



The Scottish Parliament
Pàrlamaid na h-Alba

The Model Complaints Handling Procedure Scottish Parliamentary Corporate Body (SPCB)

Part 2:

When to use this procedure

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What is a complaint?

1. The SPCB's definition of a complaint is: 'an expression of dissatisfaction by one or more members of the public about the SPCB's action or lack of action, or about the standard of service provided by or on behalf of the SPCB.'
2. For clarity, where an employee, a Member of the Scottish Parliament (MSP) or a member of MSP staff also receives a service from the SPCB 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 the [SPCB's 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

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- a concern raised internally by a member of staff which was not about a service they received (for example, 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
 - 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 appropriately.
 7. We will not treat these issues as complaints, and will instead direct those raising such issues 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 complaint handling procedure (CHP), we will explain this to the person, and tell them what (if any) action we will take, and why. See **What if the CHP does not apply**.

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 customers 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 equalities and mental health legislation. For example:
- the Equality Act 2010 – this gives people with a protected characteristic the right to reasonable adjustments to access our services such as large print or British Sign Language (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 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 BSL users and people who are not fluent in English
 - providing information on how to make a complaint in BSL and in Gaelic, and promoting to the relevant communities that these languages can be used to make complaints
 - providing information on how to make a complaint in a range of formats, including easy read and large print; and
 - advising customers how to access independent advocacy and support to help them understand their rights and communicate their complaints (for example, through [Citizens Advice Scotland](#) or the [Scottish Independent Advocacy Alliance whose 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. Examples of vulnerable groups identified by the SPSO are available **online**. Actions that we may take 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).
15. These examples 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. 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, the person does not need 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**).
19. Where a complaint issue is raised via a digital channel managed and controlled by the SPCB (for example @ScotParl or facebook.com/scottishparliament):
 - 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 event or for technical issues).
20. 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

21. 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).
22. 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).
23. 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.
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 has 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, advisers and MSPs. 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 that the customer understands that 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 not to have capacity to make decisions for themselves.
26. We will accept complaints brought by third parties as long as the complainant has given their personal consent. We will normally look for this to be given in writing or another recorded format such as an audio recording or a BSL video. If we consider it is appropriate, we can take verbal consent direct from the customer to deal with a third party but we 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 serious injury
- involve serious service failure, for example major delays in providing, or repeated failures to provide, a service
- generate significant and ongoing media interest
- pose a serious risk to the SPCB's operations, for example relate to a threat to the security of the building and its users
- present issues of a highly sensitive nature, for example concerning:
 - a particularly vulnerable person, or
 - child 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 an appropriate 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, we should advise them to contact the appropriate organisation direct.

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 SPCB 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:

- facilities at an external venue being used for a Scottish Parliament meeting or event
- arrangements for tickets for a Scottish Parliament event outsourced to an external company
- the services of an interpreter arranged by the SPCB

Complaints about contracted services

41. 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 SPCB'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, we must ensure that the customer is signposted to the SPSO.

42. 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.

43. The SPCB 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

44. 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. These are set out in the [disciplinary procedures and guidance](#).
45. Complaints against senior staff that are taken to the investigation stage will be allocated to the office or group head of the relevant business area in the first instance, unless there is a declared conflict of interest. If that is the case, responsibility for leading the investigation will be allocated to another office or group head or to the Deputy Chief Executive. In the event of a complaint against the Clerk/Chief Executive, a nominated member of the SPCB would undertake any necessary investigation. Where they consider it appropriate, the investigating officer for a complaint may recommend that the Parliament's disciplinary procedures should be invoked.

Complaints and other processes

46. 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

47. If a customer asks the SPCB to do something (for example, provide a service or deal with a problem such as a broken weblink), and this is the first time the customer has contacted us, this would normally be a routine service request and not a complaint.
48. 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

49. 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.
50. 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 SPCB failed to meet the service standards the customer might reasonably expect from us and what we have done to improve things, in general terms.
51. 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)

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- 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 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).

52. The SPSO's report [Making complaints work for everyone](#) has more information on supporting staff who are the subject of complaints.

Contact from MSPs

53. Enquiries from MSPs seeking information about services, policies or procedures will not be processed through the CHP.
54. Complaints that are raised by MSPs on behalf of members of the public will be considered in line with the procedures and timescales of the CHP. Responses to complaints will normally be addressed to the elected member.
55. If further information is required from the member of the public in order to investigate a complaint, SPCB staff will ask the Member to seek explicit consent from the member of the public for staff to liaise direct with the complainant.
56. Appropriate procedures will be adopted on a case-by-case basis if the MSP is fulfilling an advocacy role for a vulnerable member of the public who wishes to make a complaint.

Complaints and compensation claims

57. 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. In such cases, it may be appropriate to extend the timeframes for responding to the complaint, to consider the financial claim first.

Complaints and legal action

58. Where a customer says that legal action is being actively pursued, this is not a complaint.
59. Where a customer indicates that they are thinking about legal action, but have not yet commenced this, you should inform them that, if they take such action, they should notify the complaints handler. You should also explain that the complaints process, in

relation to the matters that will be considered through the legal process, will be closed. Any outstanding complaints, however, must still be addressed through the CHP.

60. 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

61. 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.
62. 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](#).

Appendix 1 – Complaints

The following table gives examples of complaints that may be considered at the frontline stage, and suggests possible actions that may be taken.

Complaint	Possible actions
Rude or unhelpful behaviour	Offer an apology and attempt to deal with the initial request
Poor service or service failure	Offer an apology and explain the remedial steps that can be / have been taken to address the issue raised
Lack of response to contact	Offer an apology and attempt to deal with the initial request
The customer expresses dissatisfaction in line with the definition of a complaint, but says they do not want to complain – they just want to tell us about the matter.	<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.
	<ul style="list-style-type: none">•

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, such as pointing out a spillage that needs to be cleaned up, or asking for a napkin, a headset or a copy of a document in large print. 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.

Please contact [Public Information](#) if you need advice on whether or not the SPCB's CHP is the appropriate route for handling the issue raised.

Example 1: Complaints about policy on or delivery of local services, transport, housing, health care, education, etc

Example 2: Complaints about parliamentary decisions taken by Members of the Scottish Parliament (MSPs) in the Chamber or in a committee, for example, on legislation or matters of policy (These include complaints about SPCB policies that reflect decisions taken by the Parliament.)

Example 3: Complaints about MSPs (These may fall within the scope of the [Code of Conduct for Members](#).)

Example 4: Complaints about Scottish Government Ministers (These may fall within the scope of the [Scottish Ministerial Code](#).)

Example 5: Freedom of information, environmental information or subject access request decisions (Information on how we handle such requests be found on our website.)

This is not a full list and you should decide the best route for resolution based on the individual case.