
West Dunbartonshire Health and Social Care Partnership Board

The Complaints Handling Procedure

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Policy Title & Reference	Health and Social Care Board Complaint Handling Procedure		
Version Number & Date	V2	31/03/2021	
Title, Version Number & Date of superseded version (if applicable)	HSCPb Complaint Handling Procedure	V1	2017-2019
Rationale for Introduction/driver for Change	<p>The Public Bodies (Joint Working) (Scotland) Act 2014 (the Act) states that an Integration Joint Board (IJB) must have a clear and accessible complaints procedure.</p> <p>The Scottish Public Services Ombudsman (SPSO) Act 2002 (as amended) provides the legislative basis for SPSO to publish the Model Complaints Handling Procedures (MCHP) for bodies under the SPSO's jurisdiction.</p> <p>Scottish Public Sector Ombudsman Review of Model Complaint Handling Procedures January 2020</p> <p>To provide clear procedures for handling complaints raised against the HSCPb</p>		
Summary of Substantive Changes (if applicable)	<p>Social work and Local Authority MCHPs combined</p> <p>Where a complaint is brought by a MP/MSP, the organisation must handle it in line with the CHP and ensure that they do not operate a two-tier system</p> <p>Full details of key changes are included at Appendix B SPSO Key Changes</p>		
Summary of Technical changes (if applicable)	<p>Report and publish complaints statistics in line with the performance indicators published by the SPSO</p> <p>New resolved outcome descriptor</p>		
Lead Officer	Margaret-Jane Cardno, Head of Strategy and Transformation		
Final Trades Union Position	No issues or concerns raised.		
Consultation and Approval Process	Financial consultation		
	Legal consultation		October 2020
	Audit and Fraud consultation		October 2020
	Trades Union consultation		October 2020
	Approval at HSCPb		26 November 2020
Accompanying Documentation (incl EIA)	SPSO Key Changes Document		
Linked Policies and Procedures	<p>WDC Model Complaint Handling Procedure</p> <p>Unacceptable Behaviour Document</p>		

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When to use this procedure

1. West Dunbartonshire Health and Social Care Partnership Board (HSCPb) is required to have its own complaints handling procedure (separate to those of West Dunbartonshire Council, which covers social work services, and NHS Greater Glasgow and Clyde's procedures) to cover its own activities and the decisions that it makes. This procedure has been developed from a Model Complaint Handling Procedure for Integration Joint Boards issued by the Complaints Standards Authority of the Scottish Public Services Ombudsman in 2020.
2. Our complaints handling procedure reflects HSCPb's commitment to valuing complaints. It seeks to resolve citizen dissatisfaction both as thoroughly and as quickly as possible and to ensure that any complaints received about the HSCPb in particular are considered in an objective, fair, rigorous and evidence-based manner. In following a standardised model developed by the Ombudsman, our citizens can be assured that we are pursuing those aims in line with recognised best practice.
3. Complaints raised directly with or about the HSCPb will be about the organisation and administration of the HSCPb, the strategic decisions that it makes and the measures it implements to achieve strategic objectives. Complaints about front-line services and the functions that support these will continue to be dealt with under the relevant health or local authority complaints procedure.

What is a complaint?

4. West Dunbartonshire Health and Social Care Board (HSCPb) definition of a complaint is: 'an expression of dissatisfaction by one or more members of the public about Health and Social Care Partnership Board action or lack of action, or about the standard of service provided by or on behalf of HSCPb'
5. For clarity, where an employee also receives a service from HSCPb as a member of the public, they may complain about that service.
6. Issues that are not covered by this definition are likely to be covered by other complaints handling procedures, notable those for West Dunbartonshire Council and the complaints policy of NHS Greater Glasgow & Clyde.
7. A complaint may relate to the following, but is not restricted to this list:
 - disagreement with a Partnership Board decision, (**except** where there is a statutory procedure for challenging that decision, or an established appeals process followed throughout the sector).
 - dissatisfaction with one of the Partnership Board policies or its impact on the individual
 - Failure to follow the appropriate administrative or decision-making processes in coming to a decision.
8. A complaint is **not**:
 - a routine first-time request made to the Partnership Board
 - a request for compensation only
 - issues that are in court or have already been heard by a court or a tribunal

- 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 concern raised internally by a member of staff (which was not about a service they received, such as a whistleblowing concern)
 - 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 Unacceptable Actions document 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).
9. We will not treat these issues as complaints, and will instead direct citizens 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.
10. If a matter is not a complaint, or not suitable to be handled under the CHP, we will explain this to the citizen, and tell them what (if any) action we will take, and why.

Who can make a complaint?

11. Anyone who receives, requests, or is affected by our services can make a complaint. In this procedure these people are termed 'citizens', regardless of whether they are or were using a service.
12. We also accept complaints from the representative of a person who is dissatisfied with our service.

Supporting the citizen

13. All members of the community have the right to equal access to our complaints procedure. It is important to recognise the barriers that some citizens may face complaining. These may be physical, sensory, communication or language barriers, but can also include their anxieties and concerns. Citizens may need support to overcome these barriers.
14. We have legal duties to make our complaints service accessible under equalities and mental health legislation. 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.
15. Examples of how we will meet our legal duties 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 citizens access independent advocacy (the Scottish Independent Advocacy Alliance website has information about local advocacy organisations throughout Scotland).
16. In addition to our legal duties, we will seek to ensure that we support vulnerable groups in accessing our complaints procedure, including:
- helping citizens 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 citizens and HSCP is significant and ongoing).
17. 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

18. Complaints may be made verbally or in writing, including face-to-face, by phone, letter or email.
19. 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 citizen'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.
20. Complaint issues may also be raised on **digital platforms** (including **social media**).
21. Where a complaint issue is raised via a digital channel, we will explain that we do not take complaints on social media, but we will tell the person how they can complain.
22. 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.
23. We must always be mindful of our data protection obligations when responding to issues online or in a public forum.

Time limit for making complaints

24. The citizen 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).
25. Where a citizen 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 received more than four months after they first knew of the problem).

26. 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 citizen or useful learning for the organisation.
27. 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).

What happens when I have complained?

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

Stage 1: Frontline response

29. 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.
30. We will give you our decision at stage 1 in five working days or less, unless there are exceptional circumstances.
31. 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 received more than four months after they first knew of the problem).
32. 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

33. Stage 2 deals with two types of complaint: where the citizen remains dissatisfied after 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.
34. 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.

35. 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?

36. 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.

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).

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 our final response to your complaint. You can do this online at www.spsso.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.spsso.org.uk/contact-us
Website: www.spsso.org.uk

Particular circumstances

Complaints by (or about) a third party

37. Sometimes a citizen 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 citizen, we must ensure that the citizen has authorised the person to act on their behalf. It is good practice to ensure the citizen 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.
38. The provision of a signed mandate from the citizen will normally be sufficient for us to investigate a complaint. If we consider it is appropriate we can take verbal consent direct from the citizen to deal with a third party and would normally follow up in writing to confirm this.
39. 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.

Serious, high-risk or high-profile complaints

40. 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.
41. 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.

Anonymous complaints

42. 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
43. 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.
44. 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 citizen does not want to complain?

45. If a citizen 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 citizen to submit their complaint and allow us to handle it through the CHP. This will ensure that the citizen is updated on the action taken and gets a response to their complaint.
46. If the citizen 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).

Complaints involving more than one area or organisation

47. If a complaint relates to the actions of two or more areas within our organisation, we will tell the citizen who will take the lead in dealing with the complaint, and explain that they will get only one response covering all issues raised.
48. If a citizen complains to us about the service of another organisation or public service provider, but we have no involvement in the issue, the citizen should be advised to contact the appropriate organisation directly.
49. 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 through the relevant CHP. If we need to contact an outside body about the complaint, we will be mindful of data protection.

Complaints about contracted services

50. 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 meets the standard (including in relation to complaints). We will either do so by:
- ensuring the contractor complies with the relevant CHP; 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 citizen is signposted to the SPSO.
51. 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.
52. HSCPb 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

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
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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 citizen asks the HSCPb to do something (for example, provide a service or deal with a problem), and this is the first time the citizen 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 citizen 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 HSCPb failed to meet expected standards and what we have done to improve things, in general terms.

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 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).

60. 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

61. Managers can 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 against the HSCPb, it must be handled in line with this CHP.

Complaints and compensation claims

62. Where a citizen is seeking financial compensation only, this is not a complaint. However, in some cases the citizen 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

63. Where a citizen says that legal action is being actively pursued, this is not a complaint.
64. Where a citizen 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 handling team and complaints manager 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 relevant CHP.
65. If an issue has been, or is being, considered by a court, we must not consider the same issue under any CHP.

What to do if the Complaints Handling Procedure does not apply

66. 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 citizen 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.
67. Where a citizen 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 document.

Appendices

Appendix B SPSO Key Changes.

Background reading / reference documents

- Public Bodies (Joint Working) (Scotland) Act 2014
- The Scottish Public Services Ombudsman (SPSO) Act 2002 - section 16B(5)
- [Sinclair report \(link is external\)](#)
- [Scottish Public Service Ombudsman Statement of Complaint Handling Principles](#) - approved by Scottish Government
- [Guidance on a Model Complaints Handling Procedure](#).

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