

Procedure for Handling Complaints

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1. Introduction

The Care Inspectorate is the official body responsible for inspecting standards of care in Scotland. We regulate and inspect care services to make sure they meet the right standards. We also carry out joint inspections with other regulators to check how well different services in local areas are working to support adults and children. We help ensure social work, including criminal justice social work, meets high standards. Everyone is entitled to safe, high quality, compassionate care that meets their needs.

The Care Inspectorate is governed by law (The Public Services Reform (Scotland) Act 2010). This means we must have a procedure for receiving and investigating complaints, from people who use care services, their carers and representatives and members of the public, about the care services they use. Our procedure must be available even when the service provider has a complaints procedure in place. People can also make a complaint about us, so we have separate procedures for handling these complaints. We have developed this procedure taking into account the Scottish Public Services Ombudsman (SPSO) 'Guidance on a Model Complaints Handling Procedure'. Appendix D at the back of this document gives more detail on how the Act describes our duties to do with complaints and the SPSO guidance

This procedure covers complaints that people wish to make about the care services we regulate. The procedure for complaints that people wish to make about the Care Inspectorate itself is available on our website, www.careinspectorate.com

2. Purpose of the Care Inspectorate complaints policy

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 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 make improvements before those problems escalate.

2.1 Principles

We take complaints very seriously and are committed to handling them in a professional way. Our complaints handling procedure follows these principles.

Focused on people who use or have an interest in care services

- Puts the complainant at the heart of our complaint handling process.
- Listens to, respects and treats complainants with dignity.
- Ensures complainants feel supported in bringing a complaint to us.
- Observes complainant confidentiality where appropriate.
- Tries to resolve complaints as close to the point of complaint as possible.

Easy to find and use

- Easily understood and available to all
- Well publicised
- Designed to support the needs of minority and vulnerable groups
- Supported by easy read leaflets.

Simple and timely

- Has as few stages as possible and supports complaints being completed, where possible, within 40 working days of agreeing the matters for complaint.
- Where timescales cannot be met for good reason, we will keep complainants informed of those reasons and give a revised date.
- We will clearly describe our remit and the roles and responsibilities of staff.
- Complaints about matters outside our remit, or which should be dealt with by another body or regulator, will not be investigated by us.

Thorough, proportionate and consistent

- How we investigate and resolve the complaint will be proportionate and appropriate to the circumstances of the case.
- Investigations, outcomes and actions will be consistent from one complaint to another whilst being flexible in considering the needs of the individual complainant.
- If the complaint is upheld, the provider must take appropriate action.

Objective, impartial and fair

- Objective, with conclusions based on the facts and evidence.
- Staff involved in complaints handling will be professional, impartial, independent and accountable.
- Policies will be in place to deal with unacceptable actions or behaviour.
- All those involved in the complaints process will be treated fairly.

Seeks early resolution

- We will encourage complainants who wish to complain about a registered care service to try and resolve their complaint close to the source of their complaint where appropriate. For example, we will encourage the complainant to use the care service provider's complaints procedure. However, we will advise them that they can ask us to investigate from the outset or if they are not satisfied with the provider's investigation.
- We will clarify the outcome that the complainant wants at the outset.
- We will carry out a formal investigation when necessary and ensure that a further internal review is available if the complainant is still dissatisfied.

Supports improvement

- We will use the information we hold about complaints to support quality improvement in service delivery.
- We will make Information about complaint outcomes publicly available on our website.
- We will use Information about complaints to assess risk, measure performance, identify trends, highlight problems, demonstrate improvement and share best practice.

2.2 What is a complaint?

A complaint is an expression of dissatisfaction about:

- a registered care service's action or lack of action, or about the standard of
- service provided by, or on behalf of, the service.

You can find out more about which matters we cannot investigate at 2.7

2.3 Who can make a complaint?

Anyone can make a complaint, including:

- anyone using a care service, their carer or representative
- anyone dissatisfied with the service being provided by a registered care service.

Complainants may ask anyone to advise them about how to make a complaint and to be an advocate for them during a complaint investigation. We will help complainants to make a complaint and will offer advice and guidance on how to use our procedure.

Where a complainant needs independent help to make their complaint, an independent advocacy service may be able to help. More information about these services can be found at:

Scottish Independent Advocacy Alliance
Melrose House
69a George Street
Edinburgh
EH2 2JG

Website: www.siaa.org.uk
Tel: 0131 260 5380
Fax: 0131 260 5381

2.4 When you can make a complaint – time limits

You should make a complaint 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 a complainant has 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.

2.5 How to make a complaint

You can make a complaint:

- at any of our offices
- by phone (National Enquiry Line: 0845 600 9527)
- by letter
- by email
- by using our website www.careinspectorate.com

A list of our offices and contact details is available on our website and in Appendix D.

2.6 What we can investigate about registered care services

We make sure that all care services have a clear and easily available complaints procedure as a condition of their registration. We encourage complainants 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.

Examples of complaints we can investigate

At the start of the complaints process, we will agree with the complainant the individual complaint parts that we will investigate. For example the complaint part could relate to:

- the quality of food provided to a person living in a care home and how they are supported to have their meals
- access to appropriate learning and play for a child in a nursery
- the number of staff that are trained and who have the necessary skills to meet a person's support and care needs.
- complaints about individually registered social care services.

2.7 What we cannot investigate about registered care services

If the complaint subject is not within our remit or is better dealt with by another organisation, we will advise the complainant and either contact the other organisation ourselves or, tell the complainant how they 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.

Examples of complaints we cannot investigate

- 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.
- 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.
- Child and adult support & protection issues – these will be referred to the relevant local authority and/or the police.
- Pricing policy of a care service provider
- 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. The Care Inspectorate 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.

We will not investigate a complaint made by people who are deemed vexatious. Our Comments and Complaints Co-ordinator can provide information, advice and assistance to anyone wishing to make a complaint. Contact details are provided in section 2.5 of this document.

3. Special cases or circumstances

3.1 Working with other regulatory and public bodies

The Care Inspectorate works with a number of other regulatory bodies, including:

- Scottish Social Services Council (SSSC)
- Education Scotland (formerly HM Inspectorate of Education)
- Health and Safety Executive
- Healthcare Improvement Scotland (HIS)
- local authorities
- the police
- Scottish Housing Regulator
- Registrar of Independent Schools
- Fire and Rescue Services and
- Mental Welfare Commission for Scotland.

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 service.

Where a complaint raises matters that are suitable for, or require, joint working, we will let the complainant and the provider know about this and keep them informed. Where a complainant raises matters about the competency of staff who must be registered with a professional body, we will redirect the complainant to the appropriate professional regulatory body.

3.2 Investigation by other authorities and/or suspension of complaints activity

Sometimes a complaint may contain aspects that another organisation will have an interest in. Where this happens and they propose to investigate the same issues, we will work with them to agree how the matter should be handled, by whom and within what timescales. We will notify the complainant and we can either run our investigations concurrently with the other organisation's, or suspend it.

Where we consider that our role in an investigation is secondary, for example when the police or another regulatory or statutory body are 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 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 or neglect of service users.
- Conduct which may be a criminal offence.
- Serious malpractice.
- Circumstances that indicate a present or potential risk to the health or welfare of service users.

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

Other relevant authorities may include:

- the police
- local authorities
- health boards
- the Health and Safety Executive
- the Mental Welfare Commission for Scotland
- children's rights officers
- the Scottish Social Services Council.

Our investigation will consider the views of any other organisation that has an interest.

3.3 Anonymous complaints

We accept anonymous complaints - when the complainant does not wish to identify themselves to us. We do consider such complaints as they may give an early warning of unacceptable or dangerous care practice, which might otherwise continue.

We assess each anonymous complaint and will only investigate if we think that there may be substance to the complaint and that investigation is likely to be in the best interests of the people using the service. With anonymous complaints full investigation may not be possible. Because of this, we may be unable to reach a final decision.

Where possible, we will tell the complainant about this limitation at the time they make the complaint (for example if the complaint is made by telephone). We may also be unable to contact the complainant later, for more information or to tell them the outcome of any investigation that takes place.

3.4 Confidential complaints

Where at all possible, we will respect the wishes of complainants who identify themselves to us but ask for their 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 will tell the complainant about this.

4. The Care Inspectorate complaint handling procedure

Our procedure aims to provide a quick, simple and streamlined process for complaint handling.

Our policy is to encourage complainants to raise matters of concern in the first instance with the provider. However, if the complainant wishes the Care Inspectorate to investigate the matter and it falls with our remit we will investigate. When our complaints procedure has been fully exhausted but a complainant is still not satisfied, they are entitled to complain to the Scottish Public Services Ombudsman (SPSO).

4.1 Stages of the Complaints Procedure

The procedure involves three stages following initial contact. Initial contact is the point where we make all reasonable efforts to fully understand the complainant's concerns and to clarify the outcome they are looking for.

Complaints will generally come to the National Complaints Team. Here, staff dedicated to this function will be responsible for all aspects of complaint handling. However, any member of our staff could potentially be the first point of contact for a complainant and where possible, they can attempt to resolve a complaint there and then. All staff will be aware of our complaints procedure and will have the authority to resolve such complaints if they can.

4.1.1 Early informal resolution stage

For complaints about registered services, we will encourage complainants to raise their 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 a complainant is happy to raise the matter directly with the provider, we will not investigate matters further at this time unless the complainant advises us that their complaint has not been resolved satisfactorily. At this point we will consider implementing our formal complaint investigation procedure.

4.1.2 Formal investigation stage

Not all complaints are suitable for informal resolution and not all complaints will be satisfactorily resolved at this stage. The formal investigation stage is for complaints that are either unsuitable for, or have not been resolved at informal stage.

Who handles complaints at the formal investigation stage?

For complaints about registered care services, following the decision to formally investigate, the Complaint Inspector Manager (CIM), who will oversee the investigation, will allocate a Complaint Inspector (CI) from their team. The CI will be the key point of contact for the complainant from then on and will contact the complainant to confirm this. The CI will then contact the complainant to explore the detail of the complaint and agree what is to be investigated. The CI will then conduct the investigation and draft a report on findings. The CIM and CI will then jointly agree the complaint outcome letter before it is issued.

Timescales for investigation

All complaints will be acknowledged in writing within **three working days** – or immediately if the complaint is submitted to our website.

We aim to provide a response within **40 working days** from the time the matters for investigation were agreed with the complainant. During the investigation stage, we will be aiming to 'get it right first time'. We aim to establish all of the facts relevant to the points raised and provide a full, objective and proportionate response. If the response is delayed for good reason, we will tell the complainant why, and provide a revised completion date.

4.1.3 Review process for complaints about care services

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 judgement. 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 will send you a copy along with your complaint resolution letter, or you can download it from the complaints section at www.careinspectorate.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 senior 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.

What we do with the outcomes of reviews

We take the outcomes of reviews very seriously and helps us improve the way we investigate complaints and improve, Our aim is that our response to the review

process, together with our quality assurance approach, will demonstrate commitment to quality and continuous service improvement.

Independent external review

If you are still unhappy, and want to challenge our decision again, you can contact the Scottish Public Services Ombudsman (SPSO).

The SPSO looks at issues such as service failures and maladministration (administrative fault), as well as the way we have handled the complaint.

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.spsso.org.uk/contact-us
Website: www.spsso.org.uk
Mobile site: <http://m.spsso.org.uk>

5. Outcomes of complaints

5.1 Outcomes

Our role is to make a decision on each case by taking into account all the available facts and evidence. We do this by carefully considering the views and opinions of both the person making the complaint and those being complained about. We make our decisions based on facts and evidence as well as an assessment of the circumstances. We aim to deliver a complaints process that is impartial, independent and accountable. We use the term 'part' to describe each separate allegation of the complaint that we have agreed we will investigate. We will apply one of the following two outcomes to each complaint part:

- **upheld:** used where our investigation has established the facts giving rise to a complaint
- **not upheld:** used where our investigation has not established the facts giving rise to a complaint.

5.1.1 Correcting factual errors within complaint outcome letters

We are committed to ensuring that our complaint outcome letters contain accurate information. However, where factual inaccuracies are confirmed we will amend the complaint outcome letter.

5.2 Action we may take following a complaint

Where a complaint is upheld, any action we take will be based on the professional assessment 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 may:

- make recommendations as to how a service might improve
- make requirements to deliver the necessary improvements
- require the service to provide an action plan to demonstrate how and when the service will improve
- re-grade a service
- 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
- vary or impose additional conditions on the service registration under Section 66 of the Public Services Reform (Scotland) Act 2010.

6. Monitoring complaints

The information we gather through investigating complaints gives us valuable information about the quality of care services and helps us to support service delivery improvements. Our Chief Executive is responsible for ensuring that our Complaints Procedure is effective and that our approach is independent, consistent and fair. Because of this we will record and monitor all complaints and outcomes and, in our public Annual Report each year, we will report on:

- number and type of complaints
- geographic location of complaints
- care service sectors involved in complaints
- the nature of investigations and the time they took to conclude
- any national trends identified by sector, provider and geographical area
- number of requests for reviews.

We will also make national recommendations, based on the trends we identify from our complaints investigations, that support and drive improvement within care services and influence relevant national policy.

We do not publish full reports of complaints investigations, but we do publish a summary of 'upheld' complaints in the 'care services' list on our website.

7. Managing complainants' expectations

We investigate complaints in an independent, impartial and fair way. We believe that complainants have a right to be heard, understood and respected and we aim to be as open and accessible as we can.

Occasionally, the behaviour or actions of complainants makes it very difficult for us to deal with their complaint. Examples of behaviour that may be considered unacceptable include:

- persistent refusal to accept a decision made relating to a complaint
- persistent refusal to accept explanations relating to what can or cannot be done about the complaint
- continuing to pursue a complaint without presenting any new information
- subjecting staff to behaviour that is offensive or unreasonably demanding.

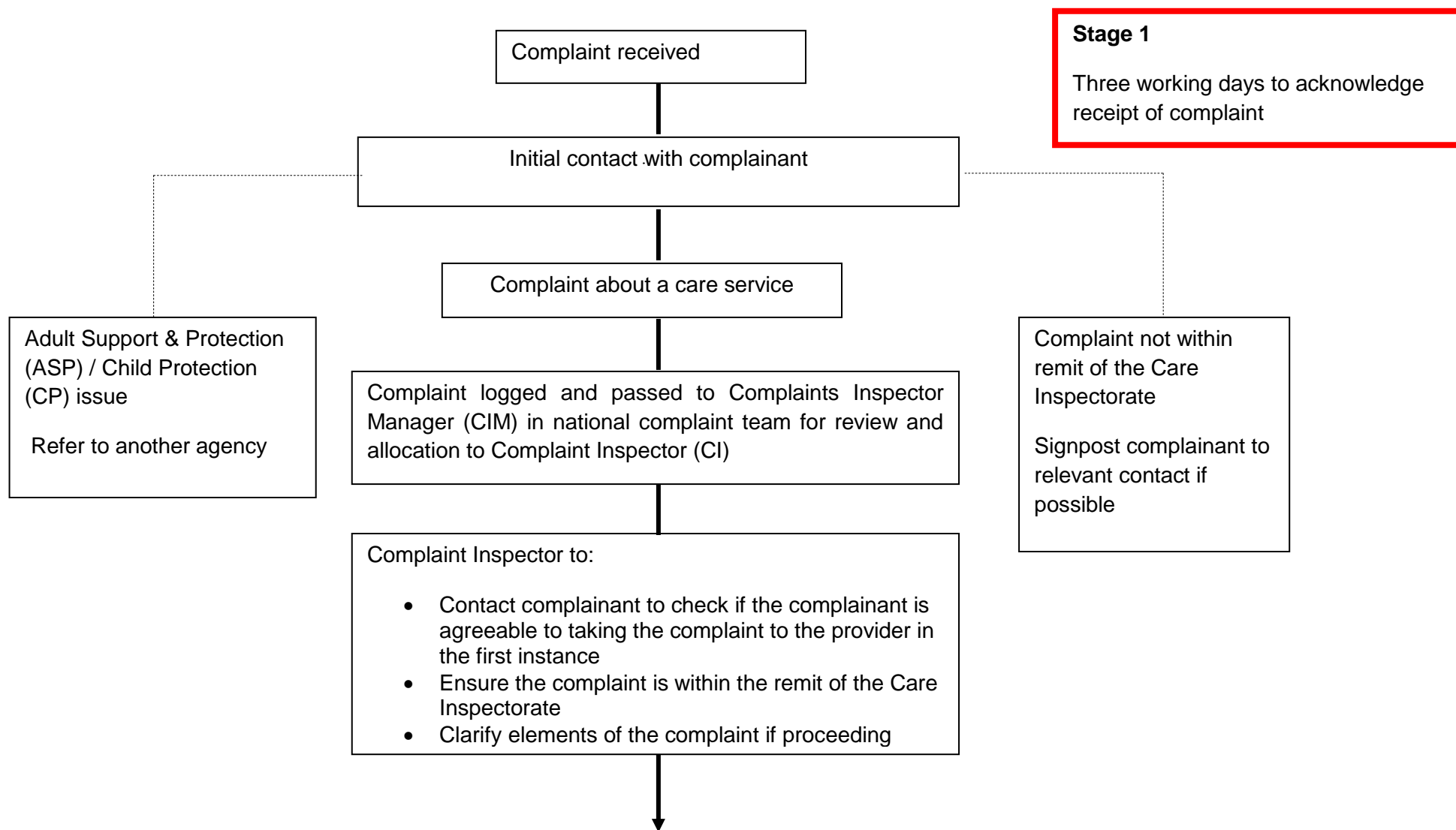
In a small number of cases those actions become unacceptable because they involve abuse of our staff or our process. When this happens we consider the impact of the actions on our ability to do our work, provide a service to others and to protect our staff. In these cases we will take appropriate action. We have a zero tolerance approach to any violence or abuse towards our staff.

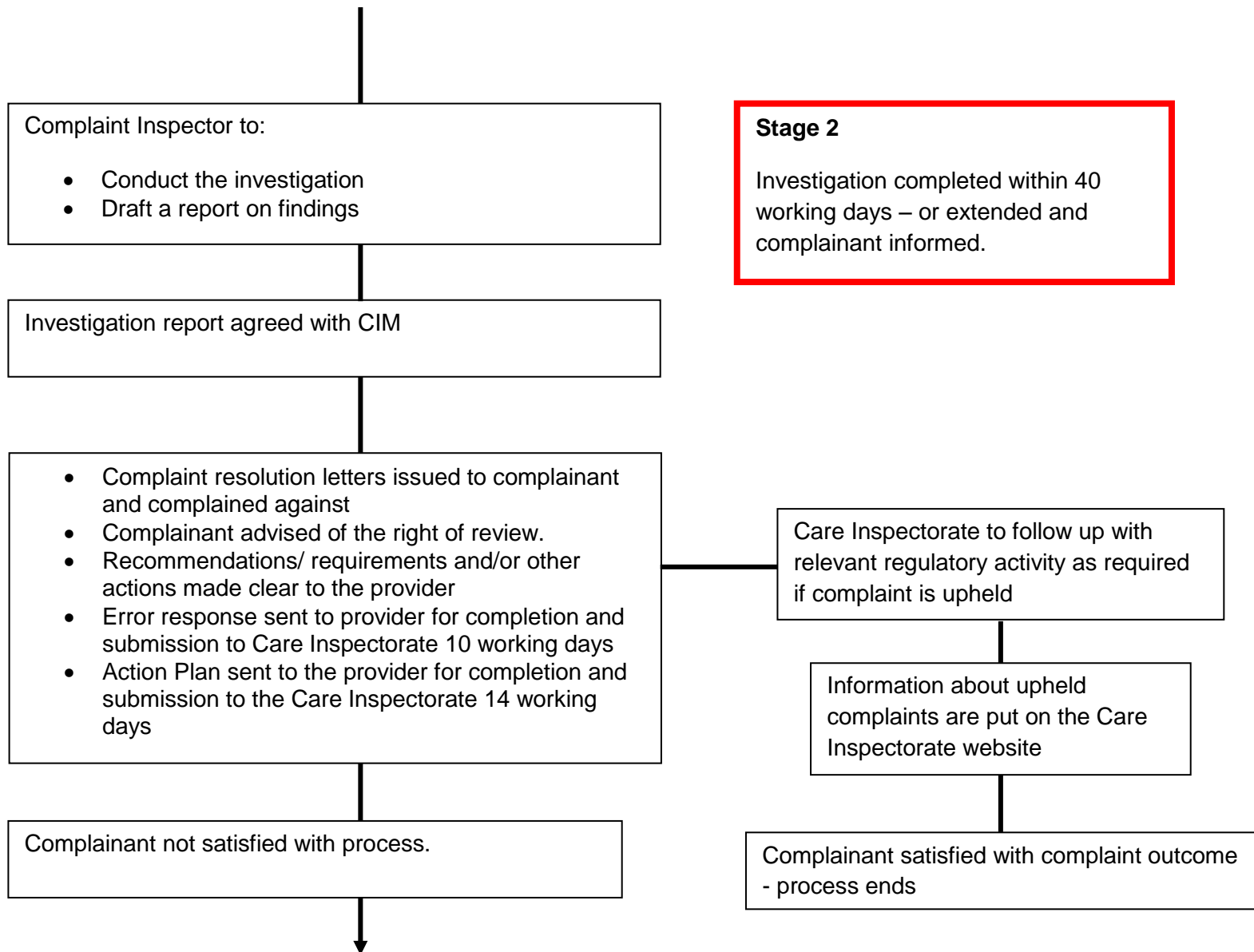
The approach we take in these situations is detailed in our Unacceptable Actions Policy.

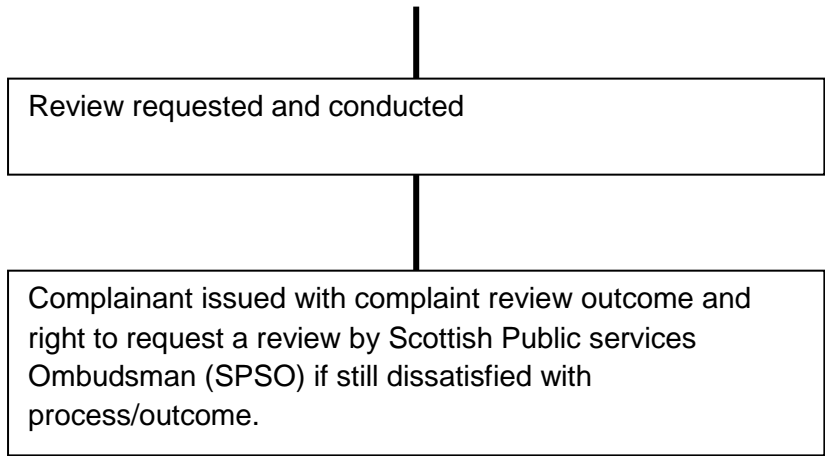
8. Speaking with people during a complaint investigation

We recognise it is good practice to offer interviewees the opportunity to have someone with them during interview and we are keen to support this. However, it is up to the Care Inspectorate whether we agree to the presence of a particular person or not. For example, we can object if the accompanying individual would compromise the investigation or cause unnecessary delay. The accompanying person should be there to support the interviewee and not to represent either their own interests or that of any other person. Where we object to a particular person being present at the interview, we should if possible offer the interviewee the opportunity to select another person to accompany them, provided this will not mean any unnecessary delay.

Appendix A: The Care Inspectorate Complaints Procedure for complaints against registered care services



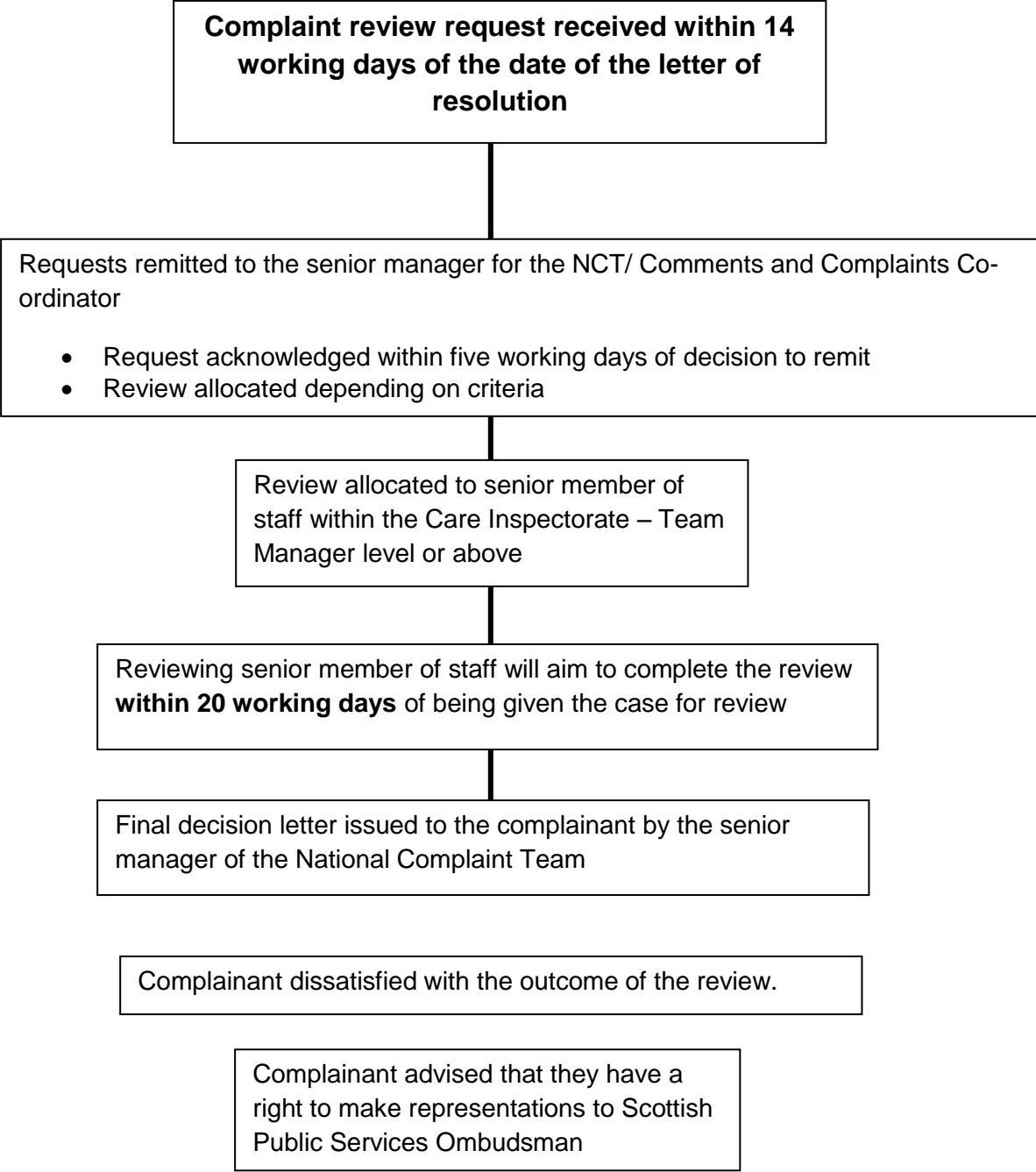




Appendix B: The Care Inspectorate Complaint Review Procedure

The review process is only available to the complainant. A request for a review will not be considered solely on the grounds of a complainant's dissatisfaction with the outcome of a complaint investigation. A review can be requested if you think:

- 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.



Appendix C: Contact details for the Care Inspectorate

Headquarters

Care Inspectorate
Compass House
11 Riverside Drive
Dundee
DD1 4NY
Telephone: 01382 207100

Main Offices

DUNDEE

Quadrant House
9 Riverside Drive
Dundee DD1 4NY
Tel: 01382 207200

ABERDEEN

Johnston House
Rose Street
Aberdeen AB10 1UD
Tel: 01224 793870

PAISLEY

4th Floor
No 1 Smithhills Street
Paisley PA1 1EB
Tel: 0141 843 6840

HAMILTON

Princes Gate
Castle Street
Hamilton ML3 6BU
Tel: 01698 897800

MUSSELBURGH

Stuart House
Eskmills
Musselburgh EH21 7PB
Tel: 0131 653 4100

National Enquiry Line: 0845 600 9527

Website: www.careinspectorate.com

Email: enquiries@careinspectorate.com

Appendix D: References

1. **The Public Services Reform (Scotland) Act 2010, Section 79**

- (1) The Care Inspectorate must establish a procedure by which a person, or someone acting on a person's behalf, may make complaints (or other representations) in relation to the provision to the person of a care service or about the provision of a care service generally.
- (2) The procedure must provide for it to be available whether or not procedures established by the provider of the service for making complaints (or other representations) about that service have been or are being pursued.
- (3) Before establishing a procedure under subsection (1), the Care Inspectorate must consult the Scottish Public Services Ombudsman, all local authorities and such other persons, or groups of persons, as it considers appropriate on its proposals for such a procedure.
- (4) The Care Inspectorate must keep the procedure under review and must vary it whenever, after such consultation, it considers it appropriate to do so.
- (5) The Care Inspectorate must give such publicity to the procedure (including the procedure as varied under subsection (4)) as it considers appropriate and must give a copy of the procedure to any person who requests it.

2. **Guidance on a Model Complaints Handling Procedure, Scottish Public Services Ombudsman (SPSO), 2010.**

Headquarters

Care Inspectorate
Compass House
11 Riverside Drive
Dundee
DD1 4NY

web: www.careinspectorate.com

email: enquiries@careinspectorate.com

telephone: 0845 600 9527



@careinspect

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 cànan eile ma nithear iartras.

অনুরোধসাপেক্ষে এই প্রকাশনাটি অন্য ফরম্যাট এবং অন্যান্য ভাষায় পাওয়া যায়।

یہ اشاعت درخواست کرنے پر دیگر شکلوں اور دیگر زبانوں میں فراہم کی جاسکتی ہے۔

ਬੇਨਤੀ 'ਤੇ ਇਹ ਪ੍ਰਕਾਸ਼ਨ ਹੋਰ ਰੂਪਾਂ ਅਤੇ ਹੋਰਨਾਂ ਭਾਸ਼ਾਵਾਂ ਵਿਚ ਉਪਲਬਧ ਹੈ।

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