# The Highland Council Model Complaints Handling Procedure

# Part 1:

# Introduction and overview

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## Foreword

At Highland Council we are committed to providing high quality services, however we know that sometimes we do not meet customer expectations. When that happens, we welcome the opportunity to seek to resolve matters.

Our Complaints Handling Procedure reflects The Highland Council's commitment to valuing complaints and seeing them as a way of improving our services. We will seek to resolve customer dissatisfaction as close as possible to the point of service delivery and undertake a thorough, impartial and fair investigations of the customer's complaint so that, where appropriate, we can make evidence-based decisions on the facts of the case.

The procedure has been developed by local government complaints handling experts, working closely with the Scottish Public Services Ombudsman (SPSO). A separate procedure for social work complaints was developed by social work experts and third sector organisations again working with the SPSO.

As far as is possible we have produced a standard approach to handling complaints across Scotland's public services, which complies with the SPSO's guidance. This procedure aims to help us 'get it right first time'. We want quicker, simpler and more streamlined complaints handling with local, early responses by capable, well-trained staff.

Complaints give us valuable information we can use to improve service provision and customer satisfaction. Our Complaints Handling Procedure will enable us to address a customer's dissatisfaction and may help us prevent the same problem from happening again. For our staff, complaints provide a first-hand account of the customers' views and experience and can highlight problems we may otherwise miss. Handled well, complaints can give our customers a form of redress when things go wrong and can also help us continuously improve our services.

Handling complaints early creates better customer relations. Handling complaints close to the point of service delivery means we can deal with them locally and quickly, so they are less likely to escalate to the next stage of the procedure. Complaints that we do not handle swiftly can greatly add to our workload and are more costly to administer.

The Complaints Handling Procedure will help us provide better services, improve relationships with our customers and enhance public perception of the Highland Council. It will help us keep the user at the heart of the process, while enabling us to better understand how to improve our services by learning from complaints.

*Donna Manson*

*Chief Executive*

*The Highland Council*

## Structure of the Complaints Handling Procedure

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

   - Overview and structure (part 1) – this document
   - When to use the procedure (**part 2**) – guidance on identifying what is and what is not a complaint, handling complex or unusual complaint circumstances, the interaction of complaints and other processes, and what to do if the CHP does not apply
   - The complaints handling process (**part 3**) – guidance on handling a complaint through stages 1 and 2, and dealing with post-closure contact
   - Governance of the procedure (**part 4**) – staff roles and responsibilities and guidance on recording, reporting, publicising and learning from complaints
   - The customer-facing CHP (**part 5**) – information for customers on how we handle complaints

2. When using the CHP, please also refer to the 'SPSO Statement of Complaints Handling Principles' and good practice guidance on complaints handling from the SPSO. **www.spso.org.uk**

## Overview of the CHP

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

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

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

| **Stage 1: Frontline response** | **Stage 2: Investigation** | **Independent external review (SPSO or other)** |
|---|---|---|
| For issues that are straightforward and simple, requiring little or no investigation<br><br>'On-the-spot' apology, explanation, or other action to put the matter right<br><br>Complaint resolved or a response provided in **five working days** or less (unless there are exceptional circumstances)<br><br>Complaints addressed by any member of staff, or alternatively referred to the appropriate point for frontline response<br><br>Response normally face-to-face or by telephone (though sometimes we will need to put the decision in writing) | Where the customer is not satisfied with the frontline response, or refuses to engage at the frontline, or where the complaint is complex, serious or 'high-risk'<br><br>Complaint acknowledged within **three working days**<br><br>We will contact the customer to clarify the points of complaint and outcome sought (where these are already clear, we will confirm them in the acknowledgement)<br><br>Complaint resolved or a definitive response provided within **20 working days** following a thorough investigation of the points raised | Where the customer is not satisfied with the stage 2 response from the service provider<br><br>The SPSO will assess whether there is evidence of service failure or maladministration not identified by the service provider<br><br>In relation to social work decisions the SPSO can also look at professional decisions<br><br>Some complaints may also have an alternative route for independent external review |

| | | |
|---|---|---|
| We will tell the customer how to escalate their complaint to stage 2 | | |

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

## Expected behaviours

7. We expect all staff to behave in a professional manner and treat customers with courtesy, respect and dignity. We also ask customers bringing a complaint to treat our staff with respect. We ask customers to engage actively with the complaint handling process by:

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

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

9. We recognise that people may act out of character in times of trouble or distress. Sometimes a health condition or a disability can affect how a person expresses themselves. The circumstances leading to a complaint may also result in the customer acting in an unacceptable way.

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

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

12. The SPSO has **guidance on promoting positive behaviour and managing unacceptable actions**.

## Maintaining confidentiality and data protection

13. Confidentiality is important in complaints handling. This includes maintaining the customer's confidentiality and confidentiality in relation to information about staff members, contractors or any third parties involved in the complaint.

14. This should not prevent us from being open and transparent, as far as possible, in how we handle complaints. This includes sharing as much information with the complainant (and, where appropriate, any affected staff members) as we can. When sharing information, we should be clear about why the information is being shared and our expectations on how the recipient will use the information.

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

16. Examples of situations where a response to a complaint may be limited by confidentiality are:

    - where a complaint has been raised against a staff member and has been upheld – we will advise the customer that their complaint is upheld, but would not share specific details affecting staff members, particularly where disciplinary action is taken.

    - where someone has raised a concern about a child or an adult's safety and is unhappy about how that has been dealt with – we would look into this to check whether the safety concern had been properly dealt with, but we would not share any details of our findings in relation to the safety concern.

    - where an elected representative has made representation on behalf of their constituent, the Council may be limited in the information it can provide without a signed mandate from the constituent/customer – advice can be sought from the Customer Resolution & Improvement Team

# The Highland Council Model Complaints Handling Procedure

# Part 2:

# When to use this procedure

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## What is a complaint?

1. Highland Council's definition of a complaint is: *'an expression of dissatisfaction by one or more members of the public about the Council's action or lack of action, or about the standard of service provided by or on behalf of the Council. '*

2. For clarity, where an employee also receives a service from The Highland Council as a member of the public, they may complain about that service.

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

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

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

5. A complaint **is not**:

   - a routine first-time request for a service (see **Complaints and service requests**)
   - a first-time report of a fault (for example, potholes or street lighting)
   - a request for compensation only (see **Complaints and compensation claims**)
   - issues that are in court or have already been heard by a court or a tribunal (see **Complaints and legal action**)
   - disagreement with a decision where there is a statutory or other internal appeals procedure for challenging that decision (such as for freedom of information and subject access requests), or an established appeals process followed throughout the sector – such as council tax, planning, or a parking ticket appeal (see also **Complaints and social work appeals**)
   - disagreement with decisions or conditions that are based upon social work recommendations, but determined by a court or other statutory body, for example decisions made by a children's panel, parole board or mental health tribunal

- a request for information under the Data Protection or Freedom of Information (Scotland) Acts
- a grievance by a staff member or a grievance relating to employment or staff recruitment
- a concern raised internally by a member of staff (which was not about a service they received, such as a whistleblowing concern)
- a concern about a child or an adult's safety
- an attempt to reopen a previously concluded complaint or to have a complaint reconsidered where we have already given our final decision
- abuse or unsubstantiated allegations about our organisation or staff where such actions would be covered by our Unnaceptable Actions or
- a concern about the actions or service of a different organisation, where we have no involvement in the issue (**except** where the other organisation is delivering services on our behalf: see **Complaints about contracted services**).

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

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

8. **Appendix 2** gives examples of more complex complaints, some of which are not appropriate for this CHP (**Appendix 3** gives examples specific to social work). The section on **Complaints relevant to other agencies** provides information about some of the other agencies that may be able to assist customers if their complaint is not appropriate for this CHP.

## Who can make a complaint?

9. Anyone who receives, requests, or is affected by our services can make a complaint. This is not restricted to 'service users' and their relatives or representatives, but may also include people who come into contact with or are affected by these services, for example people who live in close proximity to a social work service provision, such as a care home or day centre. In this procedure these people are termed 'customers', regardless of whether they are or were using a service.

10. We also accept complaints from the representative of a person who is dissatisfied with our service. See **Complaints by (or about) a third party**.

## Supporting the customer

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

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

    - The Equality Act 2010 requires us to ensure that all our services are accessible to everyone and to meet the needs of people from protected groups where appropriate. We aim to make our Complaints Handling Policy and procedures easy to use and accessible to all of our customers and we will take reasonable steps to accommodate any reasonable adjustments required by disabled customers to help enable access this policy or receive responses to complaints in other formats, and
    - People covered by the Mental Health (Care and Treatment) (Scotland) Act (including people who have a mental health issue, a learning disability, autism or dementia) have a legal right to independent advocacy. This must be delivered by independent organisations that only provide advocacy. They help people to know and understand their rights, make informed decisions and have a voice.

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

    In addition to our legal duties, we will seek to ensure that we support vulnerable customers and those who face barriers to raising a complaint to access our complaints procedure. Customers may need support to overcome these barriers, For example:

    - Many people face barriers to their understanding of information due to factors such as cultural and language differences, sensory or speech impairment and barriers to their understanding of information.

- Customers who do not have English as a first language may need help with interpretation and translation services, and other customers may have specific needs that we will seek to address to ensure easy access to the complaints handling procedure.
- Some of the actions we can take include:
    - Complaints can be taken by different ways, online, by phone, by email.
    - Customers who do not have English as a first language may need help and arrangements made for a community language interpreter.
    - Providing a BSL/English interpreter for BSL users or using ContactSCOTLAND-BSL
    - Proactively checking whether members of the public who contact us require additional support to access our services, eg large print, Braille, audio.
    - Helping customers access independent advocacy (the Scottish Independent Advocacy Alliance website has information about local advocacy organisations throughout Scotland).
    - Staff training and awareness

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

## How complaints may be made

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

15. Where a complaint is made **verbally**, we will make a record of the key points of complaint raised. Where it is clear that a complex complaint will be immediately considered at stage 2 (investigation), it may be helpful to complete a complaint form with the customer's input to ensure full details of the complaint are documented. However, there is no requirement for the person to complete a complaint form, and it is important that the completion of a complaint form does not present a barrier to people complaining.

16. Complaint issues may also be raised on **digital platforms** (including **social media**).

17. Where a complaint issue is raised via a digital channel managed and controlled by [the organisation] (for example an official Twitter address or Facebook page):

    - we will normally respond by telling the person how they can complain, using digital online complaints reporting; In this way the complaint can be properly recorded and actioned.
    - in exceptional circumstances, we may respond to very simple complaints on social media. This will normally only be appropriate where an issue is likely to affect a large number of people, and we can provide a very simple response (for example, an apology for a cancelled waste collection or referring to a decision or information on the website) We may also respond if the complaint raises serious reputational issues for Highland Council that require a prompt response or correction.

18. We may also be made aware that an issue has been raised via a digital channel, not controlled or managed by us (for example a youtube video or post on a private facebook group). In such cases we **may** consider what action to take as we are not responsible for personal/private social media. If it is a complaint about a comment on a member of staff's or member's personal social media, this is covered under our Social Media Policy and Member/Staff behaviour policies and will be referred to the Head of Governance.

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

## Time limit for making complaints

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

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

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

22. We will apply these time limits with discretion, taking into account the seriousness of the issue, the availability of relevant records and staff involved, how long ago the events occurred, and the likelihood that an investigation will lead to a practical benefit for the customer or useful learning for the organisation.

23. Where such a case arises the Customer Resolution & Improvement Team will discuss the matter with the relevant Head of Services and/or Executive Chief Officer

24. We will also take account of the time limit within which a member of the public can ask the SPSO to consider complaints (normally one year). The SPSO have discretion to waive this time limit in special circumstances (and may consider doing so in cases where we have waived our own time limit).

## Particular circumstances

### Complaints by (or about) a third party

25. Sometimes a customer may be unable or reluctant to make a complaint on their own. We will accept complaints from third parties, which may include relatives, friends, advocates and advisers. Where a complaint is made on behalf of a customer, we must ensure that the customer has authorised the person to act on their behalf. It is good practice to ensure the customer understands their personal information will be shared as part of the complaints handling process (particularly where this includes sensitive personal information). This can include complaints brought by parents on behalf of their child, if the child is considered to have capacity to make decisions for themselves.

26. The provision of a signed mandate from the customer will normally be sufficient for us to investigate a complaint. If we consider it is appropriate we can take verbal consent direct from the customer to deal with a third party and would normally follow up in writing to confirm this.

27. In certain circumstances, a person may raise a complaint involving another person's personal data, without receiving consent. The complaint should still be investigated where possible, but the investigation and response may be limited by considerations of confidentiality. The person who submitted the complaint should be made aware of these limitations and the effect this will have on the scope of the response.

28. See also **Part 1: Maintaining confidentiality and data protection**.

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

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

30. We define potential high-risk or high-profile complaints as those that may:

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

## Anonymous complaints

31. We value all complaints, including anonymous complaints, and will take action to consider them further wherever this is appropriate. Generally, we will consider anonymous complaints if there is enough information in the complaint to enable us to make further enquiries. Any decision not to pursue an anonymous complaint must be authorised by the Customer Resolution & Improvement Team Leader in discussion with the relevant service Manager.

32. If we pursue an anonymous complaint further, we will record it as an anonymous complaint together with any learning from the complaint and action taken.

33. If an anonymous complainant makes serious allegations, these should be dealt with in a timely manner under relevant procedures. This may not be the complaints procedure and could instead be relevant child protection, adult protection or disciplinary procedures.

## What if the customer does not want to complain?

34. If a customer has expressed dissatisfaction in line with our definition of a complaint but does not want to complain, we will explain that complaints offer us the opportunity to improve services where things have gone wrong. We will encourage the customer to submit their complaint and allow us to handle it through the CHP. This will ensure that the customer is updated on the action taken and gets a response to their complaint.

35. If the customer insists they do not wish to complain, we are not required to progress the complaint under this procedure. However, we should record the complaint as an anonymous complaint (including minimal information about the complaint, without any identifying information) to enable us to track trends and themes in complaints. Where the complaint is serious, or there is evidence of a problem with our services, we should also look into the matter to remedy this (and record any outcome).

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

## Complaints involving more than one area or organisation

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

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

39. If a complaint relates to our service and the service of another organisation or public service provider, and we have a direct interest in the issue, we will handle the complaint about The Highland Council through the CHP. If we need to contact an outside body

about the complaint, we will be mindful of data protection. See **Part 1: Maintaining confidentiality and data protection**.

40. Such complaints may include:

- a complaint made to us about a claim for housing benefit where the customer's dissatisfaction relates to the service we have provided and the service the DWP has provided, or
- a complaint made to us about anti-social behaviour where the customer's dissatisfaction relates to the service we have provided and the service the housing association has provided.

**Complaints relating to a social work service and another service**

41. A complaint may relate to a social work service and another service provided by the same organisation. Examples are:

- a social work service and a care service (in Highland Adult Social Care is provided by NHS Highland in a Health & Social Care Partnership (HSCP) between the Highland Council and NHS Highland.
- a social work service and a housing service both provided by the council

42. In such cases, a joint response must be given following the guidance above.

43. Alternatively, a complaint may involve services from different organisations. Examples are:

- a complaint about a social work service provided by NHS Highland further to the HSCP in place, and a care service provided by the local authority
- a complaint about a social work service provided by the local authority and a housing service provided by a housing association.

44. The aim with such complaints is still to provide a joint response (particularly where the organisations are linked, e.g. NHS providers), though this may not always be possible. Contact must be made with the customer to explain that their complaint partly relates to services which are delivered by another organisation, and that to respond to their complaint, we will need to share information with this organisation. Staff must check whether specific consent is needed from the customer before we can share their information with the other services, and take appropriate action where necessary, bearing in mind any data protection requirements. See **Part 1: Maintaining confidentiality and data protection**.

45. If it is possible to give a joint response, a decision must be taken as to which service will lead the process. We must ensure that all parties are clear about this decision. The response must cover all parts of the complaint, explain the role of both services, and (for investigation stage complaints) confirm that it is the final response from both services.

46. If a joint response is not possible, you should explain to the person making the complaint the reasons why they will receive two separate responses, and who they can get in contact with about the other aspects of their complaint. You must also write to both the customer and the other services involved, setting out which parts of the complaint you will be able to respond to.

## Complaints about contracted or commissioned services / ALEOs

47. We may use Arm's Length External Organisations (ALEOs) to deliver certain services. They are 'arm's-length' because the council retains a degree of control or influence, usually through a funding agreement, and 'external' because they have a separate identity to the council. An example might be a charitable organisation delivering leisure and culture services on our behalf.

48. Where we use an ALEO or contractor to deliver a service on our behalf we recognise that we remain responsible and accountable for ensuring that the services provided meet The Highland Council standard (including in relation to complaints). We will either do so by:

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

49. We will confirm that service users are clearly informed of the process and understand how to complain. We will also ensure that there is appropriate provision for information sharing and governance oversight where required.

50. The Highland Council has discretion to investigate complaints about organisations contracted to deliver services on its behalf even where the procedure has normally been delegated.

## Commissioned social work services

51. Where social work services are commissioned on behalf of The Highland Council customers can make complaints under this CHP in relation to the assessment of need, the commissioning or recommendation process, and any element of the service that has been publicly funded. Complaints about any part of service that has been privately funded cannot be considered through this CHP.

52. These services may also be registered as a care service with the Care Inspectorate to deliver a care or support service. If this is the case, customers have the right to complain directly to the Care Inspectorate or to make use of the provider's CHP and thereafter make a complaint to the Care Inspectorate: see **Complaints for the Care Inspectorate**.

## Complaints about senior staff

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

## Complaints and other processes

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

### Complaints and service requests

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

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

### Complaints and disciplinary or whistleblowing processes

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

58. Our response must be careful not to share confidential information (such as anything about the whistleblowing or disciplinary procedures, or outcomes for individual staff members). It should focus on whether The Highland Council failed to meet our expected standards and any issues we require to address to improve.

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

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

be advised that any evidence given may require to be disclosed if there is a statutory requirement (eg to the SPSO).

60. The SPSO's document **Making complaints work for everyone** has more information on supporting staff who are the subject of complaints.

**Complaints and compensation claims**

61. Where a customer is seeking financial compensation only, this is not a complaint. However, in some cases the customer may want to complain about the matter leading to their financial claim, and they may seek additional outcomes, such as an apology or an explanation. Where appropriate, we may consider that matter as a complaint, but deal with the financial claim separately. It may be appropriate to extend the timeframes for responding to the complaint, to consider the financial claim first.

**Complaints and legal action**

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

63. Where a customer indicates that they are thinking about legal action, but have not yet commenced this, they should be informed that if they take such action, they should notify the Customer Resolution & Improvement Team that the complaints process, in relation to the matters that will be considered through the legal process, will be closed. Any outstanding complaints must still be addressed through the CHP.

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

**Social work complaints and appeals**

65. While some social work decisions may be reviewed under alternative arrangements at a local level (for example through appeal or peer review), the SPSO has the power to consider professional social work decisions. The customer should not be required to seek a reconsideration of a decision under both appeal and complaint processes, nor should they be required to make further complaint if dissatisfied with the outcome of an appeal.

66. Therefore, whilst we have discretion to operate appeals procedures, these must be regarded as a special form of complaint investigation (stage 2 of this CHP). Such appeals processes must be compliant with this procedure in terms of the rigour and documentation of the process, must be concluded within 20 working days where possible with a written response to the customer, and must be recorded as a stage 2 complaint on the relevant complaints database (unless recorded elsewhere as an appeal). If the customer raises additional issues of dissatisfaction as well as challenging a professional decision, then the process must consider and respond to every element of the customer's dissatisfaction so that no additional complaint process is required.

67. The final response letter must provide relevant text advising the customer of their right to refer the matter to the SPSO for independent consideration. The SPSO will then investigate matters in full, in line with their standard procedures.

**Social Work Complaints and the Duty of Candour**

68. Duty of Candour is the professional responsibility to be honest with the complainant when things go wrong.

69. In some cases, a complaint may be prompted by a duty of candour disclosure, or a complaint investigation may itself prompt a disclosure. In such cases, we must comply with both this CHP and our duty of candour requirements.

70. It will often be possible to conduct a single review for the purposes of both the complaint investigation and the duty of candour. We should, however, take care to ensure that all the issues raised in the complaint are dealt with (including any that are not relevant to the duty of candour disclosure).

**Complaints for the Care Inspectorate**

71. Local Authorities and any contractors that provide care services must be registered with the Care Inspectorate. This is the independent scrutiny and improvement body for care and social work across Scotland, which regulates, inspects and supports improvement of care services.

72. The Care Inspectorate has a procedure for receiving information, concerns and investigating complaints from members of the public, or their representatives, about the care services they use. The Care Inspectorate's complaints procedure is available even when the service provider has an alternative complaints procedure in place.

73. The Care Inspectorate encourages people to complain directly to the organisation they receive a service from. However, some people are not comfortable doing this and to support them, the Care Inspectorate may take complaints about care services directly.

74. When complaints are brought to us about registered care services, we have the right to share complaint information about the registered care provider with the Care Inspectorate, to decide who is best placed to investigate the complaint. We can also share the outcome of complaints about contracted and registered services with the Care Inspectorate.

Contact details for the Care Inspectorate can be found on their website:

**https://www.careinspectorate.com/**

## Complaints about Personal Assistants

75. Where an individual directly employs a Personal Assistant to provide their support, using a Direct Payment (as part of a Self-directed Support package), the Personal Assistant is not subject to registration with the Care Inspectorate under the Public Services Reform (Scotland) Act 2011, its regulations and amendments. The individual directly employing the Personal Assistant remains responsible for the management of their employee, including their performance management. The Care Inspectorate would only be able to take complaints about such support workers if they work for a registered care agency.

76. In some instances there may be referral to the Council or NHS Highland to discuss specific cases.

## Complaints relevant to other agencies

77. Customers may raise concerns about issues which cannot be handled through this CHP, but which other agencies may be able to provide assistance with or may have an interest in. This may include:

    The Mental Welfare Commission:

    Website: **www.mwcscot.org.uk**

    The Children and Young People's Commissioner Scotland:

    Website: **www.cycps.org.uk**

    The Scottish Social Services Council:

    Website: **www.sssc.uk.com**

78. This list is not exhaustive, and it is important to consider the circumstances of each case, and whether another organisation may also have a role to play.

## What to do if the CHP does not apply

79. If the issue does not meet the definition of a complaint or if it is not appropriate to handle it under this procedure (for example, due to time limits), we will explain to the customer why we have made this decision. We will also tell them what action (if any) we will take (for example, if another procedure applies), and advise them of their right to contact the SPSO if they disagree with our decision not to respond to the issue as a complaint.

80. Where a customer continues to contact us about the same issue, we will explain that we have already given them our final response on the matter and signpost them to the SPSO. We may also consider whether we need to take action under our unacceptable actions policy

81. The SPSO has issued a **template letter for explaining when the CHP does not apply**.

## Appendix 1 – Complaints

The following tables give examples of complaints that may be considered at the frontline stage, and suggest possible actions. For ease of reference, examples of social work complaints are provided in a separate table.

| Complaint | Possible actions |
|---|---|
| The customer complains that her council tax direct debit has been set up wrongly. | Apologise to the customer and update the direct debit details. |
| The customer has provided evidence to verify his claim for benefits, but the Benefits Service has not updated his case records with this information. | • Apologise to the customer.<br>• Update the customer's benefit record to record receipt of evidence.<br>• Check that the benefit award is corrected from the appropriate date. |
| The customer complains that a worker did not attend to carry out a housing repair as we had agreed. | • Speak to the worker, the service or the service manager to explain the customer's complaint and to agree how to address the issue, for example by arranging a new time and date to do the repair.<br>• Explain the reasons for the failed appointment and apologise to the customer. |
| The customer complains that the quality of a repair done by us or our contractor is not satisfactory. | • Ask the service department to examine the repair to assess whether or not it is acceptable.<br>• If appropriate, agree that the service department should do more work.<br>• Explain and apologise to the customer.<br>• Obtain a report from the service or contractor to confirm that the repair is now complete. |

| Complaint | Possible actions |
|---|---|
| | • Feedback the lessons learned from the complaint into a service improvement plan. |
| The customer complains that a road which is on our winter gritting route has not been gritted despite previous assurances that it would be. | • Confirm if the roads are on our agreed gritting routes.<br>• If assurance had been provided that the road would be gritted, check to confirm if this action occurred, and when.<br>• Where appropriate, provide an explanation and apologise to the customer.<br>• Obtain confirmation from the service to confirm when the road will be gritted<br>• Feedback the lessons learned from the complaint into a service improvement plan. |
| The customer complains that his home carer turned up late and was smoking. | • Contact the care service to discuss the matter with a service manager.<br>• The care service should check the timetable for visits and discuss with the home carer the complaint about smoking. The care service should let you know the outcome.<br>• You in turn contact the customer to explain the policy, confirm the timing of visits (for example between 08:00 and 12 noon) and, where appropriate, apologise for the inconvenience. |

| **Complaint** | **Possible actions** |
|---|---|
| The customer complains that a night-working refuse collector woke her up by making excessive noise. | • Explain our policy on refuse collection, in particular the approach to night working.<br>• Tell the customer that you will pass on details of the complaint to the service to highlight the noise issue and ask the service to do what they can to control noise.<br>• Apologise to the customer for the inconvenience. |
| The customer expresses dissatisfaction in line with the definition of a complaint, but says she does not want to complain – just wants to tell us about the matter. | • Tell the customer that we value complaints because they help to improve services. Encourage them to submit the complaint.<br>• In terms of improving service delivery and learning from mistakes, it is important that customer feedback, such as this, is recorded, evaluated and acted upon. Therefore, if the customer 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 customer that they will not be contacted again about the matter. |

| **Social work complaint** | **Possible actions** |
|---|---|
| A service user complains that a social worker did not turn up for a planned visit. | • Apologise to the service user<br>• Explain that you will look into the matter |

| | |
|---|---|
| | • Contact the social worker/manager to find out the reason for the missed appointment, then<br>• Explain the reasons and offer a new appointment. |
| A member of the public complains that a home carer parked in a private resident's car parking place. | • Take the customer's details and explain that you will look into the matter<br>• Contact the home care service to find out if this is the case<br>• If so, request that this does not happen again, and<br>• Contact the customer, apologise and advise that the worker has been asked to find alternative parking. |
| A member of public complains that his neighbours (residents of a children's house) have been playing football in the street where they live and are being abusive to passers-by. | • Explain to the customer that you will look into the matter and call them back<br>• Contact the manager of the children's house to verify the facts<br>• Request that the manager meet with the neighbour to apologise and engender good relations, then<br>• Call back the customer to update them. |
| A complaint about a service provider commissioned by social work services. | • Discuss with the customer the different ways for this complaint to be handled, ie by a complaint to the Care Inspectorate or through the provider's own CHP, and<br>• Ensure, whatever process is agreed, that the customer is clear how they can progress their complaint to the next stage, should they remain dissatisfied. This may be within the provider's CHP, to the The Highland Council, |

| | |
|---|---|
| | or to the Care Inspectorate. The customer should be advised that they can come back to The Highland Council for further advice if they need to at any stage. |

## Appendix 2 – What is not a complaint?

1. A concern may not necessarily be a complaint. For example, a customer 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 customer has to keep on asking for service.

2. In some cases a measure of discretion or further clarification is required in determining whether something is a complaint that should be handled through this procedure or another matter which should be handled through another process. There are also some specific circumstances when complaints should be handled in a particular.

3. The following paragraphs provide examples of the types of issues or concerns that must not be handled through the complaints handling procedure. This is not a full list, and you should decide the best route based on the individual case.

### Planning

4. Customers may express dissatisfaction after the refusal of planning or other related permissions. An example would be dissatisfaction with a condition of consent or an enforcement action.

5. Planning applicants, or their agent, have the right to appeal to Scottish Ministers on planning or related matters determined by Committee or decided under delegated powers. Appeals are usually, but not always, decided by a Reporter from the Directorate of Planning and Environmental Appeals and can be considered on the basis of written submissions or by a hearing or public inquiry. The Reporter appointed to consider the appeal will manage the whole process and consider how to gather enough information to make a decision.

6. Customers who are dissatisfied with one of our planning decisions, and who have a right to appeal to Scottish Ministers, should be directed to this service. However, some complaints about planning matters are from third parties such as neighbours. These customers do not have the right of appeal to Scottish Ministers. These complaints should, therefore, be considered through the CHP.

### Benefits

7. A customer may be dissatisfied or disagree with a decision about their housing or council tax benefit claim. This is not a complaint. The customer may ask us to review the decision. If they remain dissatisfied at the outcome of the review or reconsideration of their claim, they may also appeal against our decision to an independent appeal tribunal. Where they want to do so, you should direct them appropriately.

### Claims for compensation

8. A customer may seek compensation from us if they consider us liable. This includes issues such as personal injury or loss of or damage to property. Claims for compensation

only are not complaints, so you must not handle them through the complaints handling procedure. You should be clear, however, that where a customer wants to complain about the matter leading to their request for compensation, for example workmen damaging their home, or the condition of a public road causing damage to a motor vehicle, you may consider that matter as a complaint, but deal with the request for compensation separately. You may decide to suspend complaint action pending the outcome of the claim for compensation. If you do this, you must notify the customer and explain that the complaint will be fully considered when the compensation claim has been decided.

9. If you receive a compensation claim, you should explain to the customer the process for claiming compensation in line with our policy on these claims.

**Licence decisions**

10. We are responsible for issuing various licences, including public entertainment, HMO (houses in multiple occupation), liquor and taxi licences. These have their own legal redress. Customers who are dissatisfied with these decisions will have to pursue this through the correct procedure for the type of licence they want.

**School exclusions and placing requests**

11. Decisions on appeals against a pupil's exclusion from school or a refusal of a school placing request are made by Committee. Once the Committee has ruled, the customer cannot then use the complaints process to continue their case.

**School exam results**

12. Schools have devolved authority to offer examinations on the awarding body's behalf. In most cases this will be the SQA. If a customer is dissatisfied with the result of an exam, the school should refer it to the awarding body.

13. Remember that although there may be an alternative form of redress for the customer as detailed above, you must consider carefully whether or not a customer's representations should be managed within the complaints handling procedure. Dissatisfaction with certain local authority decisions may simply require an explanation and directing to the correct route. If, however, a customer says they are dissatisfied with the administrative process we have followed in reaching a decision, you may consider that dissatisfaction through the complaints handling procedure. An example may be a complaint from a customer who is dissatisfied with a decision and alleges that we failed to follow or apply the appropriate guidance in reaching that decision.

## Appendix 3 – Complex social work scenarios

### Child or adult protection concerns

14. Customers may express concerns that a child or adult is at risk, but frame their concern in terms of dissatisfaction that 'nothing has been done about this'. The member of staff will need to consider whether the person is authorised to make complaints on behalf of the child or adult in question, whether they expect the matter to be handled as a complaint and whether the professional view is that these matters are best addressed through initiating the applicable protection procedures. Where the need to initiate protection procedures and investigate concerns within those procedures is identified, the complaint should be closed. The person making the complaint should be advised of this and signposted to the SPSO.

15. Where a complaint is received about some aspect of protection processes that have already been initiated, for example in relation to the way the processes was applied, this should be considered a complaint, and progressed within the complaints handling procedure.

### Complaints about professional social work decisions

16. A customer may wish to complain about or appeal against a social work decision. Such decisions must be considered in line with the timescales for complaints as specified in the CHP.

17. Some decisions may be considered through an internal appeal procedure. However, any such appeal route must be considered as constituting a special form of stage 2 of this procedure, in that it will result in a thorough response **to all concerns** and onward referral to the SPSO. See also **Social work complaints and appeals.**

### Legal action

18. Legal action takes several forms and each must be handled in a distinctive way:

    (a) Judicial Review: If a person wishes to seek judicial review of a decision then they should be encouraged to seek legal advice.

    (b) Litigation: Where a customer says that they are seeking compensation and that legal action is being actively pursued, this is not a complaint. Where a customer indicates that they intend to litigate but have not yet commenced legal action, they should be informed that if they take such action, they should notify the Customer Resolution & Improvement Team and that the complaints process, in relation to the matters that will be considered through the legal process, will be closed. If it becomes apparent that legal action is being pursued, the complaints handler must clarify with the customer if all the issues they have raised will be considered through legal action; any outstanding issues must still be addressed through the CHP.

(c) Legal tribunals, etc: Sometimes the matter complained of may be the subject of ongoing consideration by a relevant legal body, for example where a customer complains of lack of contact with their child who is being looked after by Highland Council, when that matter falls to be determined by the Children's Panel. In such cases the customer should be directed to raise the matter either directly or through their legal representatives within that other defined process and the matter should not be accepted as a complaint.

This is distinct from a complaint that Highland Council and its staff have failed to properly carry out their roles and responsibilities. In the example above, a Children's Panel may have set contact frequency but it is not being properly facilitated by social work staff due to staffing shortages or some other factor. That is a matter of legitimate complaint under this procedure.

**Complaints about the content of social work reports submitted to legal bodies**

19. Highland Council may receive complaints about the accuracy of reports by professional social work staff submitted to Courts or other bodies such as Children's Panels, Parole Boards or Mental Health Tribunals. In such circumstances, the report is provided as a service to the court or tribunal, not as a service to the customer. The customer has no right to veto such reports or insist that content is subject to their approval but they can complain about the content of the report.

20. Highland Council should consider each complaint and it will usually be necessary to undertake a short screening process to establish whether the issue is appropriate for the CHP. This will depend on the nature and seriousness of alleged inaccuracy, and the status of the report in relation to the progress of court or other proceedings. In particular Highland Council should consider whether the complaint relates to accuracy of facts, to opinion or to the standard and quality of the work carried out by the professional concerned, and should take one of three actions accordingly:

    a. advise the customer that, due to the timescales involved, the issue should be raised when the report is presented in court/to the relevant body, as that is the appropriate forum for deciding on the matter

    b. advise the customer that the complaint raises issues that will be considered under the CHP (such as issues of fact), and progress accordingly, or

    c. advise the customer that the complaint raises a mixture of issues that will be considered under the CHP and other issues that should be raised within the relevant forum when the report is submitted.

21. If you refuse to consider some or all issues as per (a) or (c) above and direct the customer to raise the matter within the legal process, you must still provide clear information about

the reason for this decision, and signpost the customer to the SPSO for access to a review of this decision.

22. Highland Council should also consider whether the complaint relates to a breach of data protection legislation, in which case it must be processed accordingly. See **Part 1: Maintaining confidentiality and data protection**.

**Campaigns**

23. The introduction of a new policy or changes in service, such as the closure of a facility, may lead to a high volume of complaints being received. These should be handled under this procedure on an individual basis on their merits, addressing the issue of how that particular customer is affected by the change. It may be appropriate to provide information about the process that led to the changes, or when the policy may next be reviewed.

24. Occasionally, however, such complaints are evidently part of an organised campaign. Indicators may be that all complaints have identical content or are on a 'form' letter or that all complainers are known to be members of a pressure group that has made separate representations through Highland Council petitions or elected members.

25. Highland Council should not accept an unreasonable burden on its complaints processes produced by an organised campaign. Instead, the Council may either issue a single 'form' response or may ask the organisers to nominate a single person to make a single complaint on behalf of the group. In such circumstances it would be important to be clear that all the complaints being brought to the Council are identical, and setting out clearly what issues are being considered under the complaint. Any other additional concerns that individuals may have would need to be handled as new complaints.

**Persons under investigation**

26. The Council is likely to have a role in investigating the actions of individuals towards other, more vulnerable people, for example those suspected of child or adult abuse or Guardians and Powers of Attorney who are allegedly misusing their powers.

27. Those individuals are still customers as defined within this procedure and any complaint from them must be considered on its individual merits. For example, a complaint about an improper exercise of investigative procedures should be looked into as a complaint. Any response should take into account any confidentiality issues, and this should be explained to the customer.

28. However, if it is evident that the person is not complaining about the process or the actions of staff, but is complaining that they are under investigation, this should not be accepted as a complaint. Instead, it should be explained to the customer that the Council has a statutory obligation to investigate such matters, and this is not conditional upon their agreement or approval. Their objection to the process is not considered to be a complaint, though they may be directed to seek appropriate legal advice to protect their rights.

**Looked after and accommodated children/adults under local authority guardianship**

29. The Council has a special duty of care to children in its care or adults for whom it exercises decision-making powers. Special care should be taken when investigating complaints made by or on behalf of those individuals.

30. Artificial barriers of confidentiality should not be imposed to prevent people with a relevant interest in the affairs of an incapacitated adult from complaining on their behalf.

31. Children who are looked after by the Local Authority may complain. They may have little in the way of a support network and may be estranged from their family. It may also be inappropriate for the family to represent the child's interests. Particular care, therefore, should be taken to ensure that the child's complaint is understood and, particularly for younger children, that the response is understood by them.

32. In both cases, the need for personal contact with the customer, and the possible involvement of advocacy services, should be actively considered. We must also always bear in mind our obligations under data protection information. See **Part 1: Maintaining confidentiality and data protection**.

**Allegations of fraud/criminality/professional malpractice or incompetence**

33. Discretion is required where the complaint is so serious as to immediately merit investigation under disciplinary processes or referral to another agency.

34. If it is determined that the complaint falls into this category, you should be careful to follow the CHP and mindful of our obligations under data protection legislation. See **Part 1: Maintaining confidentiality and data protection**.

**Complaints brought by foster carers**

35. Complaints brought by foster carers can relate to the support services they receive from the Council, the way our staff engage with them, or services a child in their care is or was receiving or has requested from us.

36. Any complaint brought by a foster carer on behalf of a foster child in the care, or formerly in their care, should be considered under this CHP, whilst acknowledging there may be limited rights to some information. Where possible, the views of the child should also be taken into account.

37. Foster carers who are recruited and supported by us may bring complaints about these services. However, approval and de-registration of the carer by the Council may be considered through alternative appeal mechanisms. As noted under **Social work complaints and appeals**, these appeals must be handled in line with the CHP timescales, where possible, and end with signposting to the SPSO.

38. Complaints from foster carers supported by private agencies will not be addressed within this CHP if the complaint is wholly about their own circumstances and support rather

than those of the child. Such complaints should be directed to the complaints process of the relevant agency.

39. An agency foster carer may still complain about the way our staff have interacted with them or about any element of service that they might reasonably expect to be provided the Council, for example invitations to meetings, provision of information about the child in their care or the manner and content of communications with the Council. This list is not exhaustive and such complaints should be carefully considered in terms of the role of the Council staff, before directing them to pursue their complaint with their fostering agency.

40. Where a complaint cannot be considered in part or in whole by the Council, the customer must be given a clear explanation as to why this is, what (if any) parts of their complaint will be investigated and how they may refer the matter to the SPSO.

# The Highland Council Model Complaints Handling Procedure

# Part 3:

# The complaints handling process

| *Version* | *Description* | *Date* |
|---|---|---|
| 1.2 | Final for ELT approval | 26/3/21 |
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## The complaints handling process

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

**Complaint received**

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

**Stage 1: Frontline response**

For issues that are straightforward and simple, requiring little or no investigation. 'On-the-spot' apology, explanation, or other action to put the matter right

Complaint resolved or a response provided in **five working days** or less (unless there are exceptional circumstances)

Complaints addressed by any member of staff, or alternatively referred to the appropriate point for frontline response

Response normally face-to-face or by telephone (though sometimes we will need to put the decision in writing)

We will tell the customer how to escalate their complaint to stage 2

**Stage 2: Investigation**

Where the customer is not satisfied with the frontline response, or refuses to engage at the frontline, or where the complaint is complex, serious or 'high-risk'

Complaint acknowledged within **three working days**.

We will contact the customer to clarify the points of complaint and outcome sought (where these are already clear, we will confirm them in the acknowledgement)

Complaint resolved or a definitive response provided within **20 working days** following a thorough investigation of the points raised

**Independent external review (SPSO or other)**

Where the customer is not satisfied with the stage 2 response from the service provider

The SPSO will assess whether there is evidence of service failure or maladministration not identified by the service provider

In relation to social work decisions the SPSO can also look at professional decisions

Some complaints may also have an alternative route for independent external review

**Resolution**

The complainant and organisation agree what action will be taken to resolve the complaint.

Where a complaint is resolved, it is not usually necessary to continue investigating, although an organisation may choose to do so, for example to identify learning.

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

**Reporting, recording and learning**

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

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

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

Learning is shared throughout the organisation.

## Resolving the complaint

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

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

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

5. It may be helpful to use alternative complaint resolution approaches when trying to resolve a complaint. See **Alternative complaint resolution approaches**.

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

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

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

## What to do when you receive a complaint

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

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

10. It is important to be clear about exactly what the customer is complaining about. We may need to ask the customer for more information and probe further to get a full understanding.

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

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

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

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

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

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

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

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

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

**If I cannot respond, who can help?**

18. If the complaint is simple and straightforward, but the staff member receiving the complaint cannot deal with it because, for example, they are unfamiliar with the

issues or area of service involved, they should pass the complaint to someone who can respond quickly.

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

## Stage 1: Frontline response

20. Frontline response aims to respond quickly (within five working days) to straightforward complaints that require little or no investigation.

21. Any member of staff may deal with complaints at this stage (including the staff member complained about, for example with an explanation or apology). The main principle is to respond to complaints at the earliest opportunity and as close to the point of service delivery as possible.

22. We may respond to the complaint by providing an on-the-spot apology where appropriate, or explaining why the issue occurred and, where possible, what will be done to stop this happening again. We may also explain that, as an organisation that values complaints, we may use the information given when we review service standards in the future. If we consider an apology is appropriate, we may wish to follow the **SPSO guidance on apology**.

23. **Part 2, Appendix 1** gives examples of the types of complaint we may consider at this stage, with suggestions on how to resolve them.

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

### Notifying staff members involved

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

### Timelines

26. Frontline response must be completed within **five working days**, although in practice we would often expect to respond to the complaint much sooner. 'Day one' is always the date of receipt of the complaint (or the next working day if the complaint is received on a weekend or public holiday). Complaints received after **3pm** will be dated and processed on the following working day.

### Extension to the timeline

27. In exceptional circumstances, a short extension of time may be necessary due to unforeseen circumstances (such as the availability of a key staff member). Extensions must be agreed with an appropriate manager. We will tell the customer about the reasons for the extension, and when they can expect a response. The maximum extension that can be granted is five working days (that is, no more than **ten working days** in total from the date of receipt).

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

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

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

**Closing the complaint at the frontline response stage**

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

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

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

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

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

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

## Stage 2: Investigation

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

    - the customer is dissatisfied with the frontline response or refuses to engage at the frontline stage, insisting they wish their complaint to be investigated. Unless exceptional circumstances apply, the customer must escalate the complaint within six months of when they first knew of the problem or within two months of the stage 1 response, whichever is later (see **Part 2: Time limits for making a complaint**)

    - the complaint is not simple and straightforward (for example where the customer has raised a number of issues, or where information from several sources is needed before we can establish what happened and/or what should have happened); or

    - the complaint relates to serious, high-risk or high-profile issues (see **Part 2: Serious, high-risk or high-profile complaints**).

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

38. Details of the complaint must be recorded on the complaints system. Where appropriate, this will be done as a continuation of frontline response. If the investigation stage follows a frontline response, the officer responsible for the investigation should have access to all case notes and associated information.

39. The beginning of stage 2 is a good time to consider whether complaint resolution approaches other than investigation may be helpful (see **Alternative complaint resolution approaches**).

### Acknowledging the complaint

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

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

42. Where the points of complaint and expected outcomes are clear from the complaint, we must set these out in the acknowledgement and ask the customer to get in touch with us immediately if they disagree. See **Agreeing the points of complaint and outcome sought**

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

## Agreeing the points of complaint and outcome sought

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

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

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

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

- **What are the points of complaint to be investigated?**

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

  We will make every effort to agree the points of complaint with the customer (alternative complaint resolution approaches may be helpful at this stage). In very rare cases, it may not be possible to agree the points of complaint (for example, if the customer insists on an unreasonably large number of complaints being separately investigated, or on framing their complaint in an abusive way). We will manage any such cases in accordance with our unacceptable actions policy bearing in mind that we should continue to investigate the complaint (as we understand it) wherever possible.

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

  We must explain if there are any points that are not suitable for handling under the CHP (see **Part 2: What to do if the CHP does not apply**).

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

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

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

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

## Notifying staff members involved

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

    - share the complaint information with the staff member/s (unless there are compelling reasons not to)
    - advise them how the complaint will be handled, how they will be kept updated and how we will share the complaint response with them
    - discuss their willingness to engage with alternative complaint resolution approaches (where applicable); and
    - signpost the staff member/s to a contact person who can provide support and information on what to expect from the complaint process (this must not be the person investigating or signing off the complaint response).

49. If it is likely that internal disciplinary processes may be involved, the requirements of that process should also be met

50. See also **Part 2: Complaints and disciplinary or whistleblowing processes**.

## Investigating the complaint

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

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

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

53. If we need to share information within or outwith the organisation, we will be mindful of our obligations under data protection legislation. See **Part 1: Maintaining confidentiality and data protection**.

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

- **Investigation plan template**
- **Decision-making tool for complaint investigators**

**Alternative complaint resolution approaches**

55. Some complex complaints, or complaints where customers and other interested parties have become entrenched in their position, may require a different approach to resolving the matter. Where we think it is appropriate, we may use alternative complaint resolution approaches such as complaint resolution discussions, mediation or conciliation to try to resolve the matter and to reduce the risk of the complaint escalating further. If mediation is attempted, a suitably trained and qualified mediator should be used. Alternative complaint resolution approaches may help both parties to understand what has caused the complaint, and so are more likely to lead to mutually satisfactory solutions.

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

57. The SPSO has guidance on **alternative complaint resolution approaches**.

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

**Meeting with the customer during the investigation**

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

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

## Timelines

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

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

### Extension to the timeline

62. Not all investigations will be able to meet this deadline. For example, some complaints are so complex that they require careful consideration and detailed investigation beyond the 20 working day timeline. It is important to be realistic and clear with the customer about timeframes, and to advise them early if we think it will not be possible to meet the 20 day timeframe, and why. We should bear in mind that extended delays may have a detrimental effect on the customer.

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

64. 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 the person is not available because of long-term sickness or leave
    - we cannot obtain further essential information within normal timescales; or
    - the customer has agreed to alternative complaint resolution approaches as a potential route for resolution.

    These are only a few examples, and we will judge the matter in relation to each complaint. However, an extension would be the exception.

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

## Closing the complaint at the investigation stage

66. The response to the complaint should be in writing (or by the customer's preferred method of contact) and must be signed off by a manager or officer who is empowered to provide the final response on behalf of the Council.

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

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

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

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

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

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

    - **Template decision letter**
    - **Apology guidance**

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

## Signposting to the SPSO

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

    - their right to ask the SPSO to consider the complaint

- the time limit for doing so; and
- how to contact the SPSO.

74. The SPSO considers complaints from people who remain dissatisfied at the conclusion of our complaints procedure. The SPSO looks at issues such as service failure and maladministration (administrative fault), and the way we have handled the complaint. There are some subject areas that are outwith the SPSO's jurisdiction, but it is the SPSO's role to determine whether an individual complaint is one that they can consider (and to what extent). All investigation responses must signpost to the SPSO.

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

**Information about the SPSO**

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

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

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

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

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

- Citizens Advice Bureau
- Scottish Independent Advocacy Alliance

The SPSO's contact details are:

SPSO

Bridgeside House

99 McDonald Road

Edinburgh

EH7 4NS

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

Their freepost address is:

FREEPOST SPSO

Freephone: 0800 377 7330

Online contact www.spso.org.uk/contact-us

Website: www.spso.org.uk

**Factoring complaints and complaints from shared owners**

76. The SPSO does not normally look at complaints about our factoring service or complaints from shared owners. These complaints can be considered by the First Tier Tribunal for Scotland (Housing and Property Chamber). Their contact details are on their website: https://www.housingandpropertychamber.scot/

77. Where the complaint relates to social housing, we should still signpost these complaints to the SPSO, as there may be some aspects the SPSO can consider (for example, if the customer is dissatisfied with how we have handled their complaint). However, we should also notify the customer of their right to approach the Tribunal if they are dissatisfied with our response to these kinds of complaint.

**Post-closure contact**

78. If a customer contacts us for clarification when they have received our final response, we may have further discussion with the customer to clarify our response and answer their questions. However, if the customer is dissatisfied with our response or does not accept

our findings, we will explain that we have already given them our final response on the matter and signpost them to the SPSO.

## Appendix 1 - Timelines

### General

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

2. We do not count school holidays as non-working days. Complaints received during school holidays should follow the same timelines as set out for frontline response and investigation, unless there are special circumstances which would extend these timelimes.

### Timelines at frontline response (stage 1)

3. We will aim to achieve frontline response within five working days. The date of receipt is **day one**, (up until 3pm) and the response should be provided (or the complaint escalated) on **day five**, at the latest.

4. If we have extended the timeline at the frontline response stage in line with the CHP, the response should be provided (or the complaint escalated) on **day ten**, at the latest.

### Transferring cases from frontline response to investigation

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

### Timelines at investigation (stage 2)

6. For complaints at the investigation stage, **day one** is:

    - the day the case is transferred from the frontline stage to the investigation stage
    - the day the customer asks for an investigation or expresses dissatisfaction after a decision at the frontline response stage; or
    - the date we receive the complaint, if it is handled immediately at stage 2.

7. We must acknowledge the complaint within three working days of receipt at stage 2 i.e. by **day three**.

8. We should respond in full to the complaint by **day 20**, at the latest. We have 20 working days to investigate the complaint, regardless of any time taken to consider it at the frontline response stage.

9. Exceptionally, we may need longer than the 20 working day limit for a full response. If so, we will explain the reasons to the customer, and update them (and any staff involved) at least once every 20 working days.

**Frequently asked questions**

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

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

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

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

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

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

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

## Appendix 2 – The complaint handling process (flowchart for staff)

<table>
<tr><td colspan="2">A customer may complain verbally or in writing, including face-to-face, by phone, letter or email.<br><br>Your first consideration is whether the complaint should be dealt with at stage 1 (frontline response) or stage 2 (investigation).</td></tr>
<tr><td>Stage 1: Frontline response<br><br>Always try to respond quickly, wherever we can</td><td>Stage 2: Investigation<br><br>Investigate where:<br><br>• The customer is dissatisfied with the frontline response or refuses to engage with attempts to resolve the complaint at stage 1<br>• It is clear that the complaint requires investigation from the outset</td></tr>
<tr><td rowspan="2">Record the complaint and notify any staff complained about</td><td>Record the complaint and notify any staff complained about<br><br>Acknowledge the complaint within three working days</td></tr>
<tr><td>Contact the complainant to agree:<br><br>• Points of complaint<br>• Outcome sought<br>• Manage expectations (where required)<br>(these can be confirmed in the acknowledgement where the complaint is straightforward)</td></tr>
<tr><td>Respond to the complaint within five working days unless there are exceptional circumstances</td><td>Respond to the complaint as soon as possible, but within 20 working days unless there is a clear reason for extending the timescale</td></tr>
<tr><td>Is the customer satisfied?</td><td>Communicate the decision, normally in writing</td></tr>
</table>

| | |
|---|---|
| You must always tell the customer how to escalate to stage 2 | Signpost the customer to SPSO and advise of time limits |
| (Yes) Record outcome and learning, and close complaint.<br>*(No) -> to Stage 2: Investigation* | Record outcome and learning, and close complaint |
| Follow up on agreed actions flowing from the complaint<br>Share any learning points | |

# The Highland Council Model Complaints Handling Procedure

# Part 4:

# Governance

| *Version* | *Description* | *Date* |
|---|---|---|
| 1.2 | Final for ELT approval | 26/3/21 |
| 1.1 | Updated Draft Version | 21/3/21 |
| 1.0 | Draft Highland Council Version | 23/2/21 |

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## Roles and responsibilities

1. All staff will be aware of:

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

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

3. Senior management will ensure that:

    - The Highland Council's final position on a complaint investigation is signed off by an appropriate manager or officer in order to provide assurance that this is the definitive response of the Council and that the complainant's concerns have been taken seriously
    - it maintains overall responsibility and accountability for the management and governance of complaints handling (including complaints about contracted services)
    - it has an active role in, and understanding of, the CHP (although not necessarily involved in the decision-making process of complaint handling)
    - mechanisms are in place to ensure a consistent approach to the way complaints handling information is managed, monitored, reviewed and reported at all levels in Highland Council; and
    - complaints information is used to improve services, and this is evident from regular publications.

4. The **Chief Executive** provides leadership and direction in ways that guide and enable us to perform effectively across all services. This includes ensuring that there is an effective CHP, with a robust investigation process that demonstrates how we learn from the complaints we receive. The 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.

5. The **Chief Executive** is also responsible for ensuring that there are governance and accountability arrangements in place in relation to complaints about contractors/ALEOs.

This includes:

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

6. **Chief Social Work Officer (CSWO)**: The CSWO has an important role in the consideration of social work complaints information and, on occasion, the content of individual complaints. Their role in overseeing the effective governance of social work services and monitoring these arrangements includes complaints about social work services. The CSWO should also take appropriate account of complaints information in fulfilling their obligations to promote continuous improvement and best practice. Furthermore, the CSWO or their delegated officers may have specific interest in complaints relating to individuals for whom they have decision-making responsibilities.

7. On the Chief Executive's behalf, **Executive Chief Officers** may be responsible for:
   - managing complaints and the way we learn from them
   - overseeing the implementation of actions required as a result of a complaint
   - investigating complaints; and
   - deputising for the Chief Executive on occasion.

8. They may also be responsible for preparing and signing off decisions for customers, so they should be satisfied that the investigation is complete and their response addresses all aspects of the complaint. However, Executive Chief Officers may decide to delegate some elements of complaints handling (such as investigations and the drafting of response letters) to other senior staff. Where this happens, Excecutive Chief Officers should retain ownership and accountability for the management and reporting of complaints.

9. The complaints process sits within the **Communities and Place Service** within the **Customer Services Team**

10. **Heads of Service** may be involved in the operational investigation and management of complaints handling. As senior officers they may be responsible for preparing and signing decision letters to customers, so they should be satisfied that the investigation is complete and their response addresses all aspects of the complaint.

11. The **Complaints Investigator** is responsible and accountable for the management of the investigation. They may work in a service delivery team or as part of the corporate **Customer Resolution & Improvment Team**, and will be involved in the investigation and in coordinating all aspects of the response to the customer. This may include preparing a comprehensive written report, including details of any procedural changes

in service delivery and identifying wider opportunities for learning across the organisation.

12. The **Head of Human Resources** is responsible for ensuring all new staff receive training on the CHP as part of the induction process, and that refresher training is provided for current staff on a regular basis.

13. The **SPSO liaison officer's** role will 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.

14. The **Customer Resolution & Improvement Team** assess and progress all incoming complaints received corporately. They aim to resolve complaints at first point of contact and will liaise with Customer and Officers to progress more complex complaints. The team will provide advice and guidance to officers in matters relating to the investigation and resolution of all complaints.

## Recording, reporting, learning from and publicising complaints

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

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

### Recording complaints

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

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

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

19. Individual complaint files are stored in line with current GDPR principals, following the Council's Information Management guidelines.

### Learning from complaints

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

    - seek to identify the root cause of complaints
    - take action to reduce the risk of recurrence; and

- systematically review complaints performance reports to improve service delivery.

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

    - Where we have identified the need for service improvement in response to an individual complaint, we will take appropriate action.
    - the action needed to improve services must be authorised by an appropriate manager
    - 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; and
    - any learning points should be shared with relevant staff.

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

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

## Reporting of complaints

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

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

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

## Publicising complaints information

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

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

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

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

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

# Highland Council Model Complaints Handling Procedure

| *Version* | *Description* | *Date* |
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The Highland Council is committed to providing high-quality customer services.

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

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

**What is a complaint?**

2. We regard a complaint as any expression of dissatisfaction about our action or lack of action, or about the standard of service provided by us or on our behalf.

**What can I complain about?**

3. You can complain about things like:

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

4. Your complaint may involve more than one Council service or be about someone working on our behalf.

**What can't I complain about?**

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

- a routine first-time request for a service
- a first-time report of a fault (for example, potholes or street lighting)
- a request for compensation only
- issues that are in court or have already been heard by a court or a tribunal (if you decide to take legal action, you should let us know as the complaint cannot then be considered under this process)
- disagreement with a decision where there is a statutory procedure for challenging that decision (such as for freedom of information and subject access requests), or an established appeals process followed throughout the sector – such as council tax, planning, or a parking ticket appeal
- disagreement with decisions or conditions that are based upon social work recommendations, but determined by a court or other statutory body, for example decisions made by a children's panel, parole board or mental health tribunal
- a request for information under the Data Protection or Freedom of Information (Scotland) Acts
- a grievance by a staff member or a grievance relating to employment or staff recruitment
- a concern raised internally by a member of staff (which was not about a service they received, such as a whistleblowing concern)
- a concern about a child or an adult's safety
- an attempt to reopen a previously concluded complaint or to have a complaint reconsidered where we have already given our final decision
- abuse or unsubstantiated allegations about our organisation or staff where such actions would be covered by our Unacceptable Actions Policy which will be replaced in 2021 by a new Engagement Policy
- a concern about the actions or service of a different organisation, where we have no involvement in the issue (**except** where the other organisation is delivering services on our behalf).

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

**Who can complain?**

7. Anyone who receives, requests or is directly affected by our services can make a complaint to us. This includes the representative of someone who is dissatisfied with our service (for example, a relative, friend, advocate or adviser). If you are making a complaint on someone else's behalf, you will normally need their written consent. Please also read the section on **Getting help to make your complaint** below.

**How do I complain?**

8. You can complain in person to a member of staff face to face, by phone, in writing, by email or via our complaints form

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

10. When complaining, please tell us:

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

**Our contact details**

By Phone - **01349 886606**

In Writing - **Customer Resolution & Improvement Team**, The Highland Council, Glenurquhart Road, Inverness, IV3 5NX

Electronically - Complaints Form

Email - complaints@highland.gov.uk

**How long do I have to make a complaint?**

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

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

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

**What happens when I have complained?**

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

**Stage 1: Frontline response**

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

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

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

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

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

## Stage 2: Investigation

18. Stage 2 deals with two types of complaint: those that have not been resolved at stage 1 and those that clearly require investigation, and so are handled directly at this stage. If you do not wish your complaint to be handled at stage 1, you can ask us to handle it at stage 2 instead.

19. When using stage 2:

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

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

## What if I'm still dissatisfied?

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

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| The SPSO are an independent organisation that investigates complaints. They are not an advocacy or support service (but there are other organisations who can help you with advocacy or support).<br><br>You can ask the SPSO to look at your complaint if:<br><br>• you have gone all the way through the *Council*'s complaints handling procedure<br>• it is less than 12 months after you became aware of the matter you want to complain about; and |

- the matter has not been (and is not being) considered in court.

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

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

The SPSO's contact details are:

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

Their freepost address is:

FREEPOST SPSO
Freephone: 0800 377 7330
Online contact **www.spso.org.uk/contact-us**
Website: **www.spso.org.uk**

22. There are some complaints that have an alternative route for independent review. We will tell you how to seek independent review when we give you our final response on your complaint.

## Care complaints

*23. If your complaint relates to a care service we provide, you can choose whether to complain to us or the Care Inspectorate. You can find out more about their complaints procedure, or make a complaint, by contacting them.*

The Care Inspectorate has several offices around Scotland. Please refer to: **http://www.scswis.com/**

## Getting help to make your complaint

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

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

**Scottish Independent Advocacy Alliance**

Tel: 0131 510 9410 Website: **http://www.siaa.org.uk**

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

**Citizens Advice Scotland**

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

27. We are committed to making our service easy to use for all members of the community. In line with our statutory equalities duties, we will always ensure that reasonable adjustments are made to help you access and use our services. If you have trouble putting your complaint in writing, or want this information in another language or format, such as large font, or Braille, please tell us in person, or use the contact methods below.

## Our contact details

28. Please contact us by the following means:

For customer who are deaf or hard of hearing and who have access to a Type Text Phone - **Textphone 01349 886665**

For customers who require to use British Sign Language Interpretation (BSL) **01349 886650 or text 07884731378**

For customers who require forms in a different language, large font or Braille, please email **Customer.Service@highland.gov.uk**

## Quick guide to our complaints procedure

**Complaints procedure**

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

We have **a two-stage complaints procedure**. We will always try to deal with your complaint quickly. But if it is clear that the matter will need investigation, we will tell you and keep you updated on our progress. *If your complaint relates to a casre service you can choose to complain to us or to the Care Inspectorate.*

**Stage 1: Frontline response**

We will always try to respond to your complaint quickly, within **five working days** if we can.

If you are dissatisfied with our response, you can ask us to consider your complaint at stage 2.

**Stage 2: Investigation**

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

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

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

We will investigate the complaint and give you our decision as soon as possible. This will be after no more than **20 working days** *unless* there is clearly a good reason for needing more time.

**Scottish Public Services Ombudsman**

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

There are some complaints that have an alternative route for independent review. We will tell you how to seek independent review when we give you our final response on your complaint.

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