

## SPSO decision report

**Case:** 201508088, Care Inspectorate  
**Sector:** Scottish Government and devolved administration  
**Subject:** complaints handling  
**Outcome:** upheld, recommendations

### Summary

A nursery was inspected by the Care Inspectorate. Following production of the draft inspection report, the nursery contacted the Care Inspectorate to raise concerns about the inspection process. These concerns were addressed initially by the inspector's line manager. The nursery were not satisfied with the response received and they instructed their representative (Ms C) to raise a complaint on their behalf.

As well as raising concerns about the inspection process, Ms C complained about the way in which the nursery's initial concerns were dealt with. In particular she questioned the appropriateness of the line manager's role in the complaints process in light of their role in the inspection process. She also complained that the Care Inspectorate interviewed the inspectors as part of their complaints investigation but did not interview nursery staff. In addition, Ms C raised concerns that the Care Inspectorate delayed in responding to the nursery's complaint.

We identified areas where the Care Inspectorate had failed to respond to the complaint in line with their complaints handling procedure (CHP). While we did not consider it inappropriate for the line manager to have dealt with a complaint at stage 1 of the CHP (frontline resolution), we noted that the initial concerns were not dealt with under the CHP. As the concerns fitted with the Care Inspectorate's definition of a complaint, we considered that they should have been addressed in line with the CHP. We noted that the nursery initially indicated that they did not wish to formally complain; however the CHP contains provision for such a situation and the Care Inspectorate did not follow this. We noted that it is often good practice when carrying out interviews to interview both parties to a complaint. However, we were satisfied that the Care Inspectorate gave appropriate consideration to doing so and reasonably concluded that it would not have brought value to their investigation of this particular complaint. As the Care Inspectorate had initially given an indication that it was likely they would interview nursery staff, we considered that expectations could have been better managed in this regard.

In relation to the timescale for completing the investigation, we noted that this was unavoidably protracted for large parts, and that the CHP contains provision for extending certain complex investigations. However, such extensions should be fully explained to, and agreed with, the complainant and we did not consider that the Care Inspectorate took appropriate steps to do so. In addition, we noted that there was an initial delay in logging and acknowledging the complaint and, while there was regular correspondence thereafter, we noted that on one occasion the complainant was not contacted as promised. We therefore upheld the complaint.

### Recommendations

We recommended that the Care Inspectorate:

- remind staff of the action to take when a complainant does not wish a matter that is clearly in line with the Care Inspectorate's definition of a complaint to be considered under the CHP;
- remind staff that where extensions to investigation timescales are required, the reason for this should be fully explained to the complainant and their agreement sought;
- review their mail-receiving processes to ensure that incoming complaint correspondence is quickly

identified and passed to the relevant area to be logged and actioned without delay;

- remind staff of the importance of managing complainants' expectations in terms of how their complaint will be investigated and of adhering to any undertakings to contact complainants; and
- apologise to the nursery for failing to handle their complaint in line with the CHP.