about our action or lack of action, or about the standard of service provided by or on behalf of the Scottish Information Commissioner'
2. **A complaint may relate to:**
 - (i) failure to provide a service
 - (ii) inadequate standard of service
 - (iii) dissatisfaction with SIC's policy
 - (iv) treatment by or attitude of a member of staff
 - (v) disagreement with a decision where the complainant cannot use another procedure (for example an appeal) to resolve the matter
 - (vi) SIC's failure to follow the appropriate administrative process.
3. This list does not cover everything.
4. [Appendix 1](#) provides a range of examples of complaints we may receive, and how these may be handled.
5. **A complaint is not:**
 - (i) a routine first-time request for a service
 - (ii) a request for compensation only
 - (iii) issues that are in court or have already been heard by a court or a tribunal
 - (iv) disagreement with a decision where a statutory right of appeal exists
 - (v) an attempt to reopen a previously concluded complaint or to have a complaint reconsidered where we have already given our final decision

Applications / Appeals

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

The Commissioner is required by law to make decisions on applications made to SIC, except in limited circumstances. Decision notices are legally enforceable notices which may be appealed to the Court of Session on a point of law. Similarly, in certain circumstances, the Commissioner may issue determinations which can also be appealed to the Court of Session. An appeal to the Court of Session is therefore the appropriate route which should be taken by an applicant or public authority who is dissatisfied with a decision or determination issued by the Commissioner. The Commissioner's Investigation Procedures provide guidance on dealing with questions in these circumstances.

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

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

Requests for Information

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

Handling anonymous complaints

6. We value all complaints. This means we treat all complaints including anonymous complaints seriously and will take action to consider them further, wherever this is appropriate. Generally, we will consider anonymous complaints if there is enough information in the complaint to enable us to make further enquiries. If, however, an anonymous complaint does not provide enough information to enable us to take action, we may decide not to pursue it further. Any decision not to pursue an anonymous complaint must be authorised by a member of the SMT.
7. If an anonymous complaint makes serious allegations, refer it to a member of the SMT immediately.
8. If we pursue an anonymous complaint further, we will record the issues as an anonymous complaint in Workpro. This will help to ensure the completeness of the complaints data we record and allow us to take corrective action where appropriate.

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

9. If a person has expressed dissatisfaction in line with our definition of a complaint but does not want to complain, tell them that we do consider all expressions of dissatisfaction, and that complaints offer us the opportunity to improve services where things have gone wrong. Encourage the person to submit their complaint and allow us to deal with it through the complaints handling procedure. This will ensure that the person is updated on the action taken and gets a response to their complaint.
10. If, however, the person insists they do not wish to complain, record the issue as an anonymous complaint. This will ensure that the person's details are not recorded in Workpro and that they receive no further contact about the matter. It will also help to ensure the completeness of the complaints data recorded and will still allow us to fully consider the matter and take corrective action where appropriate.
11. Please refer to the example in [Appendix 1](#) for further guidance.

Who can make a complaint?

12. Anyone who receives, requests or is affected by our services can make a complaint. Sometimes a person 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.

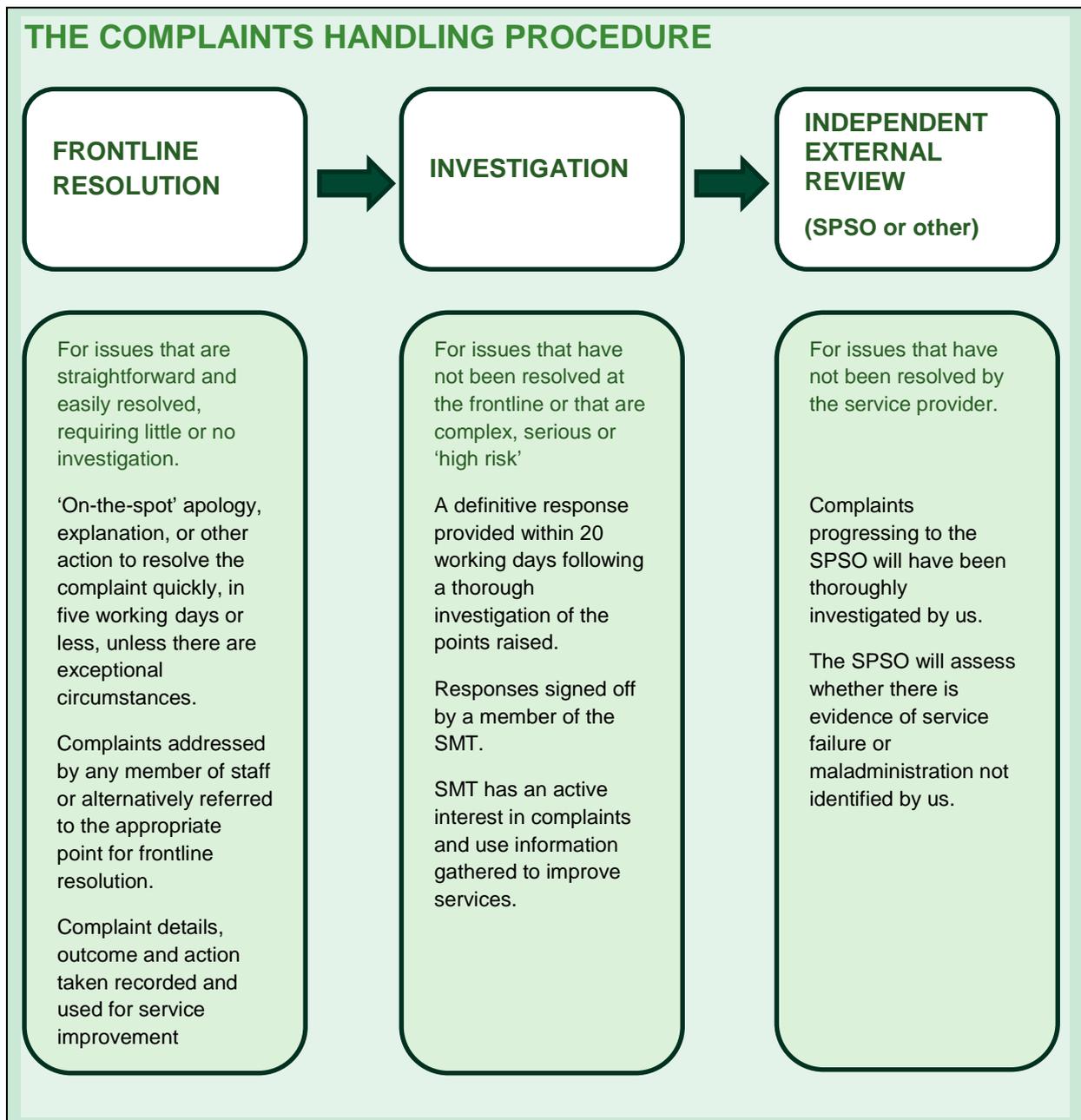
Complaints involving more than one team or organisation

13. If a complaint relates to the actions of two or more our teams, you must tell the complainant who will take the lead in dealing with the complaint, and explain that they will get only one response covering all issues raised.
14. If a person complains to us about the service of another agency or public service provider, but SIC has no involvement in the issue, the person should be advised to contact the appropriate organisation directly. However, where, a complaint relates to a service provided by SIC and the service of another agency or public service provider, (for example a regulator, commissioner or a government department), and we have a direct interest in the issue, you must handle the complaint about SIC through the CHP. If you need to make enquiries to an outside agency in relation to the complaint always take account of data protection legislation and our guidance on handling personal information. The Information Commissioner has detailed guidance on data sharing and has issued a [data sharing code of practice](#).
15. Such complaints may include:
 - (i) a person attending a roadshow organised by SIC expresses dissatisfaction with a presentation made / workshop run by a speaker from another public authority
 - (ii) a person attending a roadshow organised by SIC raises concerns about the accessibility of the venue, which has been provided by another public authority

In both of these examples, we would need to ask the complainant if they agree to us sharing their details with the public authority concerned.

The complaints handling process

16. The CHP aims to provide a quick, simple and streamlined process for resolving complaints early and locally by capable, well-trained staff.
17. Our complaints process provides two opportunities to resolve complaints internally:
 - **frontline resolution**, and
 - **investigation**.



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

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

Stage one: frontline resolution

20. 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.
21. 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, or asking an appropriate member of staff to deal directly with the complaint.
22. [Appendix 1](#) gives examples of the types of complaint we may consider at this stage, with suggestions on how to resolve them.
23. In practice, frontline resolution means resolving the complaint at the first point of contact, either by the member of staff receiving the complaint or other identified staff.
24. In either case, you may settle 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. You may also explain that, as an organisation that values complaints, we may use the information given when we review service standards in the future.
25. A complaint may be made in writing, in person, by telephone, by email or online, or by having someone complain on the complainant's behalf. You must always consider frontline resolution, regardless of how you have received the complaint.

What to do when you receive a complaint

26. On receiving a complaint, you must first decide whether the issue can indeed be [defined as a complaint](#). The person may express dissatisfaction about more than one issue. This may mean you treat one element as a complaint, while directing the complainant to pursue another element through an alternative route (see [Appendix 2](#)).
27. Next, decide whether or not the complaint is suitable for frontline resolution. Some complaints will need to be fully investigated before you can give a suitable response. You must escalate these complaints immediately to the [investigation stage](#).
28. Where you think frontline resolution is appropriate, you must consider four key questions:
 - (i) What exactly is the complaint (or complaints)?
 - (ii) What does the complainant want to achieve by complaining?
 - (iii) Can I achieve this, or explain why not?
 - (iv) If I cannot resolve this, who can help with frontline resolution?
29. Details of the complaint must be [recorded in Workpro](#).

What exactly is the complaint (or complaints)?

It is important to be clear what the complaint is about. You may need to ask the complainant supplementary questions to get a full picture.

What does the complainant want to achieve by complaining?

At the outset, clarify the outcome the complainant wants. Of course, the complainant may not be clear about this, so you 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?

If you can achieve the expected outcome by providing an on-the-spot apology or explain why you cannot achieve it, you should do so. If you consider an apology is suitable, you may wish to follow the SPSO's guidance on the subject:

[SPSO guidance on apology](#)

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

You are likely to have to convey the decision face to face or on the telephone. If you do so face to face, by telephone or by email, you are not required to write to the complainant as well, although you may choose to do so. It is important, however, to keep a full and accurate record of the decision reached and passed to the complainant.

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 someone who can try to resolve it.

Timelines

- 30. Frontline resolution must be completed within five working days, although in practice we would often expect to resolve the complaint much sooner.
- 31. You may need to get more information from other teams to resolve the complaint at this stage. However, it is important to respond to the complainant within five working days, either resolving the matter or explaining that we will investigate their complaint.

Extension to the timeline

- 32. In exceptional circumstances, where there are clear and justifiable reasons for doing so, you may agree an extension of no more than five working days with the complainant. This must only happen when an extension will make it more likely that the complaint will be resolved at the frontline resolution stage.

33. When you ask for an extension, you must get authorisation from a member of the SMT, who will decide whether you 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. You must tell the complainant about the reasons for the delay, and when they can expect your response.
34. If the complainant does not agree to an extension but it is unavoidable and reasonable, a member of the SMT must decide on the extension. You must then tell the complainant about the delay and explain the reason for the decision to grant the extension.
35. 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 you receive the complaint.
36. The proportion of complaints that exceed the five-day limit will be evident from reported statistics. These statistics will be monitored quarterly by the HOCS and reported upon six-monthly at the QSMTM.
37. [Appendix 3](#) provides further information on timelines.

Closing the complaint at the frontline resolution stage

38. When you have informed the complainant of the outcome, you are not obliged to write to them, although you may choose to do so. You must ensure that our response to the complaint addresses all areas that we are responsible for and 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 complainant. The complaint should then be closed and Workpro updated accordingly.

When to escalate to the investigation stage

39. You must escalate a complaint to the [investigation stage](#) when:
 - (i) you tried frontline resolution but the complainant remains dissatisfied and requests an investigation. This may happen immediately when you communicate the decision at the frontline stage, or some time later
 - (ii) the complainant refuses to take part in frontline resolution
 - (iii) the issues raised are complex and require detailed investigation
 - (iv) the complaint relates to serious, high-risk or high-profile issues.
40. When a previously closed complaint is escalated from the frontline resolution stage, the complaint should be reopened in Workpro.
41. 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 the SMT's direct input. The SPSO defines potential high-risk or high-profile complaints as those that may:
 - (i) involve a death or terminal illness

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

Stage two: investigation

42. Not all complaints are suitable for frontline resolution and not all complaints will be satisfactorily resolved at that stage. 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. These complaints may already have been considered at the frontline resolution stage, or they may have been identified from the start as needing immediate investigation.
43. An investigation aims to establish all the facts relevant to the points made in the complaint and to give the complainant a full, objective and proportionate response that represents our final position.

Allocating a complaint for investigation

44. A Head of Department will normally carry out the investigation. On receipt, a complaint requiring investigation should be referred to the relevant Head of Department, as determined by the subject matter of the complaint. The Head of Department should inform the Commissioner that the complaint has been received. Where the relevant Head of Department is not available, or is substantively involved in the subject of the complaint, the complaint should be forwarded to the Commissioner, who will allocate responsibility for dealing with the complaint to another Head of Department.
45. For complaints where the subject matter relates to the work of the Enforcement Team, the Head of Enforcement may delegate the investigation of the complaint and the preparation of the formal response to a Deputy Head of Enforcement who is not substantively involved in the complaint. The Head of Enforcement will review the investigation case file before the formal response is issued.
46. It is important to ensure that where a complaint involves a colleague, particularly where there is an allegation of misconduct, that employee's rights to dignity and a fair hearing are strictly observed. In particular, in cases where there is an allegation of misconduct, the Head of Enforcement will not delegate the investigation of the complaint to a Deputy Head of Enforcement.

What to do when you receive a complaint for investigation

47. It is important to be clear from the start of the investigation stage exactly what you are investigating, and to ensure that both the complainant and you understand the investigation's scope.
48. It may be helpful to discuss and confirm these points with the complainant at the outset, to establish why they are dissatisfied and whether the outcome they are looking for sounds realistic. In discussing the complaint, consider three key questions:
 - (i) What specifically is the complaint or complaints?
 - (ii) What does the complainant want to achieve by complaining?
 - (iii) Are the complainant's expectations realistic and achievable?
49. It may be that the complainant expects more than we can provide. If so, you must make this clear to them as soon as possible.

50. Where possible you should also clarify what additional information you will need to investigate the complaint. The complainant may need to provide more evidence to help us reach a decision.
51. Details of the complaint must be [recorded in Workpro](#).
52. If the investigation stage follows attempted frontline resolution, you must prepare a hard-copy case file, pass this to the manager responsible for the investigation, and record that you have done so.

Timelines

53. The following deadlines are appropriate to cases at the investigation stage:
 - complaints must be acknowledged within **three working days**
 - you should provide a full response to the complaint as soon as possible but not later than **20 working days** from the time you received the complaint for investigation.

Extension to the timeline

54. 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 would be the exception and you must always try to deliver a final response to a complaint within 20 working days.
55. If there are clear and justifiable reasons for extending the timescale, approval should be sought from the Commissioner who will set time limits on any extended investigation, as long as the complainant agrees. You must keep the complainant updated on the reason for the delay and give them a revised timescale for completion. If the complainant does not agree to an extension but it is unavoidable and reasonable, then the Commissioner must be informed and 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, or others but they cannot help because of long-term sickness or leave.
 - You cannot obtain further essential information within normal timescales.
 - Operations are disrupted by unforeseen or unavoidable operational circumstances, for example industrial action or severe weather conditions.
 - The complainant has agreed to mediation as a potential route for resolution.
56. These are only a few examples, and you must judge the matter in relation to each complaint. However, an extension would be the exception and you must always try to deliver a final response to the complaint within 20 working days.
57. As with complaints considered at the frontline stage, the proportion of complaints that exceed the 20-day limit will be evident from reported statistics. These statistics will be monitored quarterly by the HOCS and reported upon six-monthly at the QSMTM.
58. [Appendix 3](#) provides further information on timelines.

Mediation

59. Exceptionally, 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 complaint. Where appropriate, consideration may be given to using services such as mediation or conciliation using suitably trained and qualified mediators to try to resolve the matter and to reduce the risk of the complaint escalating further.
60. Mediation will help both parties to understand what has caused the complaint, and so is more likely to lead to mutually satisfactory solutions.
61. The SMT will consider whether to approve this approach.
62. Thereafter, if the complainant agrees to mediation, revised timescales will need to be agreed.

Closing the complaint at the investigation stage

63. You must let the complainant know 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. You must record the decision, and details of how it was communicated to the complainant, in Workpro. You must also make clear to the complainant:
 - their right to ask SPSO to consider the complaint
 - the time limit for doing so, and
 - how to contact the SPSO.

Recording the complaint in Workpro

All Cases

64. If you have received and identified a complaint, record the details in Workpro as a 'Complaint' case type.
65. Use the 'Complaint Details' and 'Outcome Details' fields to capture succinct synopses of the complaint and the outcome.
66. The data in these fields is used to:
 - (i) Monitor the complaints workload
 - (ii) Help prepare the QSMTM and annual report statistics and is useful qualitative information when the statistics are analysed. It allows us to see very quickly what kinds of complaints people have come to us about.
67. The synopsis should provide a succinct (no more than 200 characters) account of the subject of the complaint. It should give sufficient information to allow any colleague to understand what the complaint was about.
68. The synopsis is NOT an alternative to making a note of the complaint!

Cases for which Frontline Resolution is attempted

69. Starting at the 'Frontline Resolution' workflow stage, enter the complainant's information on the 'Complainant' tab, as appropriate.
70. Complete the fields on the 'Complaint Details' tab as appropriate, selecting complaint type 'Frontline Resolution' from the dropdown menu. Where applicable, you should enter details of any related cases in the relevant field.

Case concluded at Frontline Resolution

71. Select the appropriate outcome code:
 - (i) FR Achieved
 - (ii) FR Not Achieved

72. Close the case.

Frontline Resolution attempted, then escalated to Investigation: immediately apparent

73. If Frontline Resolution has been attempted but the complainant remains dissatisfied and requests an investigation, and this is immediately apparent, select the following outcome code:
 - (i) FR Not Achieved – Escalated to Investigation

74. Progress the case to Investigation, using the 'Frontline Resolution to Investigation' button

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

75. Here, the case will have been regarded as concluded at Frontline Resolution and closed.
76. Go to 'Case Actions' and select 'Reopen Case'. Select 'Internal Review' as the case reopen reason

77. Navigate to the Frontline Resolution workflow stage and, on the Complaint Details tab, change the outcome code to 'FR Not Achieved – Escalated to Investigation'
78. Progress the case to Investigation, using the 'Frontline Resolution to Investigation' button.

Investigation

Cases where Frontline Resolution was attempted

79. The steps described above will already have been completed as appropriate and the case will now be at the Investigation stage of the workflow.
80. Complete the 'Investigation –Formal' tab as appropriate.
81. Close the case.

Cases proceeding directly to Investigation (no Frontline Resolution attempted)

82. Starting at the 'Frontline Resolution' workflow stage, enter the complainant's information on the 'Complainant' tab, as appropriate.
83. Complete the fields on the 'Complaint Details' tab as appropriate, selecting complaint type 'Investigation (Formal)' from the dropdown menu. Where applicable, you should enter details of any related cases in the relevant field.
84. Then, select the outcome code 'Straight to Investigation' and progress the case to Investigation, using the 'Frontline Resolution to Investigation' button.
85. Complete the 'Investigation –Formal' tab as appropriate
86. Close the case.

Cases referred to the SPSO

87. These cases will have already been closed at the Investigation stage.
88. On the 'Investigation – Formal' tab, change the outcome code to 'Referral to SPSO'.

Independent external review

89. Once the investigation stage has been completed, the complainant has the right to approach the SPSO if they remain dissatisfied.
90. 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 we have handled the complaint.
91. The SPSO recommends that we use the wording below to inform complainants of their right to ask SPSO to consider the complaint. This wording is incorporated in the template letters held in Workpro.

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 you remain dissatisfied with an organisation after its complaints process, you can ask the SPSO to look at your complaint.

The SPSO cannot normally look at complaints:

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

The SPSO's contact details are:

In person: SPSO 4 Melville Street Edinburgh EH3 7NS	By post: SPSO Freepost EH641 Edinburgh EH3 7NS
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Freephone: 0800 377 7330

Online contact: www.spsso.org.uk/contact-us

Website: www.spsso.org.uk

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

Governance of the Complaints Handling Procedure

Roles and responsibilities

92. Overall responsibility and accountability for the management of complaints lies with the Commissioner.
93. Complaints for investigation will be signed off by a member of the SMT. This ensures that the SMT owns and is accountable for the decision. It also reassures the complainant that their concerns have been taken seriously.

The Commissioner:

94. The Commissioner provides leadership and direction in ways that guide and enable us to perform effectively. This includes ensuring that there is an effective CHP with a robust investigation process that demonstrates how we learn from the complaints we receive. The Commissioner takes a personal interest in all complaints, and may delegate responsibility for the CHP to Heads of Department. Regular management reports assure the Commissioner of the quality of complaints performance.

Heads of Department:

95. On the Commissioner's behalf, Heads of Department are responsible for:
 - managing complaints and the way we learn from them
 - overseeing the implementation of actions required as a result of a complaint
 - investigating and responding to complaints
96. The Head of Enforcement may delegate complaints for investigation to Deputy Heads of Enforcement. Where this happens, the Head of Enforcement will retain ownership and accountability for the management and reporting of complaints.

Deputy Heads of Enforcement:

97. Deputy Heads of Enforcement may investigate and respond to complaints delegated to them by the Head of Enforcement.
98. The Head of Enforcement will review the investigation case file before the formal response is issued.

All staff:

99. A complaint may be made to any member of staff, so all staff must be aware of the CHP and how to handle and record complaints at the frontline stage. They should also be aware of who to refer a complaint to, in case they are not able to personally handle the matter. We encourage all staff to try to resolve complaints early, as close to the point of service delivery as possible, and quickly to prevent escalation.

Head of Operational Management

100. The Head of Operational Management fulfils the role of SPSO liaison officer. This may include providing complaints information in an orderly, structured way within requested timescales, providing comments on factual accuracy on our behalf in response to SPSO reports, and confirming and verifying that recommendations have been implemented.

Complaints about senior staff

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

102. In these instances, it is particularly important that the arrangements for allocating cases, described [above](#), are followed.

Recording, reporting, learning and publicising

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

104. We will publish complaints data in our Annual Report.

Recording complaints

105. We comply with the SPSO's requirements for data collection by recording the following for all complaints:

- the complainant's name and address
- the date the complaint was received
- the nature of the complaint
- how the complaint was received
- the issue 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.

106. We have structured systems for recording complaints, their outcomes and any resulting action. These provide a detailed record of services that have failed to satisfy complainants.

Reporting of complaints

107. Complaints details are analysed for trend information to ensure we identify service failures and take appropriate action. Regularly reporting the analysis of complaints information helps to inform management of where services need to improve.
108. We publish in our Annual Report the outcome of complaints and, where appropriate, the actions we have taken in response. This demonstrates the improvements resulting from complaints and shows that complaints can influence the service we provide. It also helps ensure transparency in our complaints handling service and will help to demonstrate that we value complaints.
109. We will:
- publicise on an annual basis complaints outcomes, trends and actions taken
 - use case studies and examples, where we have these, to demonstrate how complaints have helped improve services
110. This information will be monitored quarterly by the HOCS and reported upon six-monthly at the QSMTM.

Learning from complaints

111. At the earliest opportunity after the closure of the complaint, the person who handled the complaint should always make sure that the complainant and staff of the team involved understand the findings of the investigation and any recommendations made.
112. The SMT will review the information gathered from complaints regularly and consider whether our services could be improved or internal policies and procedures updated.
113. As a minimum, we will:
- use complaints data to identify the root cause of complaints
 - take action to reduce the risk of recurrence
 - record the details of corrective action in the complaints file, and
 - systematically review complaints performance reports to improve service delivery.
114. 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

115. 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

116. Confidentiality is important in complaints handling. It includes maintaining the complainant'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 the use of personal data.

Managing unacceptable behaviour

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

118. A person'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 complainants 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 complainants. Where we decide to restrict access to a complainant under the terms of the Unacceptable Actions Policy, we have a procedure in place to communicate that decision, notify the complainant of a right of appeal, and review any decision to restrict contact with us. This will allow the complainant to demonstrate a more reasonable approach later.

Supporting the complainant

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

120. 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.

121. Several support and advocacy groups are available to support people in pursuing a complaint and complainants should be signposted to these as appropriate.

Time limit for making complaints

122. This complaints handling procedure sets a time limit of six months from when the person 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.

123. 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.
124. 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.

Appendices

Appendix 1 - Complaints

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

Complaint	Possible actions to achieve resolution
Complainant expresses dissatisfaction because SIC has omitted to include enclosures with a letter	<ul style="list-style-type: none"> • Apologise • Send out missing enclosures
Complainant expresses dissatisfaction because they cannot find a document on SIC's website / broken link on website	<ul style="list-style-type: none"> • Apologise • Ask for details of information the individual is seeking and help them to find / offer to send the information • Inform OMT of broken link and ask for it to be restored
Complainant expresses dissatisfaction because the login details to the online data entry (Stats) portal do not work	<ul style="list-style-type: none"> • Provide assistance • Advise password can be reset from the login page of the portal: click 'Reset password' • If necessary, reset the password for the complainant
Complainant expresses dissatisfaction because they received a reminder letter but didn't receive a letter before this	<ul style="list-style-type: none"> • Apologise • Explain problem and why reminder was issued • Make an internal note that the original letter was not received
The person expresses dissatisfaction, in line with the definition of a complaint, but says they do not want to complain – they just want to tell us about the matter	<ul style="list-style-type: none"> • Explain that we value complaints because they help to improve services • In terms of improving service delivery and learning from mistakes, it is important that feedback such as this is recorded, evaluated and acted upon. • If the person still insists they do not want to complain, record the matter as an anonymous complaint. This will avoid breaching the complaints handling procedure • Reassure the person that they will not be contacted again about the matter

Appendix 2 - What is not a complaint

1. A concern may not necessarily be a complaint. For example, a person 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 person has to keep on asking for service.
2. A person 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, they must be directed to the relevant procedure:

The Investigations Procedures provide guidance on dealing with questions in these circumstances:	
Example 1:	An appeal against a decision notice – these are legally enforceable notices which may be appealed to the Court of Session on a point of law
Example 2:	In certain circumstances, the Commissioner may issue determinations e.g. that an application is not valid. Although there is not a statutory right of appeal, such matters could be subject to judicial review and therefore it is not appropriate that they should be dealt with as “complaints”.
The procedures for Responding to Information Requests provides further guidance in this circumstance:	
Example 3:	If the requester has expressed dissatisfaction with the outcome of an information request made to us, there is a statutory right of appeal in these cases, which should have been explained to the requester when we sent our response. We will look into the matter, but as a review under section 20 of the Freedom of Information (Scotland) Act 2002, rather than under our complaints handling procedure.

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 within the 20-day limit.

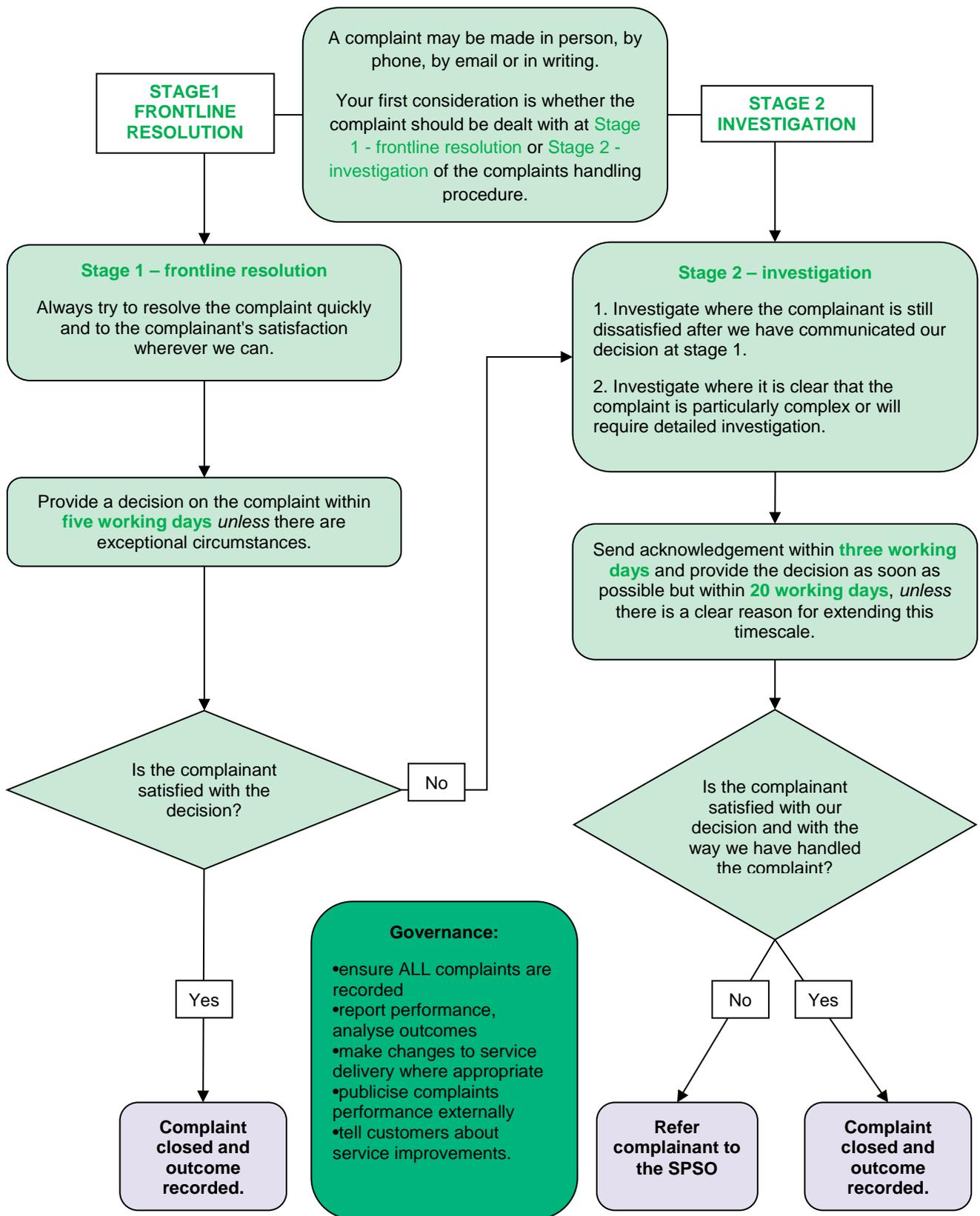
Complaint 5

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 complainant 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 complainant for concluding the investigation beyond the 20-day limit.

Appendix 4 - The complaints handling procedure flowchart



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