Procedure for handling complaints about registered care services: draft

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Foreword

The Care Inspectorate is the independent scrutiny and improvement body for care and social work across Scotland. We regulate, inspect and support improvement of care services for the benefit of the people who use them. We aim to ensure that people receive safe, high-quality, compassionate care which meets their needs and promotes their rights.

The Care Inspectorate was established by the Public Services Reform (Scotland) Act 2010. This means we must have a procedure for receiving and investigating complaints, from members of the public or their representatives, about the care services they use. Our procedure must be available even when the service provider has a complaints procedure in place. This document sets out our procedures for handling complaints about care services and it is on our website, www.careinspectorate.com.

People can also make a complaint about us, so we have separate procedures for handling these complaints.

People who use care services, their carers and representatives and, members of the public, have a right to complain about the performance of the services we regulate. We believe that providing a clear and easily accessible complaints procedure is an essential part of our duties as a regulator. It ensures that the interests of people who use care services and their carers are at the heart of all we do.

We make sure that all care services have a clear and easily available complaints procedure as a condition of their registration. We encourage people to raise their concerns with the registered care service in the first instance, if possible. This is because many issues can be addressed directly by the service, within a short period of time. However, anyone may choose to complain directly to the provider or to us, or to both.

We value complaints. They help us to get an accurate picture of the level and quality of services being offered and delivered from the perspective of people using or choosing registered care services. We use this vital source of feedback and learning to help services improve. Complaints can also provide an early warning of more serious problems in a service. By making our complaints procedure easy to access and use, it helps us to identify problems earlier and work with services to make improvements before those problems escalate.

The procedure introduces a standardised approach to handling complaints, which is based upon the Scottish Public Services Ombudsman’s (SPSO’s) guidance on a model complaints handling procedure. A copy of the procedure is available to anyone who requests it.
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What is a complaint?

The Care Inspectorate’s definition of a complaint is:

'an expression of dissatisfaction by one or more members of the public about a registered care service’s action or lack of action, or about the standard of service provided by or on behalf of a registered care service.'

A complaint may relate to:

- inadequate standard of service
- failure to provide a service
- the care service’s failure to follow appropriate administration procedures
- treatment by or conduct of a member of staff.

Appendix 1 provides examples of complaints we may receive, and how these may be handled.

We will not consider a complaint about a care service where the complaint is, for example, about:

- a request for compensation
- issues that are in court or have already been heard by a court or tribunal
- disagreement with a decision where a statutory right of appeal exists
- an attempt to reopen a previously concluded complaint or to have a complaint reconsidered where we have already given our final decision
- about a staff contractual matter
- about social work.

If the complaint matter is not part of our remit or is better dealt with by another organisation, we will advise you of this and tell you how you can get in touch with the relevant organisation.

If we refer the complaint to another body, such as a local authority social work department or the Police, we will keep a record of this and work closely with them where appropriate. However, we will not be responsible for actions that the other body takes.

We cannot comment on, resolve or investigate complaints about policies and regulations set by Scottish Government. If an individual has a complaint about a policy set by Scottish Government they should contact them directly. Their website is: www.scotland.gov.uk.

Appendix 2 provides examples of what is not a complaint.

If we do not accept a complaint then the reasoning for this should be explained and the complainant directed to the SPSO.
Handling anonymous complaints

We value all complaints. This means we treat all complaints, including anonymous complaints, seriously 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. If, however, an anonymous complaint does not provide enough information to enable us to take further action, we may decide not to pursue it further.

Where at all possible, we will respect your wishes if you identify yourself to us but ask for your identity to remain anonymous to the service provider throughout the investigation. However there will be exceptions to this. For example, where it appears that a criminal offence may have been committed we will pass any relevant information to the police to investigate. If this is the case, we would tell you about this.

If we pursue an anonymous complaint further, we will record the issues as an anonymous complaint on the complaints system. This will help to ensure the completeness of the complaints data we record and allow us to take corrective action where appropriate.

What if the individual raising a concern does not want to complain?

If someone has expressed dissatisfaction in line with our definition of a complaint but does not want to complain, we tell them that we consider all expressions of dissatisfaction, and that complaints offer us the opportunity to improve care services especially where things have gone wrong. We would encourage the person to submit their complaint either to the care provider or to us and allow us to deal with it through the complaints handling procedure. This will ensure that the person raising the concern is updated on the action taken and gets a response regarding this.

If, however, the person insists they do not wish to complain, we will record the issue as an anonymous complaint if we consider it is a matter that requires to be addressed in terms of our complaints procedure. Either way, expressions of concern or dissatisfaction will be recorded as appropriate. This will ensure that the person’s details are not recorded on the complaints database and that they receive no further contact about the matter. It will also help to ensure the completeness of the complaints data recorded and will still allow us to fully consider the matter and take action where appropriate. It may be that the matters raised can be followed up by us through the inspection process.

Please refer to the example in Appendix 1 for further guidance

Who can make a complaint?

Anyone can make a complaint about a care service. Sometimes an individual may be unable or reluctant to make a complaint on their own. We will accept complaints brought by third parties as long as we know the individual has given their personal consent or the third party is acting as a personal advocate, guardian or attorney.
Complaints involving more than one service or organisation

If a complaint relates to the action of two or more registered care services we will address these separately and give you separate responses regarding any investigation we carry out of each service.

If the complaint involves another service or agency which is not registered with the Care Inspectorate, we will advise you to contact the appropriate organisation directly. If we need to make enquiries in relation to a complaint to a service not registered with the Care Inspectorate we will take account of confidentiality, data protection legislation and codes of practice.

Working with other regulatory and public bodies

The Care Inspectorate works with a number of other regulatory bodies, including:
• Scottish Social Services Council (SSSC)
• Nursing & Midwifery Council (NMC)
• Education Scotland (formerly HM Inspectorate of Education)
• Health and Safety Executive
• Healthcare Improvement Scotland (HIS)
• Local authorities
• Police
• Scottish Housing Regulator
• Registrar of Independent Schools
• Fire and Rescue Services
• Mental Welfare Commission for Scotland and
• Scottish Public Services Ombudsman (SPSO)

We are developing formal working agreements with each of these organisations to share appropriate information on matters of joint interest, such as complaints. Although some other organisations may have an interest in complaints concerning registered care services, such as the NHS and local authorities, we have primary responsibility on all matters relating to investigating complaints which are covered by the provisions of the Public Services Reform (Scotland) Act 2010, regulations made under that Act and the National Care Standards appropriate to that care service.

Where you raise matters that are suitable for, or require, joint working, we will let both you and the care provider know about this and keep you informed. Where you raise matters about the competency of staff that must be registered with a professional body, we may redirect you to the appropriate professional regulatory body.

Where we consider that our role in an investigation is secondary, for example when the police or another regulatory or statutory body is investigating a matter, we may wait for their findings before deciding what action to take. However, where we are concerned that other people using a care service are being affected, we can agree with the other body what we can do to protect the interests of people using care services. If we do suspend an investigation we will inform you (the complainant) of the reasons why and will advise how long the suspension may continue.
We will notify all other relevant bodies immediately when we receive a complaint that concerns any of the following.

- Allegations of abuse of service users.
- Conduct which may be a criminal offence.
- Serious malpractice.
- Circumstances that indicate a present or potential risk of harm to either adults or children.

We will also tell these authorities the action we propose to take or that we have already taken.

The complaints handling process

The Care Inspectorate aims to provide a quick, simple and streamlined process for resolving complaints early by capable well-trained staff.

The complaints handling procedure sets a time limit of six months from when the complainant first knew of the problem, within which time they may ask us to consider the complaint, unless there are special circumstances for considering complaints beyond this time.

Our complaints process involves three stages:

- frontline resolution
- investigation
- review.
The complaints handling procedure

**Frontline Resolution**

For issues that are straightforward and easily resolved, requiring little or no investigation.

'On the spot' explanation, or other action to resolve the complaint quickly, in five working days or less, unless there are exceptional circumstances.

Complaints will be addressed by any member of Care Inspectorate staff, or passed to a manager to allocate an appropriate member of staff to deal with the complaint through frontline resolution. In either case the Care Inspectorate manager is always informed.

Complaint details, outcome and action taken are recorded and taken into account during future regulation, with a view to care service improvement.

**Investigation**

For issues that have not been resolved at the frontline stage, or that are complex or serious.

A definitive response within 40 working days following a thorough investigation of the points raised and agreed with the complainant.

Responses agreed with the Care Inspectorate manager.

We have an active interest in complaints and use the information we gather to effect improvement of the care service.

**Independent Internal Review**

Where a complainant is not satisfied with the way we arrived at the outcome of a complaint.

Complainant can ask for a review within 3 weeks of receiving the resolution outcome letter.

Managers who are independent of the original complaint will review the grounds for review and provide a response within 20 working days of agreeing the basis for the review.

If the complainant is still not satisfied we will advise them to go to the Scottish Public Services Ombudsman (SPSO).

For clarity, the term 'frontline resolution' refers to the first stage of the complaints process. It does not reflect any job description within the Care Inspectorate but means seeking to resolve complaints at the initial point of contact where possible.
Stage one: frontline resolution

We will encourage you to raise your complaint with the care service in the first instance. All registered providers must have a complaints procedure in place and record any complaint made by a person using, accessing or visiting a care service.

Where you are happy to raise the matter directly with the care provider, we may not investigate matters further at this time unless you advise us that your complaint has not been resolved satisfactorily. We will none the less, record the detail of your contact with us.

Where appropriate we may agree to contact a care service on your behalf and ask them to engage in frontline resolution with you. In which case we would ask them to give us a written account of the action taken and of your satisfaction with the outcome of this.

Appendix 1 gives examples of types of complaint we may consider at this stage.

Frontline resolution aims to quickly resolve straightforward complaints that require little or no investigation. Any member of staff may deal with complaints at this stage.

The main principle is to seek early resolution, resolving complaints at the earliest opportunity and as close to the point of where the issue occurred as possible. This may mean an appropriate member of Care Inspectorate staff having a discussion with the complainant or asking an appropriate member of staff from the care service to deal directly with the complainant.

Appendix 1 gives examples of the types of complaint we may consider at this stage, with suggestions on how to resolve them.

In practice, frontline resolution means resolving the complaint at the first point of contact with the person raising the concern, either by the member of staff receiving the complaint or other identified staff.

Where appropriate we may settle the complaint by seeking the care service concerned to provide an on-the-spot apology, or explaining why the issue occurred and, where relevant, what they will do to stop this happening again.

A complaint can be made in writing, in person, by telephone, by email or online, or by having someone complain on the individual’s behalf. We will always consider frontline resolution, regardless of how we have received the complaint.

What happens when we receive a complaint

1. On receiving a complaint, we will first decide whether the issue can indeed be defined as a complaint. The complainant may express dissatisfaction about more than one issue. This may mean we treat one issue as a complaint, while directing the complainant to pursue another issue through an alternative route.

2. When we have received and identified a complaint, we will record the details on our complaints system.
3. It will be decided whether or not the complaint is suitable for frontline resolution. Some complaints will need to be fully investigated before we can give the complainant a suitable response. We will escalate these complaints immediately to the investigation stage.

4. Where we think frontline resolution is appropriate, we will consider four key questions:
   - what exactly is the person’s complaint (or complaints)?
   - what does the person want to achieve by complaining?
   - can we achieve this, or explain why not?
   - if the member of staff receiving the complaint cannot resolve this, who can help with frontline resolution?

<table>
<thead>
<tr>
<th>What exactly is the person’s complaint (or complaints)?</th>
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</thead>
<tbody>
<tr>
<td>It is important to be clear about exactly what the person is complaining. We may need to ask the complainant supplementary questions to get a full picture. This may be carried out by the National Enquiry Line duty inspector in the first instance, or by an appropriate manager.</td>
</tr>
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<tr>
<th>What does the person want to achieve by complaining?</th>
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<tbody>
<tr>
<td>At the outset, we will clarify the outcome the complainant wants. The complainant may not be clear about this, so we may need to probe further to find out what they expect and whether they can be satisfied.</td>
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<table>
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<tr>
<th>Can we achieve this, or explain why not?</th>
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</thead>
<tbody>
<tr>
<td>If we can achieve the expected outcome by the provision of an explanation by the Service Provider we will endeavor to facilitate this.</td>
</tr>
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</table>

The complainant may expect more than we can provide. If the complainant’s expectations appear to exceed what the Care Inspectorate can reasonably provide, we will tell them as soon as possible in order to manage expectations about possible outcomes.

We are likely to have to convey the decision face to face or on the telephone. If we do so face to face, by telephone or by email, we may not write to the complainant as well, although we may choose to do so. We will, however, keep a full and accurate record of the decision reached and passed to the complainant.

<table>
<thead>
<tr>
<th>If I can’t resolve this, who can help with frontline resolution?</th>
</tr>
</thead>
<tbody>
<tr>
<td>If the member of staff receiving the complaint cannot deal with the complaint because, for example, they are unfamiliar with the issues or area of service involved they will pass details of the complaint to the National Enquiry Line Duty Inspector. Where appropriate the involvement of an empowered member of staff from the care service may bring about resolution.</td>
</tr>
</tbody>
</table>
**Timelines**

Frontline resolution will be completed within five working days, although in practice we would often expect to resolve the complaint much sooner.

We may need to get more information from the care service involved and other Care Inspectorate staff to resolve the complaint at this stage. However we will respond to the complainant within five working days, either resolving the matter or explaining that the Care Inspectorate will investigate their complaint.

**Extension to the timeline**

In exceptional circumstances, where there are clear and justifiable reasons for doing so, we will agree an extension of no more than five working days with the complainant for the frontline resolution stage. This will only happen when an extension will make it more likely that the complaint will be resolved at the frontline resolution stage.

An extension will be authorised by an appropriate manager, who will decide whether an extension is needed to effectively resolve the complaint. An example of when this may be appropriate includes staff being temporarily unavailable. If, however, the issues are so complex that they cannot be resolved in five days, it may be more appropriate to escalate the complaint straight to the investigation stage. We will tell the complainant about the reasons for the delay, and when they can expect our response.

If the complainant does not agree to an extension but it is unavoidable and reasonable, an appropriate manager must decide on the extension. We will then tell the complainant about the delay and explain the reason for the decision to grant the extension.

The timeline at the frontline resolution stage will be extended only rarely. All attempts to resolve the complaint at this stage must take no longer than ten working days from the date we receive the complaint.

The proportion of complaints that exceed the five-day limit will be evident from reported statistics. These statistics will go to our senior management team on a quarterly basis.

Appendix 3 provides further information on timelines.

**Mediation**

Some complex complaints, or complaints where those involved and other interested parties have become entrenched in their position, may require a different approach to resolving the complaint. Where appropriate, we may consider using services such as mediation or conciliation using suitably trained and qualified mediators to try to resolve the matter and to reduce the risk of the complaint escalating further.

Mediation will help both parties to understand what has caused the complaint, and so is more likely to lead to mutually satisfactory solutions.

If the Care Inspectorate and the complainant agree to mediation, revised timescales will need to be agreed.
Closing the complaint at the frontline resolution stage

When we have verbally informed the complainant of the outcome we may write to them informing them of the outcome. We will ensure that our response to the complaint addresses all areas that we are responsible for and explains the reasons for our decision. It is also important to keep a full and accurate record of the decision reached and given to the complainant. The complaint should then be closed and the complaints system updated accordingly.

When to escalate to the investigation stage

We will escalate a complaint to the investigation stage when:

- we have tried frontline resolution but the complainant remains dissatisfied and requests an investigation; this may happen immediately when we communicate the decision at the end of stage 1, or some time later
- the complainant refuses to take part in frontline resolution
- the issues raised are complex and require detailed investigation
- the complaint relates to serious, high-risk or high-profile issues.

When a previously closed complaint is escalated from the frontline resolution stage, the complaint should be reopened on the complaints system.

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. Potential high-risk or high-profile complaints can be defined as those that may:

- involve serious care service failure. For example major delays in providing, or repeated failures to provide a service
- generate significant and on-going media interest
- pose a serious risk to public confidence or reputation of the care service
- pose a serious risk to a care service’s operations
- present issues of a highly sensitive nature, for example: concerning the practice of an individual staff member; a particularly vulnerable person; child or adult protection.

Stage two: investigation

Not all complaints are suitable for frontline resolution. These complaints may already have been considered at the frontline resolution stage, or they may have been identified from the start as needing immediate investigation.

An investigation aims to establish all the facts relevant to the points made in the complaint and to give the complainant a full, objective and proportionate response that represents our final position.

What happens when we receive a complaint for investigation?

It is important to be clear from the start of the investigation stage exactly what we are investigating, and to ensure that both the complainant and the Care Inspectorate understand the scope of the investigation.
In asking us to consider your complaint, you accept the way in which we work and our authority to frame the wording of your concerns in a way that allows us to investigate your complaint. We will discuss with you the wording of the complaint that we will make enquiries about. This needs to be clear, and in exceptional cases where we cannot reach agreement about wording, we will have the final say.

It may be helpful to discuss and confirm these points with the complainant at the outset, to establish why they are dissatisfied and whether the outcome they are looking for is realistic. In discussing the complaint, three key questions will be considered:

- what specifically is the complaint or complaints?
- what does the person want to achieve by making a complaint?
- are the complainant’s expectations realistic and achievable?

It may be that the complainant expects more than we can provide. For example, we may be limited in the information we provide about confidential or staff disciplinary matters. If so, we will make this clear to them as soon as possible.

We will also try and clarify any additional information we will need to investigate the complaint. The complainant may need to provide more evidence to help us reach a decision.

Details of the complaint will be recorded on the system for recording complaints. Where appropriate, this will be done as a continuation of frontline resolution. The details will be updated when the investigation ends.

If the investigation stage follows attempted frontline resolution, we will hand over all case notes and associated information to the member of staff responsible for the investigation, and record that this has been done.

**Timelines**

The following timescales will apply to cases at the investigation stage:

- we will acknowledge complaints within three working days
- we will aim to provide a full response to the complainant as soon as possible but not later than 40 working days from the time we have agreed the complaint for investigation (i.e. at stage 2).

**Extension to the timeline**

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 40-day limit. However, these are the exception and we will always try to deliver a final response to a complaint within 40 working days.

If there are clear and justifiable reasons for extending the timescale, management will set time limits on any extended investigation, with the agreement of the complainant. We will keep the complainant updated on the reason for the delay and give them a revised timescale for completion. If the complainant does not agree to an extension but it is unavoidable and reasonable, then management will consider and confirm the extension. The reasons for an extension might include the following:
• essential records or statements, crucial to establishing the circumstances of the case, are needed from staff or others but they cannot help because of long-term sickness or leave
• we cannot obtain further essential information within normal timescales
• operations are disrupted by unforeseen or unavoidable operational circumstances, for example industrial action or severe weather conditions.

These are only a few examples. The matter will be judged in relation to each complaint. The Care Inspectorate will always try to deliver a final response to the complaint within 40 working days.

As with complaints considered at the frontline resolution stage, the proportion of complaints that exceed the 40-day limit will be evident from reported statistics. These statistics will go to our senior management team on a quarterly basis.

Appendix 3 provides further information on timelines.

Closing the complaint at the investigation stage

We will let the complainant know the outcome of the investigation, in writing or by their preferred method of contact. Our response to the complaint will address all areas that we are responsible for and explain the reasons for our decision. We will record the decision, and details of how it was communicated to the complainant, on our system for recording complaints. We will also make clear to the complainant:

• the basis on which they can seek a review
• the time limit for doing so.

Outcomes

There are two possible outcomes of complaints investigations.

Upheld - used where the facts giving rise to an allegation have been established in investigation. Where we have upheld a complaint, any action we take will be based on the professional judgment of Care Inspectorate staff. The action may be determined by the seriousness of what we found during our investigation and the impact on people using the service. We will inform both you (the complainant) and the care service provider of any requirements or recommendations we have made of the care service.

We will require that the service provider submits an action plan to the Care Inspectorate to demonstrate how and when the service will improve. We may also re-grade a service following a complaint. We may also serve a formal improvement notice under Section 62 of the Act, which if not acted upon, could result in us cancelling the service’s registration.

Not Upheld - used where the facts giving rise to an allegation have not been established in the investigation.

Where we have upheld a complaint, and it is appropriate to do so, we will inform the complainant what we have done or intend to do to make any recommended improvements.
Stage three: review

Our complaints process is underpinned by natural justice. When investigating a complaint, we seek to come to a final decision in the matter but we have established a process for you to ask us to review our decisions if you believe we have made a mistake.

We will work with you and those you have complained about to make sure the facts of your complaint are accurate. However, it is for us to interpret the facts and the available evidence and come to a judgment. The grounds on which you can ask us to review our decision on your case are limited. We will not accept a request for a review on the basis that you simply disagree with the outcome of your case.

Before asking for a Review

You can ask for a review if you consider that:

• we made our decision based on important evidence that contained facts that were not accurate, and you can show this using readily available information
• you have new and relevant information that was not previously available about the complaint we investigated and which affects the decision we made

If you are sending us ‘new and relevant information, please tell us if the body you complained about has been given the opportunity to consider the information and if possible, please include the organisation’s updated response to that.

If the new information you have changes the focus of the complaint we investigated or introduces a new part to the complaint, we may need to start a new investigation.

How to ask for a review

You should use a ‘review request' form. We can send you a copy if you call us on 0845 600 9527, or you can download it from the complaints section at www.careinspectorte.com

You should write to the Care Inspectorate within three weeks of the date of our letter to you explaining the outcome our investigation into your complaint. The Care Inspectorate will write to confirm we have received your review request form and paperwork within 5 working days of receiving it, and inform you if your request is eligible for a review based on the above grounds. If eligible for review, your concerns will be considered by managers who are independent of your original complaint.

We aim to provide a full response within 20 working days of examining your request for a review. We will let you know whether we will uphold our original decision, reopen your complaint or overturn the original outcome.
Independent external review

If you are still not satisfied, and want to challenge our decision again, you can contact the Scottish Public Services Ombudsman (SPSO).

The SPSO considers complaints from people who remain dissatisfied at the conclusion of our complaints procedure. The SPSO looks at issues such as service failures and maladministration (administrative fault), as well as the way we have handled the complaint.

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### 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 Scottish Government, NDPBs, agencies and other government sponsored organisations. If you remain dissatisfied with an organisation after its complaints process, you can ask the SPSO to look at your complaint.

The SPSO cannot normally look at complaints:

- where you have not gone all the way through the organisation's complaints handling procedure
- more than 12 months after you became aware of the matter you want to complain about, or
- that have been or are being considered in court.

The SPSO's contact details are:

SPSO
4 Melville Street
Edinburgh
EH3 7NS

SPSO
Freepost EH641
Edinburgh
EH3 0BR

Freephone: 0800 377 7330
Online contact: [www.sps.org.uk/contact-us](http://www.sps.org.uk/contact-us)
Website: [www.sps.org.uk](http://www.sps.org.uk)
Mobile site: [http://m.sps.org.uk](http://m.sps.org.uk)
Recording, reporting, learning and publicising

Complaints provide us with valuable feedback. One of the aims of the complaints handling procedure is to identify opportunities to improve care services. We will record all complaints in a systematic way so that we can use the complaints data for analysis and management reporting. By recording and using complaints information in this way, we can identify and address the causes of complaints and, where appropriate, identify training opportunities and introduce improvements.

Recording complaints

We have structured systems for recording complaints, their outcomes and any resulting action. Our records will include:

- the complainant’s name and address
- the date the complaint was received
- the nature of the complaint
- how the complaint was received
- the issue the complaint refers to
- the date the complaint was closed at the front line resolution stage (where appropriate)
- the date the complaint was escalated to the investigation stage (where appropriate)
- action taken at the investigation stage (where appropriate)
- the date the complaint was closed at the investigation stage (where appropriate)
- the outcome of the complaint at each stage
- the underlying cause of the complaint and any action for improvement recommended or required of the care service.

Reporting of complaints

Complaints are analysed for trend information to ensure we identify care service failures and take appropriate action. Regularly reporting the analysis of complaints information helps to inform management of where care services need to improve.

We publish the outcome of complaints on a quarterly basis and the actions we have required or recommended in response. This demonstrates the improvements resulting from complaints and shows that complaints can influence care service delivery. It should also help to ensure transparency in our complaints handling service and will help to inform people that we value their complaints.

We will:

- publicise on a quarterly basis complaints outcomes, trends and actions taken
- use case studies and examples to demonstrate how complaints have improved care services.

This information will be reported regularly (and at least quarterly) to our senior management team.
Learning from complaints

At the earliest opportunity after the closure of the complaint, the complaint investigator should always make sure that the complainant and the provider of the care service involved understand the findings of the investigation and any expected actions.

As a minimum, we will:

- use complaints data to identify the root cause of complaints
- ensure action is taken by the care provider to reduce the risk of recurrence
- record the details of corrective action in the complaints file.

Publicising complaints performance information

We also report on our performance in handling complaints annually in line with SPSO requirements. This includes performance statistics showing the volumes and types of complaints and key performance details, for example on the time taken and the stage at which complaints were resolved.

Maintaining confidentiality

Confidentiality is important in complaints handling. It includes maintaining the complainant's confidentiality and explaining to them the importance of confidentiality generally. We must always bear in mind legal requirements, for example, data protection legislation, as well as internal policies on confidentiality and the use of complainants' information.

Managing unacceptable behaviour

People may act out of character in times of trouble or distress. The circumstances leading to a complaint may result in the complainant acting in an unacceptable way. Complainants who have a history of challenging or inappropriate behaviour, or have difficulty expressing themselves, may still have a legitimate grievance.

A complainant's reasons for complaining may contribute to the way in which they present their complaint. Regardless of this, we must treat all complaints seriously and properly assess them. However, we also recognise that the actions of complainants who are angry, demanding or persistent may result in unreasonable demands on time and resources or unacceptable behaviour towards our staff. We will, therefore, apply our policies and procedures to protect staff from unacceptable behaviour such as unreasonable persistence, threats or offensive behaviour from complainants. Where we decide to restrict access to a complainant under the terms of an unacceptable actions policy, we have a procedure in place to communicate that decision, notify the complainant of a right of appeal, and review any decision to restrict contact with us. This will allow the complainant to demonstrate a more reasonable approach later.
Supporting the complainant

Everyone has the right to equal access to our complaints handling procedure. Complainants who do not have English as a first language may need help with interpretation and translation services, and other complainants may have specific needs that we will seek to address to ensure easy access to the complaints handling procedure.

We must always take into account our commitment and responsibilities to equality. This includes making reasonable adjustments to help the complainant where appropriate.

Several support and advocacy groups are available to support complainants in pursuing a complaint and complainants will be signposted to these as appropriate.

More information about advocacy services can be found at:

Scottish Independent Advocacy Alliance
Melrose House
Edinburgh
EH2 2JG
Website: www.siss.org.uk
Tel:0131 260 5380
Fax: 0131 260 5381

Time limit for making complaints

You should make a complaint as soon as soon as you are aware of an issue or concern. This should help reach a quick resolution. However, we recognise that this is not always possible, so we will consider complaints up to six months after the cause of the complaint has happened.

We will not investigate complaints about events that are more than six months old, except in exceptional circumstances. Anyone asking us to investigate a matter more than six months old will need to clearly explain their reasons for not raising this with us within the six month timescale.

The passage of time may prevent us holding a full and fair investigation. Even where you have given good reason for not raising matters sooner, we still have to consider the practicality of investigating long past incidents and providing a meaningful outcome before we agree to investigate. Because of this we reserve the right to refuse to investigate after six months.
**Appendix 1: complaints**

Below are specific examples of complaints that we may receive, and how these may be handled.

<table>
<thead>
<tr>
<th>Complaint</th>
<th>Possible actions to achieve resolution</th>
</tr>
</thead>
</table>
| Complaint that there was no heating in the care home that day and service users were very cold | Care Inspectorate may contact care home directly and resolve the matter with manager  
Complainant informed of outcome  
This would be addressed through the frontline resolution stage |
| Complaint that the quality of food provided to a person living in a care home was poor and about how a relative was supported to have their meals | We would carry out an unannounced visit to the home to investigate the matter. Evidence might come from discussion with people living in the care home and their relatives, interviews with staff, examination of records and observation of staff practice. We may consult with a professional advisor for nutrition. |
| Complaint that there was inadequate access to appropriate learning and play for a child in a nursery | This could be investigated by carrying out an unannounced visit to the nursery or could be examined through the inspection process. |
| Complaint that there were not enough staff present in the care home to meet the needs of the people living in the care home | This could be investigated by carrying out an unannounced visit to observe practice, examine records and speak with staff or could be examined through the inspection process. |
| A concern about unexplained bruising suffered by a service user             | This would be referred to social work in the first instance under Adult Support & Protection, or Child Protection |
| An allegation of assault                                                   | This would be referred to the police |
| You express dissatisfaction in line with the definition of a complaint, but say you do not want to complain – just want to tell us about the matter. | • We tell you that we value complaints because they help to improve services. We would encourage you to submit the complaint.  
• In terms of improving service delivery and learning from mistakes, it is important that your feedback, such as this, is recorded, evaluated and acted upon. Therefore, if you still insist that you do not want to complain, we may record the matter as an anonymous complaint anyway. |
Appendix 2: what is not a complaint?

A concern may not necessarily be a complaint. It is not possible to detail an exhaustive list but here are some examples,

Example 1: A complaint following the death of a person in a care home, where the complainant wants to establish whether poor service provision had been a causal factor in the death. We could not investigate this as a doctor is responsible for determining the cause of death. In such circumstances we would be restricted to investigating any complaint about the standards of care delivered but would not include an opinion on the extent to which this may have been implicated in the death of the resident.

Example 2: A complaint about an individual employee’s employment contract with a care service. We will however investigate complaints which relate to employment procedures and practices, for example recruitment and training.

Example 3: Child and adult protection issues – these will be referred to the relevant local authority and/or the Police.

Example 4: Pricing policy of a care service provider

Example 5: A complaint about social work as the responsibility for assessing individual needs will remain with local authorities. All local authorities are required to have procedures in place to respond to any complaints about how they carry out, or fail to carry out, their social work duties. If the individual or their representative remains dissatisfied with the outcome they can request that the public sector ombudsman investigate. We cannot, therefore, respond to complaints about the quality or nature of individual assessments or decisions about the level or type of provision arising from these assessments.
Appendix 3: timelines

References to timelines throughout the complaints handling procedure relate to working days. When measuring performance against the required timelines, we do not count non-working days, for example weekends, public holidays and days of industrial action where our service has been interrupted.

Timelines at frontline resolution

We will aim to achieve frontline resolution within five working days. The day we receive the complaint is day 1. Where we receive it on a non-working day, for example at the weekend or on a public holiday, day 1 will be the next working day.

<table>
<thead>
<tr>
<th>Day 1</th>
<th>Day 2</th>
<th>Day 3</th>
<th>Day 4</th>
<th>Day 5</th>
</tr>
</thead>
</table>

**Day 1:**
Day we receive the complaint, or next working date if date of receipt is a non-working day.

**Day 5:**
Frontline resolution achieved or complaint escalated to the investigation stage.

Extension to the five-day timeline

If we have extended the timeline at the frontline resolution stage in line with the procedure, the revised timetable for the response must take no longer than 10 working days from the date of receiving the complaint.

<table>
<thead>
<tr>
<th>Day 1</th>
<th>Day 2</th>
<th>Day 3</th>
<th>Day 4</th>
<th>Day 5</th>
<th>Day 6</th>
<th>Day 7</th>
<th>Day 8</th>
<th>Day 9</th>
<th>Day 10</th>
</tr>
</thead>
</table>

**Day 1:**
Day we receive the complaint, or next working date if date of receipt is a non-working day.

**In a few cases where it is clearly essential to achieve early resolution,** we may authorise an extension within five working days from when the complaint was received. We must conclude the frontline resolution stage within 10 working days from the date of receipt, either by resolving the complaint or by escalating it to the investigation stage.

**Day 10:**
Frontline resolution achieved or complaint escalated to the investigation stage.
Transferring cases from frontline resolution to investigation

If it is clear that frontline resolution has not resolved the matter, or 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

We may consider a complaint at the investigation stage either:

• after attempted frontline resolution, or
• immediately on receipt if we believe the matter to be sufficiently complex, serious or appropriate to merit a full investigation from the outset.

Acknowledgement

All complaints considered at the investigation stage will be acknowledged within three working days of receipt. The date of receipt is:

• the day the case is transferred from the frontline resolution stage to the investigation stage, where it is clear that the case requires investigation, or
• the day the complainant asks for an investigation after a decision at the frontline resolution stage, noting that a complainant may not choose to ask for an investigation immediately after attempts at informal resolution, or
• the date we receive the complaint, if we think it sufficiently complex, serious or appropriate to merit a full investigation from the outset.

Investigation

We aim to respond in full to the complaint within 40 working days of agreeing the heads of complaint with the complainant.

The 40-working day limit allows time for a thorough, proportionate and consistent investigation to arrive at a decision that is objective, evidence-based and fair. This means we have 40 working days to investigate the complaint, regardless of any time taken to consider it at the frontline resolution stage.

<table>
<thead>
<tr>
<th>Day 1</th>
<th>Day 15</th>
<th>Day 30</th>
<th>Day 35</th>
<th>Day 40</th>
</tr>
</thead>
</table>

Day 1:

Day complaint received at investigation stage, or next working day if date of receipt is a non-working day. Acknowledgement issued within three working days.

Day 40:

The organisation’s decision issued to complainant or agreement reached with complainant to extend deadline.
Exceptionally we may need longer than the 40-day limit for a full response. If so, the reasons must be explained to the complainant, and a revised timescale agreed with them.

<table>
<thead>
<tr>
<th>Day 1</th>
<th>Day 5</th>
<th>Day 10</th>
<th>Day 15</th>
<th>Day 40+</th>
</tr>
</thead>
</table>

**Day 1:**
Day complaint received at investigation stage, or next working day if date of receipt is a non-working day. Acknowledgement issued within three working days.

**By Day 40:**
In agreement with the complainant where possible, decide a revised timescale for bringing the investigation to a conclusion.

**By agreed date:**
Issue our final decision on the complaint.
**Timeline examples**

The following illustration provides examples of the point at which we conclude our consideration of a complaint. It is intended to show the different stages and times at which a complaint may be resolved. The circumstances of each complaint are explained below.

<table>
<thead>
<tr>
<th>Day 1</th>
<th>Day 15</th>
<th>Day 20</th>
<th>Day 40+</th>
</tr>
</thead>
<tbody>
<tr>
<td>Complaint 1</td>
<td>Complaint 2</td>
<td>Complaint 3</td>
<td>Complaint 4</td>
</tr>
<tr>
<td>Complaint 5</td>
<td>Complaint 6</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Complaint 1**
Complaint 1 is a straightforward issue that may be resolved by an on-the-spot explanation and, where appropriate, an apology. Such a complaint can be resolved on day 1.

**Complaint 2**
Complaint 2 is also a straightforward matter requiring little or no investigation. In this example, resolution is reached at day three of the frontline resolution stage.

**Complaint 3**
Complaint 3 refers to a complaint that we considered appropriate for frontline resolution. We did not resolve it in the required timeline of five working days. However, we authorised an extension on a clear and demonstrable expectation that the complaint would be satisfactorily resolved within a further five days. We resolved the complaint at the frontline resolution stage in a total of eight days.

**Complaint 4**
Complaint 4 was suitably complex or serious enough to pass to the investigation stage from the outset. We did not try frontline resolution; rather we investigated the case immediately. We issued a final decision to the customer within the 40-day limit.

**Complaint 5**
We considered complaint 5 at the frontline resolution stage, where an extension of five days was authorised. At the end of the frontline stage the complainant was still dissatisfied. At their request, we conducted an investigation and issued our final response within 40 working days. Although the end-to-end timeline was 50 working days we still met the combined time targets for frontline resolution and investigation.

**Complaint 6**
Complaint 6 was considered at both the frontline resolution stage and the investigation stage. We did not complete the investigation within the 40-day limit, so we agreed a revised timescale with the complainant for concluding the investigation beyond the 40-day limit.
Appendix 4: the complaints handling procedure

Stage 1 – Frontline
A complaint may be made in person, by phone by email or in writing.
Our first consideration is whether the complaint should be dealt with at stage 1.

Stage 1 – frontline resolution
We will always try to resolve the complaint.
Provide an outcome/decision on the complaint within five working days unless there are exceptional circumstances.

Is the complainant satisfied with the decision?

No

Monthly or quarterly
• ensure ALL complaints are recorded
• report performance, analyse outcomes
• make changes to service delivery where appropriate
• publicise complaints performance externally
• tell public about service

Yes

Complaint closed and outcome recorded.

Stage 2 – investigation
1. Investigate where the complainant is still dissatisfied after we have communicated our decision at stage 1. Send acknowledgement within three working days.

Provide the decision as soon as possible but within 40 working days of the heads of complaint being agreed. Unless there is a clear reason for extending this timescale.

Is the complainant satisfied with our decision and with the way we have handled the complaint?

No

Complaint closed and outcome recorded.

Yes

Possible review
Appendix 5: contact details for the Care Inspectorate

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Other languages and formats
This publication is available in other formats and other languages on request.

Tha am foillseachadh seo ri fhaighinn ann an cruthannan is câinain eile ma
nithearr iarrtas.

অনুরোধসেক্ষে এই প্রকাশনাটি অন্য ফর্ম এবং অন্যান্য ভাষায় পাওয়া যায়।

پی ایشنیئٹ دو روست کرن ڈاک، جدو گیلر پانش اور گیلر پاؤن ش میں فرام کی جا کر ہے۔

चेतनी ‘डे हिल पूजपर होंट दुर्घट नहे हेतवं अभ्यास हिंदी सिंगलथय है।

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