



Part 2: When to use this procedure

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What is a complaint?

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

[If the organisation has a set of published service standards, consider providing a link to them here to help clarify what standards customers can expect].

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 request for compensation only (see **Complaints and compensation claims**)
 - issues that are in court or have already been heard by a court or a tribunal (see **Complaints and legal action**)
 - disagreement with a decision where there is a statutory procedure for challenging that decision (such as for freedom of information and subject access requests), or an established appeals process followed throughout the sector
 - 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 or equivalent*]; 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. **Appendix 2** gives more examples of 'what is not a complaint' and how to direct customers appropriately.
7. 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.
8. 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**.
- [The organisation may provide further guidance or examples in relation to what is and what is not a complaint. This can be inserted here or alternatively it can be included in an annex to this document.]*



Who can make a complaint?

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

[Where organisations have a separate policy or document setting out how they will meet their equalities obligations and support vulnerable groups in accessing services (including the complaint procedure) they may signpost to this document instead of repeating the content below. Organisations should take care to ensure that their existing policy or document meets the standards below in relation to complaint handling].

12. We have legal duties to make our complaints service accessible under equalities and mental health legislation. *[Organisations may wish to refer to relevant legislation, but should make sure that this is kept up to date and in line with any changes to legislation. Suggested text]:*
For example:
 - *the Equality Act (Scotland) 2010 - this gives people with a protected characteristic the right to reasonable adjustments to access our services (such as large print or BSL translations of information); and*
 - *the Mental Health (Care and Treatment) (Scotland) Act 2003 - this gives anyone with a 'mental disorder' (including mental health issues, learning difficulties, dementia and autism) a right to access independent advocacy. This must be delivered by independent organisations that only provide advocacy. They help people to know and understand their rights, make informed decisions and have a voice.*
13. Examples of how we will meet our legal duties are: *[The types of reasonable adjustments organisations may need to provide will depend on the organisation's services and customer base, and organisations should carefully consider what to include in their own CHP. As part of this, organisations may need to conduct an Equality Impact Assessment. Examples of actions could include:*

- *proactively checking whether members of the public who contact us require additional support to access our services*
- *providing interpretation and/or translation services for British Sign Language users; and*
- *helping customers access independent advocacy (the Scottish Independent Advocacy Alliance website has information about local advocacy organisations throughout Scotland).]*

14. In addition to our legal duties, we will seek to ensure that we support vulnerable groups in accessing our complaints procedure. Actions that we may take include: *[Organisations should go beyond equality legislation in considering more widely what factors may impact on people's access to complaint handling (for example, bereavement or homelessness). There may also be users (or a specific group of users) who are subject to additional barriers to raising a complaint which goes beyond the support required for accessing day to day services. For example, neutral points of contact/advocacy where the relationship between frontline staff and users is significant and ongoing. Organisations should consider consulting with relevant third sector organisations in completing this section. An example of the vulnerable groups identified by the SPSO is available **online**. An example of appropriate actions may include:*

- *helping vulnerable customers identify when they might wish to make a complaint (for example, by training frontline staff who provide services to vulnerable groups)*
- *helping customers access independent support or advocacy to help them understand their rights and communicate their complaints (for example, through the Scottish Independent Advocacy Alliance or Citizen's Advice Scotland); and*
- *providing a neutral point of contact for complaints (where the relationship between customers and frontline staff is significant and ongoing).]*

15. 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

16. Complaints may be made verbally or in writing, including face-to-face, by phone, letter or email.
17. Where a complaint is made **verbally**, we will make a record of the key points of complaint raised. *[Organisations may add, if desired]: 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.*
18. Complaint issues may also be raised on **digital platforms** (including **social media**).

*[Organisations may choose whether to accept or respond to complaints on social media. However, organisations must at least acknowledge complaints that are raised in this way. As a **minimum**, organisations must adopt the following approach]:*

19. 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 explain that we do not take complaints on social media, but we will tell the person how they can complain.

[Alternatively, if organisations wish to accept or respond to simple

complaints on social media, they may amend this section to provide further guidance. An example is below]:

20. 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 explaining that we do not normally take complaints made on social media and telling the person how they can complain;
 - 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 bus service or late cancellation of a class).
21. We may also become aware that an issue has been raised via a digital channel not controlled or managed by us (for example a youtube video or post on a private facebook group). In such cases we **may** respond, where we consider it appropriate, by telling the person how they can complain.

[Organisations may wish to include more detail on local arrangements, such as where automated responses are in place for social media contact, or details of manager sign-off for social media contact].

22. 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

23. 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).
24. 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).
25. 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.
26. 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

27. 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.
28. *[Organisations will have their own processes in place for dealing with and recording consent, which should be detailed or signposted to here. For example]: 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.*

29. 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.
30. See also **Part 1: Maintaining confidentiality and data protection.**

[The organisation may provide further guidance or examples in relation to issues around capacity, providing and gaining consent and information sharing, for example in relation to Power of Attorney or Guardianship arrangements. This can be inserted here or alternatively it can be included in an annex to this document.]

Serious, high-risk or high-profile complaints

31. 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**).

32. We define potential high-risk or high-profile complaints as those that may:
- *involve a death or terminal illness*
 - *involve serious service failure, for example major delays in providing, or repeated failures to provide, a service*
 - *generate significant and ongoing press interest*
 - *pose a serious risk to an organisation's operations*
 - *present issues of a highly sensitive nature, for example concerning:*
 - *a particularly vulnerable person, or*
 - *child protection.*

[The organisation may amend these examples, or provide further guidance or examples in relation to high-risk/high-profile complaints. This can be inserted here or be included in an annex to this document.]

Anonymous complaints

33. 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 an appropriate manager *[organisations may include more information on local arrangements - e.g. any manager, the complaints manager etc.]*.

34. 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.
35. 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?

36. 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.
 37. 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).
 38. Please refer to the example in **Appendix 1** for further guidance.
- ### **Complaints involving more than one area or organisation**
39. 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.
 40. 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.
 41. 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 organisation*] 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**.

42. Such complaints may include:

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

Complaints about contracted services

43. Where we use a contractor to deliver a service on our behalf we recognise that we remain responsible and accountable for ensuring that the services provided meet [*the organisation's*] 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.

44. 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.

45. [*The organisation*] has discretion to investigate complaints about organisations contracted to deliver services on its behalf even where the procedure has normally been delegated.

Complaints about senior staff

46. 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.

[The organisation may provide further guidance or examples in relation to the process for handling complaints about senior staff members. This can be inserted here or can be included in an annex to this document.]

Complaints and other processes

47. 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

48. If a customer asks [*the organisation*] to 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.

49. 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

50. 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.
51. 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 organisation]* failed to meet our *[service standards, where relevant, or expected standards]* and what we have done to improve things, in general terms.
52. Staff investigating such complaints will need to take extra care to ensure that:
 - we comply with all requirements of the CHP in relation to the complaint (as well as meeting the requirements of the other processes)
 - all complaint issues are addressed (sometimes issues can get missed if they are not also relevant to the overlapping process); and
 - we keep records of the investigation that can be made available to the SPSO if required. This can be problematic when the other process is confidential, because SPSO will normally require documentation of any correspondence and interviews to show how conclusions were reached. We will need to bear this in mind when planning any elements of the investigation that might overlap (for example, if staff

are interviewed for the purposes of both the complaint and a disciplinary procedure, they should not be assured that any evidence given will be confidential, as it may be made available to the SPSO).

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

Contact from MPs, MSPs or Councillors **[Optional section]**

[Organisations may complete this section in line with local procedures. Organisations may provide guidance on distinguishing between elected member enquiries and complaints brought by elected members (on behalf of constituents). However, where a matter is being dealt with as a complaint, it must be handled in line with this CHP. Organisations should be careful not to operate a 'two-tier' complaint system with preferential treatment for some customers.

Organisations may also wish to refer to special arrangements for elected members in relation to seeking third party consent (the Information Commissioner's Office has guidance on this: <https://ico.org.uk/media/for-organisations/documents/1432063/constituency-casework-of-mps-and-the-processing-of-sensitive-personal-data.pdf>).

Complaints and compensation claims

54. 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

55. Where a customer says that legal action is being actively pursued, this is not a complaint.
56. 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 complaints handler [*and/or the complaints manager*] and that the complaints process, in relation to the matters that will be considered through the legal process, will be closed. Any outstanding complaints must still be addressed through the CHP.
57. If an issue has been, or is being, considered by a court, we must not consider the same issue under the CHP.

What to do if the CHP does not apply

58. 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.
59. 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 (or equivalent)*].
60. The SPSO has issued a **template letter for explaining when the CHP does not apply**.

Appendix 1 – Complaints

In the following table organisations should give organisational specific examples of complaints that may be considered at the frontline stage, and suggest possible actions.

Complaint	Possible actions
<p>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.</p>	<ul style="list-style-type: none"> • Tell the customer that we value complaints because they help to improve services. Encourage them to submit the complaint. • 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.

Appendix 2 – What is not a complaint?

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.

A customer may also be concerned about a decision made by the organisation. These decisions may have their own specific review or appeal procedures, and, where appropriate, customers must be directed to the relevant procedure.

[Below, organisations should provide examples of the types of issues or concerns that must not be handled through the CHP. This is not a full list, and you should decide the best route for resolution based on the individual case.]

Example 1:

Example 2:

Example 3:

Example 4:

Example 5:

Example 6:

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