



<b>Policy Title:</b> Complaints Against the Commission	<b>Policy Number:</b> 032
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<b>Lead Person:</b> Information Governance Manager	<b>Approved by:</b> Board

## 1. INTRODUCTION

In the course of our statutory duties, we come into contact with, among others, service users and their relatives, carers and advocates, service providers; NHS Boards; local authorities; legal representatives and the Scottish Government. There may be occasions when an individual, or group, is not satisfied with the service offered. This document sets out how we will respond in such situations and outlines how we aim to handle such expressions of dissatisfaction.

Both the Mental Welfare Commission (the Commission) and the National Confidential Forum (NCF) have in place Complaint Handling Procedures (CHPs) which reflect our commitment to valuing complaints and which provide guidance for staff who are involved with handling complaints. These CHPs were developed in line with the Scottish Public Service Ombudsman's (SPSO) Model Complaint Handling Procedures.

The NCF was established as a Committee of the Commission in 2014. This policy applies equally to the NCF and to the Commission although, for local, operational reasons, the NCF CHPs are slightly different to those of the Commission.

In this policy, we commit to undertaking thorough, impartial and fair investigations of complaints received from individuals or groups so that, where appropriate, we can make evidence-based decisions on the facts of the case.

## 2. DEFINITION OF A COMPLAINT

A complaint can be defined as "An expression of dissatisfaction about the Commission or the NCF's lack of action, or about the standard of service provided by or on behalf of the Commission or the NCF"

Complaints may be about the behaviour, attitudes or actions of an employee, a public appointee, a board member of the Commission or the NCF. They may be an action or decision of the NCF or Commission as a whole.

Complaints should be made within six months of the event being complained about or, six months after finding out that there is a reason to complain, but no longer than 12 months after the event itself.

### 3. **PRINCIPLES FOR HANDLING COMPLAINTS**

We welcome feedback on our performance and are keen to hear the views of those who come into contact with us, whether these views are positive or negative. When we receive a complaint, we will handle it in accordance with the following principles:

all complaints will be taken seriously  
the complaint will be investigated fairly and openly  
complainants will receive full and detailed responses to their complaints  
we will comply with legislation on freedom of information and data protection when responding to complaints.  
we will use complaints constructively to improve our quality of service.

In exceptional circumstances, we may be able to accept a complaint after the time limit. This would be decided by the Chief Executive or the Head of the NCF.

### 4. **INVESTIGATING COMPLAINTS**

#### **Receipt of Complaint**

Complaints may be verbal or written, although we encourage people to submit their complaint in writing to ensure that we are aware of the nature and extent of the complaint. People who have difficulty in articulating the complaint will be advised to contact advocacy services in order to assist them.

The Commission has produced a leaflet which contains details about how to make a complaint. It is available in hard copy and from our website. A similar leaflet is available from the NCF website. People have a right to information about any aspect of our work in a language or format that suits them. For resources reasons, we are not able to translate all our materials in other languages. When required, we will encourage potential complainants to use Google Translate as advice in Commission's Accessible Information Policy (num.49.)

#### **b. Resolution of complaints**

We follow a set of stages when handling complaints in accordance with guidance produced by the SPSO and in line with our CHPs.

#### **Stage one – frontline resolution**

We aim to resolve complaints quickly. This could mean an on-the-spot apology and an explanation if something has clearly gone wrong; and immediate action to resolve the problem.

We will issue our decision to complainants at Stage 1 in five working days or fewer, unless there are exceptional circumstances that prevent us from doing so. An extension of up to five working days can be agreed if we feel that frontline resolution is achievable.

In the event that frontline resolution has not been successful for the complainant or the Commission or NCF, or been felt to be inappropriate, we will proceed to stage 2 – investigation. Complainants may decide that they do not want front line resolution into their complaint. If this is the case, complainants have the right to change their mind for up to 6 months after the original decision not to formally pursue the complaint.

## **Stage two – investigation**

Stage 2 deals with three types of complaint: those that have not been resolved at Stage 1, those that are complex and require detailed investigation and those that relate to serious, high-risk or high-profile issues.

When using Stage 2 we will:

acknowledge receipt of complaints within three working days  
where appropriate, liaise with the complainant to help us understand why they remain dissatisfied and what outcome they are looking for  
give a full response to the complaint as soon as possible and within 20 working days.

If our investigation will take longer than 20 working days, we will let the complainant know and keep them updated on progress.

We will appoint someone at an appropriate level within the organisation to undertake the investigation of a complaint. The investigator will examine the complaint in detail and decide on the nature of the investigation. Complaints against staff members at any level, aside from the Chair and Board members, should be investigated by a member senior to them to ensure no conflict of interest and an appropriate fair and informed investigation takes place. Where a member of the Executive Team is the subject of a complaint, the investigation will be undertaken by the Chief Executive. Where the Chief Executive or the Head of the NCF is the subject of the complaint, the response will issue from the Chair.

Complaints about Board Members breaching their Code of Conduct will be investigated by the Standards Commission for Scotland, as states in the Ethical Standards in Public Life etc. (Scotland) Act 2000. Information about their process can be found in their website:

<https://www.standardscommissionscotland.org.uk/codes-of-conduct/routemap-for-complaining>

## **Stage 3 - reminder of the review process**

In our response letter issued after Stage 2, we will remind complainants of their right to refer the matter for review by the SPSO if they are dissatisfied with our response or the way we dealt with their complaint.

### **5. SOME SPECIAL SITUATIONS**

#### **a. Complaints likely to result in disciplinary action**

During the course of investigating a complaint, it may appear to the investigator that a member of staff has acted improperly in a way that might lead to disciplinary action. On these occasions, the facts and evidence gathered will be passed to the line manager or to our HR Manager who, following the process outlined in the Commission's Disciplinary policy (number 7), will decide about the appropriateness of disciplinary action.

When responding to the complaint, the investigator will advise the complainant that disciplinary action is being considered and that the complainant will be informed, in general terms, about the outcome of the procedure.

## **b. Complaints that are Habitual, Vexatious or Unreasonable**

We will take all reasonable steps to answer issues raised by complainants. However, in some cases, we may consider that further attempts to answer the complaint are unlikely to be helpful to the complainant.

It is vitally important to establish the scope of the complaint at the acknowledgement stage in the process. Where the scope “creeps” and where this results in a series of follow up queries, we will go back to the complainant and ask that they submit these as new complaints or, where it is clear that there is no clear way to resolve the complaint, decide whether to continue to correspond with the complainant.

In any such case the complaint investigator will compile a summary of the complaint to date. This summary will be scrutinised by the Executive Team who may concur that the complaint is habitual, vexatious or unreasonable and, if so, they will write to the complainant explaining how this conclusion was reached.

The complainant may then be advised that we will not enter into any further correspondence about the complaint and, where appropriate, we will remind the complainant of the role of the Scottish Public Service Ombudsman.

A complaint may be designated habitual, vexatious or unreasonable where;

the nature and substance of the complaint appears to arise solely from the mental state of the complainant

the complainant changes the nature and substance of the complaint.

the complainant lodges a large volume of similar complaints over a short time period

the complainant does not use the SPSO review stage of the process but continues to contact and attempt to pursue their complaint with us.

## **6. Monitoring of Complaints**

Details of each complaint and notes of any investigation carried out will be recorded by the investigator. A summary report of complaint activity will be presented to management on an annual basis. This report will also be presented annually to the Board for information.

Useful links

Standards Commission for Scotland. How to make a complaint about a breach of the Councilors Code of Conduct or the Code of Conduct for Members of Devolved Public Bodies

<https://www.standardscommissionscotland.org.uk/codes-of-conduct/routemap-for-complaining>