



Part 3: The complaints handling process

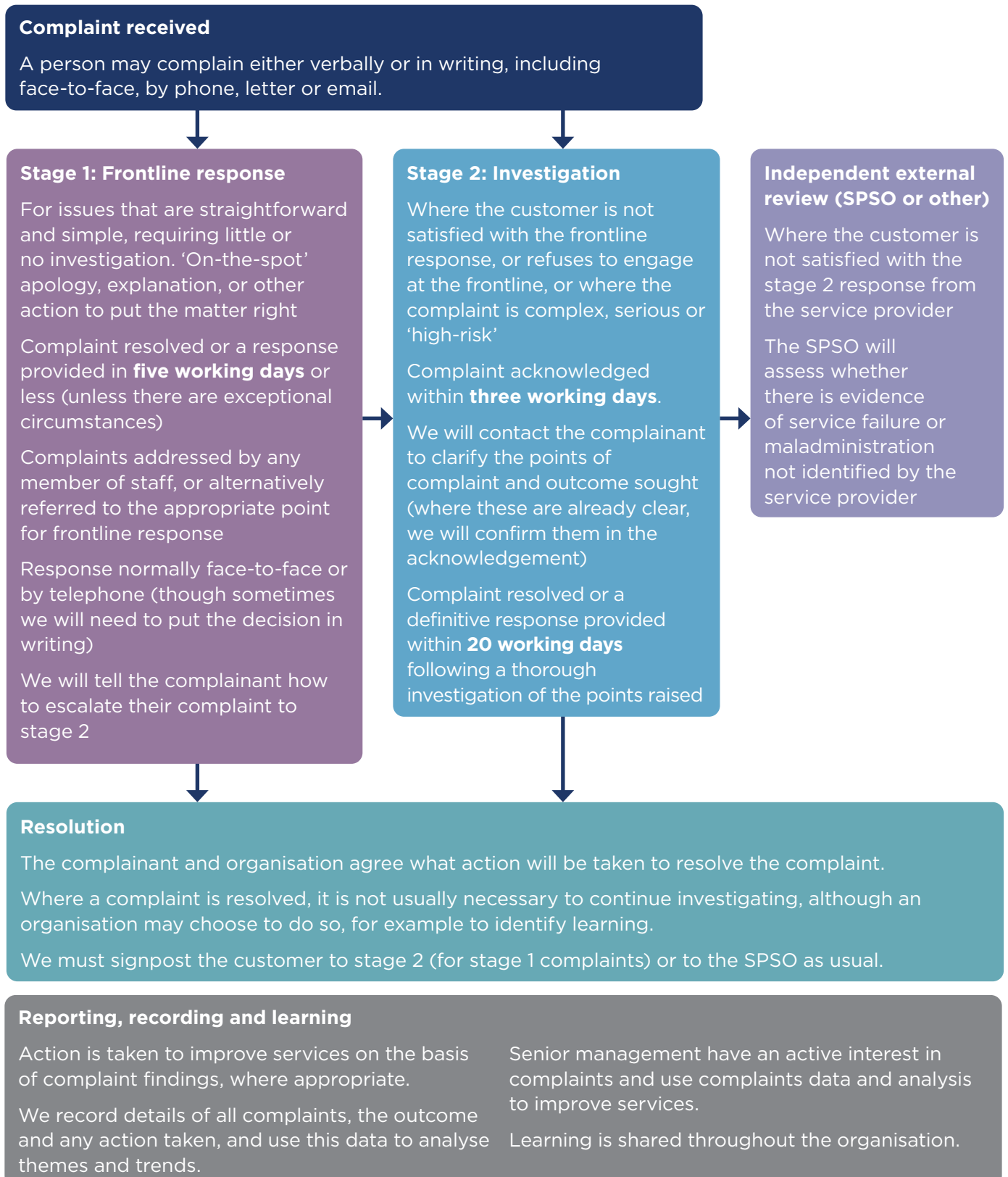
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The complaints handling process

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 complainant's satisfaction. Where this is not possible, we will give the complainant a clear and reasoned response to their complaint.



Resolving the complaint

2. A complaint is **resolved** when both [*the institution*] and the complainant agree what action (if any) will be taken to provide full and final resolution for the complainant, without making a decision about whether the complaint is upheld or not upheld.
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 complainant 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 complainant's agreement to this as a final outcome. In some cases it may still be appropriate to continue looking into the issue, for example where there is evidence of a wider problem or potential for useful learning. We will use our professional judgment in deciding whether it is appropriate to continue looking into a complaint that is resolved.
7. In all cases, we must record the complaint outcome (resolved) and any action taken, and signpost the complainant to stage 2 (for stage 1 complaints) or to the SPSO as usual (see **Signposting to the SPSO**).
8. If the complainant and [*the institution*] 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 complaint (or complaints)?

10. It is important to be clear exactly what the complaint is about. We may need to ask the complainant 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 complainant (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 complainant want to achieve by complaining?

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

Can I achieve this, or explain why not?

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 complainant 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 complainant refuses to engage at stage 1, insisting that they want their complaint investigated, it should be handled immediately at stage 2. See **Stage 2: Investigation**.

[The institution may wish to include more detail on local processes for directing a complaint to stage 2, for example, the contact details of the complaints handling team].

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

Notifying staff members involved

24. 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

25. 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). Academic holidays should be counted as normal working days (except for weekends or public holidays).

[Institutions may wish to add additional detail on their usual arrangements for receiving and dating of mail and other correspondence – for example if there is a policy to mark correspondence received after a certain time as received the next day.]

Extension to the timeline

26. 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 complainant 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).
27. 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.
28. If a complaint has not been closed within ten working days, it should be escalated to stage 2 for a final response.

[The institution may provide further guidance or examples in relation to extensions to the five working day timeline. This can be inserted here or be included in an annex to this document.]

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

Closing the complaint at the frontline response stage

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

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

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

32. 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).

[The institution may provide further guidance or examples about when to provide written confirmation of the decision at the frontline stage of the procedure. This can be inserted here or be included in an annex to this document.]

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

34. 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

35. Not all complaints are suitable for frontline response and not all complaints will be satisfactorily addressed at that stage. Stage 2 is appropriate where:
- the complainant is dissatisfied with the frontline response or refuses to engage at the frontline stage, insisting they wish their complaint to be investigated. Unless exceptional circumstances apply, the complainant must escalate the complaint within six months of when they first knew of the problem or within two months of the stage 1 response, whichever is later (see **Part 2: Time limits for making a complaint**)
 - the complaint is not simple and straightforward (for example where the complainant has raised a number of issues, or where information from several sources is needed before we can establish what happened and/or what should have happened); or
 - the complaint relates to serious, high-risk or high-profile issues (see **Part 2: Serious, high-risk or high-profile complaints**).
36. An investigation aims to explore the complaint in more depth and establish all the relevant facts. The aim is to resolve the complaint where possible, or to give the complainant a full, objective and proportionate response that represents our final position. Wherever possible, complaints should be investigated by someone not involved in the complaint (for example, a line manager or a manager from a different area).
37. 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.
38. 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

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

Agreeing the points of complaint and outcome sought

43. It is important to be clear from the start of stage 2 about the points of complaint to be investigated and what outcome the complainant is seeking. We may also need to manage the complainant's expectations about the scope of our investigation.
44. Where the points of complaint and outcome sought are clear, we can confirm our understanding of these with the complainant when acknowledging the complaint (see **Acknowledging the complaint**).
45. Where the points of complaint and outcome sought are not clear, we must contact the complainant to confirm these. We will normally need to speak to the complainant (by phone or face-to-face) to do this effectively. In some cases it may be possible to clarify complaints in writing. The key point is that we need to be sure we and the complainant have a shared understanding of the complaint. When contacting the complainant we will be respectful of their stated preferred method of contact. We should keep a clear record of any discussion with the complainant.



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

What are the points of complaint to be investigated?

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

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

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

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

What outcome does the complainant want to achieve?

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

Are the complainant's expectations realistic and achievable?

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

Notifying staff members involved

47. 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).

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

Investigating the complaint

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

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

50. 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).

51. 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**.

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

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

Alternative complaint resolution approaches

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

54. 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 complainant's desired outcome.

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

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

[The institution may provide further guidance or examples in relation to alternative complaint resolution approaches. This can be inserted here or be included in an annex to this document.]

Meeting with the complainant during the investigation

57. To effectively investigate the complaint, it may be necessary to arrange a meeting with the complainant. Where a meeting takes place, we will always be mindful of the requirement to investigate complaints (including holding any meetings) within 20 working days wherever possible. Where there are difficulties arranging a meeting, this may provide grounds for extending the timeframe.
58. As a matter of good practice, a written record of the meeting should be completed and provided to the complainant. Alternatively, and by agreement with the person making the complaint, we may provide a record of the meeting in another format. We will notify the person making the complaint of the timescale within which we expect to provide the record of the meeting.

Timelines

59. 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). Academic holidays should be counted as normal working days (except for weekends or public holidays).

- 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.

[Institutions may wish to add additional detail on their usual arrangements for receiving and dating of mail and other correspondence – for example if there is a policy to mark correspondence received after a certain time as received the next day.]

Extension to the timeline

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

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

62. *[Institutions may provide further guidance or examples in relation to extensions. For example: The reasons for an extension might include the following:*

- *essential accounts or statements, crucial to establishing the circumstances of the case, are needed from staff or others but the person is not available because of long-term sickness or leave*
- *we cannot obtain further essential information within normal timescales; or*
- *the complainant 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.]

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

Closing the complaint at the investigation stage

64. The response to the complaint should be in writing (or by the complainant's preferred method of contact) and must be signed off by a manager or officer who is empowered to provide the final response on behalf of *[the institution]*. *[Institutions may wish to include guidance on local sign-off arrangements]*

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

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

66. 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**.
67. 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).
68. We will record the decision, and details of how it was communicated to the complainant, on the complaints system.
69. The SPSO has guidance on responding to a complaint:
- **Template decision letter**
 - **Apology guidance**
70. 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**.
71. 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.
72. The SPSO recommends that we use the wording on the next page to inform complainants of their right to ask the SPSO to consider the complaint. This information should only be included on [the institution's] final response to the complaint.
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Post-closure contact

74. Once the investigation stage has been completed, the complainant has the right to approach the SPSO if they remain dissatisfied. We must make clear to the complainant:
- their right to ask the SPSO to consider the complaint
 - the time limit for doing so; and
 - how to contact the SPSO.
74. If a complainant contacts us for clarification when they have received our final response, we may have further discussion with the complainant to clarify our response and answer their questions. However, if the complainant is dissatisfied with our response or does not accept our findings, we will explain that we have already given them our final response on the matter and signpost them to the SPSO.

Information about the SPSO

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

If you remain dissatisfied when you have had a final response from [*the organisation*], 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 [*organisation*]'s Complaints Handling Procedure
- it is less than 12 months after you became aware of the matter you want to complain about, and
- the matter has not been (and is not being) considered in court.

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

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

- Citizens Advice Scotland
- 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: www.spsso.org.uk/contact-us

Website: www.spsso.org.uk

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 academic holidays as non-working days. Complaints received during academic holidays should follow the same timelines as set out for frontline response and investigation, unless there are special circumstances which would require an extension to these timelines.

[The date of receipt will be determined by the institution's usual arrangements for receiving and dating of mail and other correspondence – institutions may wish to include more detail on local arrangements, for example if mail received after a certain time is marked as received the next working day].

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

Timelines at investigation (stage 2)

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

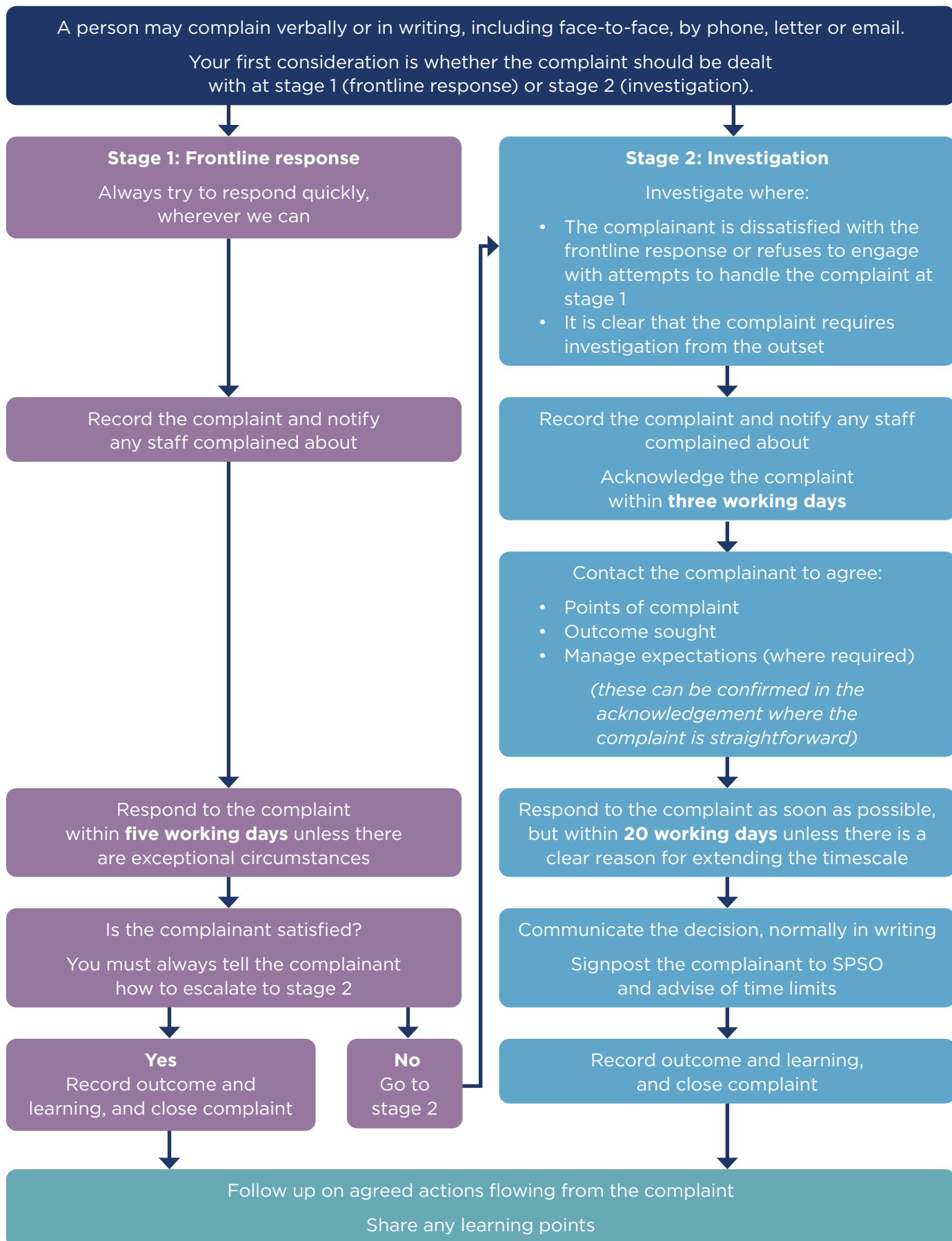
are clear reasons for this. This should only occur in exceptional circumstances (the original extension should allow sufficient time to realistically investigate and respond to the complaint). Where a further extension is agreed, we should explain the situation to the complainant and give them a revised timeframe for completion. We must update the complainant and any staff involved in the investigation at least once every 20 working days.

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

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



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



SPSO
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Web www.spsso.org.uk

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