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**REPORT TO:** Member's Library Service

**MEETING DATE:**

**BY:** Director of Health & Social Care Partnership

**SUBJECT:** Social Work Complaint Handling Procedure

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## **1 PURPOSE**

- 1.1 To advise elected members of changes to the Social Work Complaint Handling Procedure with a new model procedure for local authorities published by the Scottish Public Services Ombudsman (SPSO) in December 2016.

## **2 RECOMMENDATIONS**

- 2.1 To note the new procedure with an implementation date of 1 April 2017.

## **3 BACKGROUND**

- 3.1 On 15 December 2016 the SPSO published a new model Social Work Complaints Handling Procedure (CHP) for all organisations in Scotland operating such services, under section 16B of the SPSO Act 2002 (as amended by the Public Services Reform (Scotland) Act 2010).
- 3.2 The SPSO has notified all relevant authorities in Scotland that the Social Work Model CHP applies to them with effect from 1 April 2017.
- 3.3 The 2016 Order abolishes the current social work complaints procedure and replaces it with a new model CHP (attached).
- 3.4 Main changes from the previous procedure:
- Bringing Social Work complaint handling in line with the Corporate Complaint Handling Procedure used for other services
  - Renewed focus on trying to resolve complaints at the "front line" (stage 1) with response time extensions possible.

- The replacement of the Social Work Complaint Review Committee from 1 April 2017. This stage will now be replaced with an independent review stage undertaken by the SPSO as is the case with corporate complaints.
- The SPSO has an extended role to consider social work professional judgment when reviewing social work complaints.

3.5 Once approved staff guidance notes and further public information on the new CHP will be developed and briefings undertaken with the affected staff and elected officials. Written guidance will be provided on the Intranet.

#### **4 POLICY IMPLICATIONS**

4.1 A change to the previous Social Work Complaint Handling Procedure.

4.2 The Council has reviewed its Social Work Complaint Handling Procedure to ensure that it complies with the Ombudsman’s model. The Council will continue to work with the Complaint Standards Authority (SPSO) in this regard.

#### **5 INTEGRATED IMPACT ASSESSMENT**

5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy

#### **6 RESOURCE IMPLICATIONS**

6.1 Financial - none

6.2 Personnel - none

6.3 Other - none

#### **7 BACKGROUND PAPERS (suggested)**

7.1 Appendix 1: Revised SW Complaint Handling Procedure

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<b>DATE</b>	29 <sup>th</sup> March 2017



# **The Social Work Model Complaints Handling Procedure**

Issued: March 2017



## **The Social Work Complaints Handling Procedure**

### **Foreword**

Our complaints handling procedure reflects East Lothian Council's commitment to valuing complaints. It seeks to resolve customer dissatisfaction as close as possible to the point of service delivery and to conduct thorough, impartial and fair investigations of customer complaints so that, where appropriate, we can make evidence-based decisions on the facts of the case.

The procedure has been developed by social work experts and third sector organisations working closely with the Scottish Public Services Ombudsman (SPSO). This procedure has been developed specifically for our social work services, so that staff have all the information they need to handle social work complaints effectively. The procedural elements tie in very closely with those of the Local Authority and National Health Service complaints handling procedures, so where complaints cut across services, they can still be handled in much the same way as other complaints.

As far as is possible we have produced a standard approach to handling complaints across local government and the NHS, which complies with the SPSO's guidance on a model complaints handling procedure. This procedure aims to help us 'get it right first time'. We want quicker, simpler and more streamlined complaints handling with local, early resolution by capable, well-trained staff.

Good complaints handling includes providing joint responses to complaints whenever they relate to more than one service. This procedure gives our staff information and guidance on how and when to do this, to ensure that our customers get a comprehensive response to their complaints whenever this is possible.

Complaints give us valuable information we can use to improve service provision and customer satisfaction. Our complaints handling procedure will enable us to address a customer's dissatisfaction and may help us prevent the same problem from happening again. For our staff, complaints provide a first-hand account of the customers' views and experience, and can highlight problems we may otherwise miss. Handled well, complaints can give our customers a form of redress when things go wrong, and can also help us continuously improve our services.

Resolving complaints early creates better customer relations. Handling complaints close to the point of service delivery means we can resolve them locally and quickly, so they are less likely to escalate to the next stage of the procedure. Complaints that we do not resolve swiftly can greatly add to our workload and are more costly to administer.

The complaints handling procedure will help us do our job better, improve relationships with our customers and enhance public perception of East Lothian Council. It will help us keep the user at the heart of the process, while enabling us to better understand how to improve our services by learning from complaints.

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## **How to use this Model Complaints Handling Procedure**

This document explains to staff how to handle complaints. A separate document provides information for customers on the complaints procedure. Together, these form our complaints handling procedure.

It is designed to be an internal document for social work services to adopt. It contains references and links to more details on parts of the procedure, such as how to record complaints, and the criteria for signing off and agreeing time extensions. These explain how to process, manage and reach decisions on different types of complaint. Any text that is in *italics* may be amended or replaced with the organisation's own text as appropriate. The language used reflects its status as an internal document. So 'we' refers to the organisation, not the SPSO.

When using this document, please also refer to the 'SPSO Statement of Complaints Handling Principles' and best practice guidance on complaints handling from the Complaints Standards Authority at the SPSO.

[www.valuingcomplaints.org.uk](http://www.valuingcomplaints.org.uk)



## What is a complaint?

East Lothian Council's definition of a complaint is:

'An expression of dissatisfaction by one or more members of the public about the social work service's action or lack of action, or about the standard of service provided by or on behalf of the social work service.'

Any complaints about other non-social work services will be handled under East Lothian Council's standard complaints handling procedure (CHP).

A complaint may relate to the following, but is not restricted to this list:

- failure or refusal to provide a service
- inadequate quality or standard of service
- dissatisfaction with one of our policies or its impact on the individual
- failure to properly apply law, procedure or guidance when delivering services
- failure of administrative processes
- delays in service provision
- treatment by or attitude of a member of staff
- disagreement with a decision made in relation to social work services.

[Appendix 1](#) provides a range of examples of complaints we may receive, and how these may be handled.

A complaint is not:

- a routine first-time request for a service
- a claim for compensation only
- a disagreement with decisions or conditions that are based upon social work recommendations, but determined by a court or other statutory body, for example decisions made by a children's panel, parole board or mental health tribunal
- an attempt to reopen a previously concluded complaint or to have a complaint reconsidered where we have already given our final decision.

You must not treat these issues as complaints, and should instead direct customers to use the appropriate procedures.

[Appendix 2](#) gives examples of more complex complaints, some of which are not appropriate for this CHP. The section on **Complaints relevant to other agencies** provides information about some of the other agencies that may be able to assist customers if their complaint is not appropriate for this CHP.

### **Who can make a complaint?**

Anyone who receives, requests, or is affected by our social work services can make a complaint. This is not restricted to 'service users' and their relatives or representatives, but may also include people who come into contact with or are affected by these services, for example people who live in close proximity to a social work service provision, such as a care home or day centre. In this procedure these people are termed 'customers', regardless of whether they are or were using a service.

Sometimes a customer may be unable or reluctant to make a complaint on their own. We will accept complaints from third parties, which may include relatives, friends and advocates. The third party should normally obtain the customer's consent. This can include complaints brought by parents on behalf of their child, if the child is considered to have capacity to make decisions for themselves. However, in certain circumstances, the third party may raise a complaint without receiving consent, such as when there are concerns over someone's wellbeing. The complaint should still be investigated, but the response may be limited by considerations of confidentiality. You must ensure that you follow East Lothian Council's policies on gaining consent and information sharing.

Independent advocates may bring complaints on behalf of social work service users or other customers, if they are unable to raise an issue themselves, or if they are unable to identify when something is wrong. More information about using advocates to support customers is available in the section on **Supporting the customer**.

If you have concerns that a complaint has been submitted by a third party without appropriate authority from the customer, you should seek advice from a more senior member of staff. The provision of a signed mandate from the customer will normally be sufficient for us to investigate a complaint. However, the timing of when we require this mandate may vary depending on the circumstances. If the complaint raises concerns that require immediate investigation, this should not be delayed while a mandate is sought. It will, however, be required before the provision of a full response to the third party.

If a family member is making a complaint on behalf of a client and they say that they have 'Power of Attorney' (POA) authority to act on their behalf, we have to make necessary enquiries and seek evidence of this. There are different types of POA awarded and we have to make sure that the person making the complaint has the appropriate level of POA to ensure we can respond. Similarly if a family member says they have 'Guardianship' of a client they should be able to produce the necessary documentation in evidence. This may not necessarily prevent a complaint investigation being undertaken but we cannot reply without first seeing certified evidence of the POA / Guardianship details.

### **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. Any decision not to pursue an anonymous complaint must be authorised by a Service Manager.

If an anonymous complaint makes serious allegations, these should be dealt with in a timely manner under relevant procedures. This may not be the complaints procedure and could instead be relevant child protection, adult protection or disciplinary procedures.

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 customer does not want to complain?**

If a customer has expressed dissatisfaction in line with our definition of a complaint but does not want to complain, tell them that we do consider all expressions of dissatisfaction, and that complaints offer us the opportunity to improve services where things have gone wrong. Encourage the customer to submit their complaint and allow us to handle it through the CHP. This will ensure that the customer is updated on the action taken and gets a response to their complaint.

If, however, the customer insists they do not wish to complain, you should record the complaint as an anonymous complaint. This will ensure that the customer'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 corrective action where appropriate.

### **Supporting the customer**

All members of the community have the right to equal access to our complaints procedure. It is important to recognise the barriers that some customers may face complaining. These may be physical, sensory, communication or language barriers, but can also include their anxieties and concerns. Customers may need independent support to overcome these barriers to accessing the complaints system.

Customers who do not have English as a first language, including British Sign Language users, may need help with interpretation and translation services. Other customers may need other forms of communication support, including documents written in accessible language such as easy read format. Some may need support workers or advocates to help them understand their rights, and help them to communicate their complaints.

We must always take into account our commitment and responsibilities to equality. This includes making reasonable adjustments to ensure that all customers can access our services.

The Mental Health (Care and Treatment) (Scotland) Act 2003 gives anyone with a 'mental disorder' (including mental health issues, learning difficulties, dementia and autism) a right to access

independent advocacy. This legislation says that independent advocacy must be delivered by independent organisations that only provide advocacy. They help people to know and understand their rights, make informed decisions and have a voice. The Scottish Independent Advocacy Alliance website has information about local advocacy organisations throughout Scotland.

Wherever possible we will identify what additional needs a customer may have and help them find appropriate support or refer them to their local independent advocacy organisation to help them in pursuing a complaint.

### **Complaints and appeals**

While some social work decisions may be reviewed under alternative arrangements at a local level (for example through appeal or peer review), the SPSO has the power to consider professional social work decisions. The customer should not be required to seek a reconsideration of a decision under both appeal and complaint processes, nor should they be required to make further complaint if dissatisfied with the outcome of an appeal.

Therefore, whilst we have discretion to operate appeals procedures, these must be regarded as a special form of complaint investigation (stage 2 of this CHP). Such appeals processes must be compliant with this procedure in terms of the rigour and documentation of the process, must be concluded within 20 working days with a written response to the customer, and must be recorded as a stage 2 complaint on the relevant complaints database. If the customer raises additional issues of dissatisfaction as well as challenging a professional decision, then the process must consider and respond to every element of the customer's dissatisfaction so that no additional complaint process is required.

The final response letter must provide relevant text advising the customer of their right to refer the matter to the SPSO for independent consideration. The SPSO will then investigate matters in full, in line with their standard procedures.

### **Complaints involving social work services and another service or organisation**

This paragraph is for Children's social work services retained by East Lothian Council local authority:

A complaint may relate to our social work service and another service provided by East Lothian Council, or provided by another organisation, such as a health and social care partnership, the NHS or a housing association. Initially, these complaints should all be handled in the same way. They must be logged as a complaint, and the content of the complaint must be considered to identify which services are involved, and what parts of the complaint we can respond to and which parts are appropriate for another organisation. How these complaints are then handled will depend on delegation arrangements and on the other organisation involved.

This paragraph is for Adult and Older People social work services retained by East Lothian Council local authority:

A complaint may relate to our social work service and another service provided by the East Lothian Health & Social Care Partnership or one provided by the LA, by another NHS organisation, or by another organisation such as a housing association. Initially, these complaints should all be handled in the same way. They must be logged as a complaint, and the content of the complaint must be considered, to identify which services are involved, which parts of the complaint we can respond to and which parts are appropriate for another organisation. How these complaints are then handled will depend on delegation arrangements and on the other organisation involved.

*Complaints relating to a social work service and another service provided by East Lothian Council*

Where a complaint relates to two services provided by us, these services must work together to resolve the complaint. A decision must be taken as to which service will lead on the response. You must ensure that all parties are clear about this decision. It is important to give a joint response from the lead service, and also ensure that both services contribute to this.

*Complaints relating to a social work service and another service provided by another organisation, such as a separate NHS organisation or a housing association*

The aim with such complaints is still to provide a joint response (particularly where the organisations are linked, e.g. NHS providers), though this may not always be possible. Contact must be made with the customer to explain that their complaint partly relates to services which are delivered by another organisation, and that to resolve their complaint, we will need to share information with this organisation. You must check whether you need specific consent from the customer before you can share their information with the other services, and take appropriate action where necessary, bearing in mind any data protection requirements.

If it is possible to give a joint response, a decision must be taken as to which service will lead the process. We must ensure that all parties are clear about this decision. The response must cover all parts of the complaint, explain the role of both services, and (for investigation stage complaints) confirm that it is the final response from both services.

If a joint response is not possible, you should explain to the person making the complaint the reasons why they will receive two separate responses, and who they can get in contact with about the other aspects of their complaint. You must also write to both the customer and the other services involved, setting out which parts of the complaint you will be able to respond to.

Remember, if you need to make enquiries to another organisation in relation to a complaint, always take account of data protection legislation and our guidance on handling our customers' personal information. The Information Commissioner has detailed guidance on data sharing and has issued a data sharing code of practice.

**Complaints about services commissioned by us**

As part of the service provider's contractual obligations, they must provide a robust complaints process which complies with this CHP, and this obligation must be set out in their contract. This applies to all contracted services, including care services. The expectations around complaints handling by the provider should also be explained to service users in their service agreement with the provider. At the end of the investigation stage of any such complaints the provider must

ensure that the customer is signposted to the SPSO, as with any other complaint made to East Lothian Council.

Contracts with commissioned services should reflect the following good practice:

It is important that a complaint is resolved as quickly as possible and as close as possible to the time when the event being complained about occurred. The contracted service provider should be given the opportunity to respond to a complaint first, even if the customer has initially approached East Lothian Council, unless there is good reason why this would not be appropriate. However, East Lothian Council will have discretion to investigate complaints about providers contracted to deliver services on its behalf.

These services may also be registered as a care service with the Care Inspectorate to deliver a care or support service. If this is the case, customers have the right to complain directly to the Care Inspectorate or to make use of the provider's CHP and thereafter make a complaint to the Care Inspectorate, regardless of any investigations undertaken by East Lothian Council.

Where services are commissioned on behalf of East Lothian Council, customers can make complaints under this CHP in relation to the assessment of need, the commissioning or recommendation process, and any element of the service that has been publicly funded. Complaints about any part of service that has been privately funded cannot be considered through this CHP.

Service providers who are not registered with the Care Inspectorate as a care or support service but who are contracted to deliver other services on behalf of East Lothian Council must still comply with this CHP.

### **Complaints for the Care Inspectorate**

Local authorities and any contractors that provide care services must be registered with the Care Inspectorate. This is the independent scrutiny and improvement body for care and social work across Scotland, which regulates, inspects and supports improvement of care services.

The Care Inspectorate has a procedure for receiving information, concerns and investigating complaints, from members of the public or their representatives, about the care services they use. The Care Inspectorate's complaints procedure is available even when the service provider has an alternative complaints procedure in place.

The Care Inspectorate encourages people to complain directly to the organisation they receive a service from. However, some people are not comfortable doing this and to support them, the Care Inspectorate will take complaints about care services directly.

When complaints are brought to us about registered care services, we have the right to share complaint information about the registered care provider with the Care Inspectorate, to decide who is best placed to investigate the complaint. We can also share the outcome of complaints about contracted and registered services with the Care Inspectorate.

Contact details for the Care Inspectorate can be found on their website:

[www.careinspectorate.com/](http://www.careinspectorate.com/)

Or:

telephone 0845 600 9527

fax 01382 207 289

complete an online complaints form at [www.careinspectorate.com/](http://www.careinspectorate.com/) or

email [enquiries@careinspectorate.com](mailto:enquiries@careinspectorate.com)

### **Complaints about Personal Assistants**

Where an individual directly employs a Personal Assistant to provide their support, using a Direct Payment (as part of a Self-directed Support package), they are not subject to registration with the Care Inspectorate under the Public Services Reform (Scotland) Act 2011, its regulations and amendments. The employer remains responsible for the management of their employee, including their performance management. The Care Inspectorate would only be able to take complaints about such support workers if they work for a registered care agency.

### **Complaints relevant to other agencies**

Customers may raise concerns about issues which cannot be handled through this CHP, but which other agencies may be able to provide assistance with or may have an interest in. This may include:

The Mental Welfare Commission:

Email: [enquiries@mwscot.org.uk](mailto:enquiries@mwscot.org.uk)

Tel: 0800 389 6809 (service users and carers only)

Website: [www.mwscot.org.uk](http://www.mwscot.org.uk)

The Children's Commissioner:

Email: [inbox@cypcs.org.uk](mailto:inbox@cypcs.org.uk)

Tel: 0800 019 1179

Website: [www.cypcs.org.uk](http://www.cypcs.org.uk)

The Scottish Social Services Council:

Email: via their website

Tel: 0345 60 30 891

Website: [www.sssc.uk.com](http://www.sssc.uk.com)

Customers may also raise concerns that information has not been provided in line with information sharing and data protection legislation, in which case they should be signposted to East Lothian Council's data protection/ information service: [foi@eastlothian.gov.uk](mailto:foi@eastlothian.gov.uk) Any correspondence they have received from East Lothian Council will also specify the next steps to take if there are ongoing concerns, including signposting to the Information Commissioner:

Email: [scotland@ico.org.uk](mailto:scotland@ico.org.uk)

Tel: 0131 244 9001

Website: [www.ico.org.uk](http://www.ico.org.uk)

This list is not exhaustive, and it is important to consider the circumstances of each case, and whether another organisation may also have a role to play.

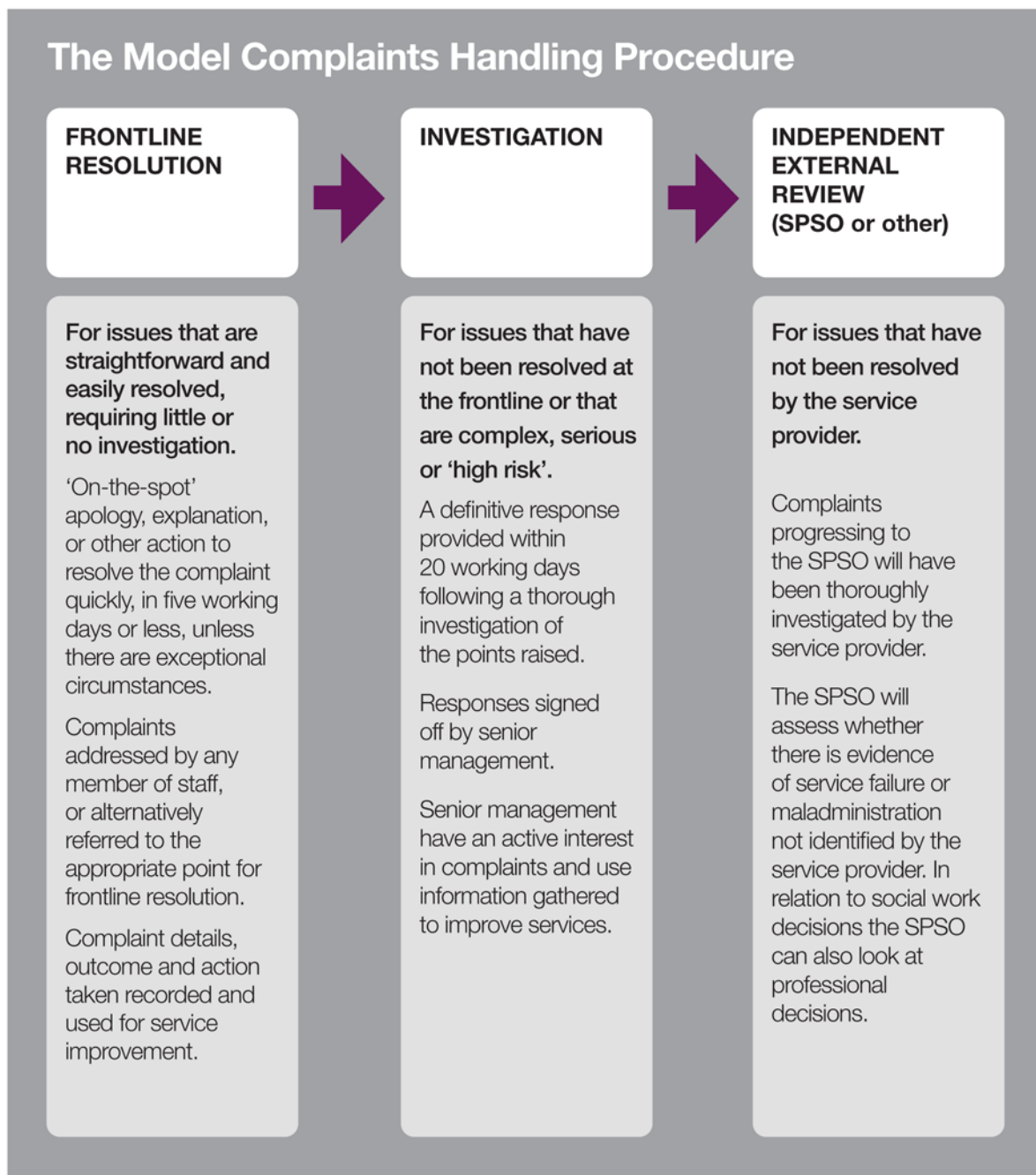


## The complaints handling process

Our CHP aims to provide a quick, simple and streamlined process for resolving complaints early and locally by capable, well-trained staff.

Our complaints process provides two opportunities to resolve complaints internally:

- **frontline resolution**, and
- **investigation**.



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

### **Stage one: frontline resolution**

Frontline resolution aims to quickly resolve straightforward customer 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 service delivery as possible. This may mean a face-to-face discussion with the customer, or asking an appropriate member of staff to handle the complaint.

[Appendix 1](#) gives examples of the types of complaint we may consider at this stage, with suggestions on how to resolve them, as well as those that may be more appropriate to escalate immediately to the investigation stage.

In practice, frontline resolution means resolving the complaint at the first point of contact, wherever possible, or within five working days of this contact. This may be taken forward by the member of staff receiving the complaint or, where appropriate, another member of staff.

In either case, you may resolve the complaint by providing an on-the-spot apology where appropriate, or explaining why the issue occurred and, where possible, what will be done to stop this happening again. You may also explain that, as an organisation that values complaints, we may use the information given when we review service standards in the future.

A customer can make a complaint in writing, in person, by telephone, by email or online, or by having someone complain on their behalf. You must always consider if it is appropriate to attempt frontline resolution, regardless of how you have received the customer's complaint.

A customer can make a complaint to East Lothian Council through a number of channels:

- Directly at the frontline delivery to a member of staff
- Completion of a 'Feedback' leaflet available from council offices, libraries or directly on request to a member of staff;
- By telephoning the Customer Feedback team on 0131 653 5290;
- By Emailing the Customer Feedback Team at [feedback@eastlothian.gov.uk](mailto:feedback@eastlothian.gov.uk)
- Via the Council's website at : <http://www.eastlothian.gov.uk>

### **What to do when you receive a complaint**

- 1 On receiving a complaint, you must first decide whether the issue can be defined as a complaint. The customer may express dissatisfaction about more than one issue. This may mean you treat one part as a complaint, while directing the customer to pursue another part through an alternative route (see [Appendix 2](#)).
- 2 If you have received and identified a complaint, record the details on our complaints system at the earliest opportunity. The date of receipt of the complaint is always 'day 1', regardless of when the complaint is recorded.

- 3 Decide whether or not the complaint is suitable for frontline resolution. Some complaints will need more extensive investigation before you can give the customer a suitable response. You must escalate these complaints immediately to the investigation stage.
- 4 Where you think frontline resolution is appropriate, you must consider four key questions:
  - what exactly is the customer's complaint (or complaints)?
  - what does the customer want to achieve by complaining?
  - can I achieve this, or explain why not? and
  - if I cannot resolve this, who can help with frontline resolution?

**What exactly is the customer's complaint (or complaints)?**

It is important to be clear about exactly what the customer is complaining about. You may need to ask the customer for more information and probe further to get a full understanding.

**What does the customer want to achieve by complaining?**

At the outset, clarify the outcome the customer wants. Of course, the customer may not be clear about this, and you may need to probe further to find out what they expect, and whether they can be satisfied.

**Can I achieve this, or explain why not?**

If you can achieve the expected outcome, for example by providing an on-the-spot apology or explain why you cannot achieve it, you should do so. If you consider an apology is appropriate, you may wish to follow the SPSO's guidance on the subject:

[SPSO guidance on apology](#)

The customer may expect more than we can provide. If so, you must tell them as soon as possible. An example would be where the customer is very dissatisfied that their child has not been assigned to the social worker they were expecting, when this worker is no longer available.

You are likely to have to convey the decision face-to-face or on the telephone. If you do so face-to-face or by telephone, you are not required to write to the customer as well, although you may choose to do so. It is important, however, to keep a full and accurate record of the decision reached and given to the customer.

**If I cannot resolve this, who can help with frontline resolution?**

If you cannot deal with the complaint because, for example, you are unfamiliar with the issues or area of service involved, pass the complaint to someone who can attempt to resolve it.

**Timelines**

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

You may need to get more information to resolve the complaint at this stage. However, it is important to respond to the customer within five working days, either resolving the matter or explaining that their complaint is to be investigated.

### ***Extension to the timeline***

In exceptional circumstances, where there are clear and justifiable reasons for doing so, you may agree an extension of up to ten working days with the customer. This must only happen when an extension will make it more likely that the complaint will be resolved at the frontline resolution stage.

When you are considering an extension, you must get authorisation from the appropriate manager, who will decide whether you need an extension to effectively resolve the complaint. Examples of when this may be appropriate include staff or contractors being temporarily unavailable, or when awaiting responses from third parties or commissioned services. If it is clear from the outset that the complaint is so complex that it clearly cannot be resolved as a frontline complaint (in five working days), it should be handled directly at the investigation stage. Where an extension is authorised, you must tell the customer about the reasons for the extension, and when they can expect a response.

All attempts to resolve the complaint at this stage must take no longer than **15 working days** from the date you receive the complaint. The proportion of complaints that exceed the five working day timeline will be evident from reported statistics, and should be kept to a minimum. These statistics must go to our senior management team on a quarterly basis.

[Appendix 3](#) provides further information on timelines.

### ***Closing the complaint at the frontline resolution stage***

When you have informed the customer of the outcome, you are not obliged to write to the customer, although you may choose to do so. You must ensure that our response to the complaint addresses all areas that we are responsible for, explains the reasons for our decision and explains what the customer should do if they remain dissatisfied. It is also important to keep a full and accurate record of the decision reached and given to the customer. The complaint should then be closed and the complaints system updated accordingly.

When front-line responses are given verbally we would suggest the following types of complaints are also confirmed in writing, by letter, or email:

- Complainant has indicated they remain unhappy
- Complaint was about a member of staff
- Complaint involved any accusations of neglect
- Complaint about accusations of theft

### ***When to escalate to the investigation stage***

A complaint **must** be escalated to the investigation stage when:

- frontline resolution was tried but the customer remains dissatisfied and requests an investigation into the complaint. This may be immediately on communicating the decision at the frontline stage or could be some time later
- the customer refuses to take part in the frontline resolution process
- the issues raised are complex and require detailed investigation, or

- 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.

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. The SPSO defines potential high-risk or high-profile complaints as those that may:

- involve a death or terminal illness
- involve serious service failure, for example major delays or repeated failures to provide a service
- generate significant and ongoing press interest
- pose a serious risk to our operations
- present issues of a highly sensitive nature, for example concerning:
  - immediate homelessness
  - a particularly vulnerable person
  - child protection
  - adult protection.

### **Stage two: Investigation**

Not all complaints are suitable for frontline resolution and not all complaints will be satisfactorily resolved at that stage. Complaints handled at the investigation stage of the complaints handling procedure are typically complex or require a detailed examination before we can state our position. 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 customer a full, objective and proportionate response that represents our final position.

#### ***What to do when you receive a complaint for investigation***

It is important to be clear from the start of the investigation stage exactly what you are investigating, and to ensure that both the customer and the service understand the investigation's scope.

It is often necessary to discuss and confirm these points with the customer at the outset, to establish why they are dissatisfied and whether the outcome they are looking for sounds realistic. In discussing the complaint with the customer, consider three key questions:

1. What specifically is the customer's complaint or complaints?
2. What does the customer want to achieve by complaining?
3. Are the customer's expectations realistic and achievable?

It may be that the customer expects more than we can provide. If so, you must make this clear to the customer as soon as possible.

Where possible you should also clarify what additional information you will need to investigate the complaint. The customer may need to provide more information to help us reach a decision.

You should find out the person's preferred method of communication, and communicate by this means where reasonably practicable.

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

If the investigation stage follows attempted frontline resolution, you must ensure the officer responsible for the investigation has full access to all case notes and associated information, and record that you have done so.

### ***Timelines***

The following deadlines are appropriate to cases at the investigation stage:

- complaints must be acknowledged within **three working days**
- you should provide a full response to the complaint as soon as possible but not later than **20 working days** from the time you received the complaint for investigation.

### ***Extension to the timeline***

It is important that every effort is made to meet the timeline, as failure to do so may have a detrimental effect on the customer. 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 20 working day timeline. However, these would be the exception and you must always try to deliver a final response to a complaint within 20 working days.

If there are clear and justifiable reasons for extending the timeline, senior management will agree an extension and set time limits on any extended investigation. You must keep the customer updated on the reason for the delay and give them a revised timescale for completion. The reasons for an extension might include the following:

- essential accounts or statements, crucial to establishing the circumstances of the case, are needed from staff, customers or others but the person you must contact cannot help because of long-term sickness or leave
- you cannot obtain further essential information within normal timescales, or
- the customer has agreed to mediation as a potential route for resolution.

These are only a few examples, and you must judge the matter in relation to each complaint. However, an extension would be the exception and you must always try to deliver a final response to the complaint within 20 working days.

If a joint response is being prepared to a complaint that covers more than one service, the lead service must inform the customer of the reasons for any delay and when they can expect a response, even if the delay relates to input from the other service.

As with complaints considered at the frontline stage, the proportion of complaints that exceed the 20 working day timeline will be evident from reported statistics, which are provided to senior management on a quarterly basis.

[Appendix 3](#) provides further information on timelines.

### ***Alternative resolution and mediation***

Some complex complaints, or complaints where customers and other interested parties have become entrenched in their position, may require a different approach to resolving the matter. Where appropriate, you may consider using services such as mediation or conciliation, using suitably trained and qualified mediators to try to resolve the matter.

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

If you and the customer agree to mediation, an extension to the timeline will need to be agreed.

Mediation is ideally accessed at a reasonable early stage where there is agreement that aspects of the relationship between Adult Services / Children's Services and the client appears to be breaking down despite best efforts on both parts. The Council has an established partnership with an East Lothian mediation service and has used it successfully in a number of different types of situation. There is no guarantee that this will be successful but in some circumstances where other approaches seem to be failing it is worth both parties considering.

### ***Closing the complaint at the investigation stage***

You must let the customer know the outcome of the investigation, in writing or by their preferred method of contact. Our response to the complaint must address all areas that we are responsible for and explain the reasons for our decision, taking an appropriate approach to any confidential information. You must record the decision, and details of how it was communicated to the customer, on the complaints system. You must also make clear to the customer:

- their right to ask the SPSO to consider the complaint
- the time limit for doing so, and
- how to contact the SPSO.

### ***Signposting to the SPSO***

Once the investigation stage has been completed, the customer has the right to approach the SPSO if they remain dissatisfied.

The SPSO considers complaints from people who remain dissatisfied at the conclusion of our complaints procedure. The SPSO looks at issues such as service failure and maladministration (administrative fault), and the way we have handled the complaint. In relation to social work decisions, they can also look at professional judgement.

The SPSO recommends that you use the wording below to inform customers of their right to ask SPSO to consider 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 local councils and the NHS in Scotland. If you remain dissatisfied when you have had a final response from East Lothian Council 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 council'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

Their freepost address is:  
FREEPOST SPSO

Freephone: 0800 377 7330  
Online contact [www.spsso.org.uk/contact-us](http://www.spsso.org.uk/contact-us)  
Website: [www.spsso.org.uk](http://www.spsso.org.uk)



## **Governance of the complaints handling procedure**

### **Roles and responsibilities**

Overall responsibility and accountability for the management of complaints lies with East Lothian Council's Chief Executive and Council Management Team, including Service Managers.

Our final position on the complaint must be signed off by an appropriate senior officer and we will confirm that this is our final response. This ensures that our senior management own and are accountable for the decision. It also reassures the customer that their concerns have been taken seriously.

**Chief Executive/ Chief Officer:** The Chief Executive or Chief Officer provides leadership and direction in ways that guide and enable us to perform effectively across all services. This includes ensuring that there is an effective complaints handling procedure, with a robust investigation process that demonstrates how we learn from the complaints we receive. The Chief Executive may take a personal interest in all or some complaints, or may delegate responsibility for the CHP to senior staff. Regular management reports assure the Chief Executive of the quality of complaints performance.

**Chief Social Work Officer (CSWO):** The CSWO has an important role in the consideration of complaints information and, on occasion, the content of individual complaints. Their role in overseeing the effective governance of social work services and monitoring these arrangements includes complaints about social work services. The CSWO should also take appropriate account of complaints information in fulfilling their obligations to promote continuous improvement and best practice. Furthermore, the CSWO or their delegated officers may have specific interest in complaints relating to individuals for whom they have decision-making responsibilities.

**Depute Chief Executives and Director of Health & Social Care Partnership:** On the Chief Executive's behalf, Depute Chief Executive/Director may be responsible for:

- managing complaints and the way we learn from them
- overseeing the implementation of actions required as a result of a complaint
- investigating complaints, and
- deputising for the Chief Executive on occasion.

They may also be responsible for preparing and signing off decisions for customers, so they should be satisfied that the investigation is complete and their response addresses all aspects of the complaint. However, they may decide to delegate some elements of complaints handling (such as investigations and the drafting of response letters) to other senior staff. Where this happens, depute Chief Executives/Director should retain ownership and accountability for the management and reporting of complaints.

**Heads of Service:** Head of Service may be involved in the operational investigation and management of complaints handling. As senior officers they may be responsible for preparing and signing decision letters to customers, so they should be satisfied that the investigation is complete and their response addresses all aspects of the complaint.

**Complaints investigator:** The complaints investigator is responsible and accountable for the management of the investigation. They may work in a service delivery team or as part of a centralised customer service team, and will be involved in the investigation and in co-ordinating all aspects of the response to the customer. This may include preparing a comprehensive written report, including details of any procedural changes in service delivery and identifying wider opportunities for learning across the organisation.

**All of the organisation's staff:** A complaint may be made to any member of staff in the organisation. All staff must therefore be aware of the complaints handling procedure and how to handle and record complaints at the frontline stage. They should also be aware of who to refer a complaint to, in case they are not able to handle the matter. We encourage all staff to try to resolve complaints early, as close to the point of service delivery as possible, to prevent escalation, and to record any complaint that they have dealt with.

**Customer Feedback Team:** Our Customer Feedback team responsibilities include providing complaints information in an orderly, structured way within requested timescales, providing comments on factual accuracy on our behalf in response to SPSO reports, and confirming and verifying that recommendations have been implemented.

### **Complaints about senior staff**

Complaints about senior staff can be difficult to handle, as there may be a conflict of interest for the staff investigating the complaint. When serious complaints are raised against senior staff, it is particularly important that the investigation is conducted by an individual who is independent of the situation. We must ensure we have strong governance arrangements in place that set out clear procedures for handling such complaints.

### **Recording, reporting, learning from and publicising complaints**

Complaints provide valuable customer feedback. One of the aims of the CHP is to identify opportunities to improve services across East Lothian Council. We must 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 service improvements.

### **Recording complaints**

To collect suitable data it is essential to record all complaints in line with SPSO minimum requirements, as follows:

- the customer's name and address
- the date the complaint was received
- the nature of the complaint
- how the complaint was received
- the service the complaint refers to
- the date the complaint was closed at the frontline 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, and
- the underlying cause of the complaint and any remedial action taken.

We have structured systems for recording complaints, their outcomes and any resulting action. These provide a detailed record of services that have failed to satisfy customers.

### **Reporting of complaints**

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

We publish on a quarterly basis the outcome of complaints and the actions we have taken in response. This demonstrates the improvements resulting from complaints and shows that complaints can influence our services. It also helps ensure transparency in our complaints handling service and will help to show our customers that we value their complaints.

We must:

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

This information should 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 handler should always make sure that the customer and staff of the department involved understand the findings of the investigation and any recommendations made.

Senior management will review the information gathered from complaints regularly and consider whether our services could be improved or internal policies and procedures updated.

As a minimum, we must:

- use complaints data to identify the root cause of complaints
- take action to reduce the risk of recurrence where possible
- record the details of corrective action in the complaints file, and
- systematically review complaints performance reports to improve service delivery.

Where we have identified the need for service improvement:

- the action needed to improve services must be authorised
- an officer (or team) should be designated the 'owner' of the issue, with responsibility for ensuring the action is taken
- a target date must be set for the action to be completed

- the designated individual must follow up to ensure that the action is taken within the agreed timescale
- where appropriate, performance in the service area should be monitored to ensure that the issue has been resolved
- we must ensure that East Lothian Council's staff learn from complaints.

### **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 complaint 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. This includes maintaining the customer'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 customer 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 customer acting in an unacceptable way. Customers who have a history of challenging or inappropriate behaviour, or have difficulty expressing themselves, may still have a legitimate grievance.

A customer'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 customers 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 customers. Where we decide to restrict access to a customer under the terms of the Work-Related Violence and Unacceptable Behaviour Policy, we have a procedure in place to communicate that decision, notify the customer of their right of appeal, and review any decision to restrict contact with us. This will allow the customer to demonstrate a more reasonable approach later.

Unacceptable behaviour can include one or more of the following:

Threats

Physical violence

Personal verbal abuse

Derogatory remarks and rudeness

Inflammatory statements

Racial or discriminatory remarks

Unsubstantiated allegations

Making unreasonable demands

Unreasonable levels of contact  
Causing fear, alarm or distress on the eyes of the employee

Further information on the Council's Work-Related Violence and Unacceptable Behaviour Policy can be found here:

[http://intranet.eastlothian.gov.uk/downloads/file/1578/management\\_arrangements\\_for\\_workplace\\_violence\\_and\\_unacceptable\\_behaviour](http://intranet.eastlothian.gov.uk/downloads/file/1578/management_arrangements_for_workplace_violence_and_unacceptable_behaviour)

### **Time limit for making complaints**

This CHP sets a time limit of six months from when the customer first knew of the issue they wish to complain about, within which time they may ask us to consider the complaint, unless there are special circumstances for considering complaints beyond this time.

We will apply this time limit with discretion. In making decisions we will take account of the Scottish Public Services Ombudsman Act 2002 (Section 10(1)), which sets out the time limit within which a member of the public can normally ask the SPSO to consider complaints. The limit is one year from when the person first knew of the problem they are complaining about, unless there are special circumstances for considering complaints beyond this time.

If it is clear that a decision not to investigate a customer's complaint will lead to a request for external consideration of the matter, we may decide that this satisfies the special circumstances criteria. This would enable us to consider the complaint and try to resolve it, without the complaint going straight to the SPSO.

Insert Date / Authorisation of this CHP by Whom and When

## Appendix 1 – Frontline resolution complaints

The following tables give examples of complaints that may be considered at the frontline stage, and suggest possible actions to achieve resolution.

Complaint	Possible actions to achieve resolution
A service user complains that a social worker did not turn up for a planned visit.	<ul style="list-style-type: none"> <li>• Apologise to the service user</li> <li>• explain that you will look into the matter</li> <li>• contact the social worker/manager to find out the reason for the missed appointment, then</li> <li>• explain the reasons and offer a new appointment.</li> </ul>
A member of the public complains that a home carer parked in a private resident's car parking place.	<ul style="list-style-type: none"> <li>• Take the customer's details and explain that you will look into the matter</li> <li>• contact the home care service to find out if this is the case</li> <li>• if so, request that this does not happen again, and</li> <li>• contact the customer, apologise and advise that the worker has been asked to find alternative parking.</li> </ul>
A member of public complains that his neighbours (residents of a children's house) have been playing football in the street where they live and are being abusive to passers-by.	<ul style="list-style-type: none"> <li>• Explain to the customer that you will look into the matter and call them back</li> <li>• contact the manager of the children's house to verify the facts</li> <li>• request that the manager meet with the neighbour to apologise and engender good relations, then</li> <li>• call back the customer to update them.</li> </ul>
A complaint about a service provider commissioned by social work services.	<ul style="list-style-type: none"> <li>• Discuss with the customer the different ways for this complaint to be handled, i.e. by a complaint to the Care Inspectorate or through the provider's own CHP, and</li> <li>• ensure, whatever process is agreed, that the customer is clear how they can progress their complaint to the next stage, should they remain dissatisfied. This may be within the provider's CHP, to East Lothian Council, or to the Care Inspectorate. The customer should be advised that they can come back to East Lothian Council for further advice if they need to at any stage.</li> </ul>
A service user complains that their care	<ul style="list-style-type: none"> <li>• Clarify with the customer whether the complaint</li> </ul>

<p>needs assessment does not accurately reflect their needs, or that the care package proposed would not meet the needs identified in their assessment.</p>	<p>relates to an assessment of needs or a proposed care package. Establish specifically what the customer is complaining about and what has happened so far. Ask them what they are seeking from their complaint, and explain that you will look into the matter</p> <ul style="list-style-type: none"><li>• make internal enquiries to establish what stage the assessment and care planning processes are at</li><li>• while considering the complaint, if the team indicate that a new assessment or care planning meeting may be offered, pass this offer onto the customer, and ask the team to contact the customer to take this forward, and</li><li>• if the team are not prepared to look at the matter again, explain why the assessment or care package decision is considered to be adequate, and signpost to the next stage of the CHP.</li></ul>
<p>A customer complains about social work services impacting on their discharge from hospital.</p>	<ul style="list-style-type: none"><li>• Check with the hospital social work team about the customer's care planning in relation to discharge from hospital, and the timing of medical decisions and social work input</li><li>• it may become apparent at that stage that the discharge process was complicated by a range of issues, in which case it may be appropriate to escalate the complaint to investigation</li><li>• it may also become apparent that the customer is still in hospital, and may or may not be considered ready for discharge. If they are ready, then pass the complaint onto the team directly involved to respond to as quickly as possible</li><li>• if the situation is not current, and there were delays from social work services, find out why these happened, and</li><li>• respond to the customer by their preferred method, to inform them of the outcome of their complaint. Offer an apology if appropriate, and outline what steps have been put in place to prevent a recurrence of the situation.</li></ul>

## Appendix 2 - Complex social work scenarios

A concern may not necessarily be a complaint. In some cases a measure of discretion or further clarification is required in determining whether something is a complaint that should be handled through this procedure or another matter which should be handled through another process. There are also some specific circumstances when complaints should be handled in a particular manner. Issues that commonly arise include:

### 1. Child or adult protection concerns

Customers may express concerns that a child or adult is at risk, but frame their concern in terms of dissatisfaction that 'nothing has been done about this'. The member of staff will need to consider whether the person is authorised to make complaints on behalf of the child or adult in question, whether they expect the matter to be handled as a complaint and whether the professional view is that these matters are best addressed through initiating the applicable child or adult protection procedures. Where the need to initiate protection procedures and investigate concerns within those procedures is identified, this will usually represent East Lothian Council's final response to the complaint, and the complaint should be closed. The person making the complaint should be advised that this is the outcome of the complaint and signposted to the SPSO.

Where a complaint is received about some aspect of protection processes that have already been initiated, for example in relation to the way the processes was applied, this should be considered a complaint, and progressed within the complaints handling procedure.

### 2. Complaints about professional decisions

A customer may wish to complain about or appeal against a social work decision. Such decisions must be considered in line with the timescales for complaints as specified in the CHP.

Some decisions may be considered through an internal appeal procedure such as Decision of the Fostering & Adoption Panel re Carer Registration. However, any such appeal route must be considered as constituting a special form of Stage 2 of this procedure, in that it will result in a thorough response **to all concerns** and onward referral to the SPSO.

### 3. Legal action

Legal action takes several forms and each must be handled in a distinctive way:

- (a) **Judicial Review:** If a person wishes to seek judicial review of a social work decision then they should be encouraged to seek legal advice.
- (b) **Litigation:** Where a customer says that they are seeking compensation and that legal action is being actively pursued, this is not a complaint. Where a customer indicates that they intend to litigate but have not yet commenced legal action, they should be informed that if they take such action, they should notify the complaints team and that the complaints process will be closed. If it becomes apparent that legal action is being pursued, the complaints team must clarify with the customer if all the issues they have raised will be considered through legal action; any outstanding issues must still be addressed through the CHP.



- (c) Legal tribunals, etc: Sometimes the matter complained of may be the subject of ongoing consideration by a relevant legal body, for example where a customer complains of lack of contact with their child who is being looked after by East Lothian Council, when that matter falls to be determined by the Children's Panel. In such cases the customer should be directed to raise the matter either directly or through their legal representatives within that other defined process and the matter should not be accepted as a complaint.

This is distinct from a complaint that East Lothian Council and its staff have failed to properly carry out their roles and responsibilities. In the example above, a Children's Panel may have set contact frequency but it is not being properly facilitated by social work staff due to staffing shortages or some other factor. That is a matter of legitimate complaint under this procedure.

#### **4. Complaints about the content of reports submitted to legal bodies**

East Lothian Council may receive complaints about the accuracy of reports by professional social work staff submitted to Courts or other bodies such as Children's Panels, Parole Boards or Mental Health Tribunals. In such circumstances, the report is provided as a service to the court or tribunal, not as a service to the customer. The customer has no right to veto such reports or insist that content is subject to their approval but they can complain about the content of the report.

East Lothian Council should consider each complaint and it will usually be necessary to undertake a short screening process to establish whether the issue is appropriate for the CHP. This will depend on the nature and seriousness of alleged inaccuracy, and the status of the report in relation to the progress of court or other proceedings. In particular East Lothian Council should consider whether the complaint relates to accuracy of facts, to opinion or to the standard and quality of the work carried out by the professional concerned, and should take one of three actions accordingly:

1. advise the customer that, due to the timescales involved, the issue should be raised when the report is presented in court/to the relevant body, as that is the appropriate forum for deciding on the matter
2. advise the customer that the complaint raises issues that will be considered under the CHP (such as issues of fact), and progress accordingly, or
3. advise the customer that the complaint raises a mixture of issues that will be considered under the CHP and other issues that should be raised within the relevant forum when the report is submitted.

If you refuse to consider some or all issues as per 1 or 3 above and direct the customer to raise the matter within the legal process, you must still provide clear information about the reason for this decision, and signpost the customer to the SPSO for access to a review of this decision.

East Lothian Council should also consider whether the complaint relates to a breach of data protection legislation, in which case it must be processed accordingly, with a potential referral to the Information Commissioner.

## **5. Campaigns**

The introduction of a new policy or changes in service, such as the closure of a facility, may lead to a high volume of complaints being received. These should be handled under this procedure on an individual basis on their merits, addressing the issue of how that particular customer is affected by the change. It may be appropriate to provide information about the process that led to the changes, or when the policy may next be reviewed.

Occasionally, however, such complaints are evidently part of an organised campaign. Indicators may be that all complaints have identical content or are on a 'form' letter or that all complainers are known to be members of a pressure group that has made separate representations through East Lothian Council's petitions or elected members.

East Lothian Council should not accept an unreasonable burden on its complaints processes produced by an organised campaign. Instead, East Lothian Council may either issue a single 'form' response or may ask the organisers to nominate a single person to make a single complaint on behalf of the group. In such circumstances it would be important to be clear that all the complaints being brought to East Lothian Council are identical, and setting out clearly what issues are being considered under the complaint. Any other additional concerns that individuals may have would need to be handled as new complaints.

## **6. Persons under investigation**

East Lothian Council is likely to have a role in investigating the actions of individuals towards other, more vulnerable people, for example those suspected of child or adult abuse or Guardians and Powers of Attorney who are allegedly misusing their powers.

Those individuals are still customers as defined within this procedure and any complaint from them must be considered on its individual merits. For example, a complaint about an improper exercise of investigative procedures should be looked into as a complaint. Any response should take into account any confidentiality issues, and this should be explained to the customer.

However, if it is evident that the person is not complaining about the process or the actions of staff, but is complaining that they are under investigation, this should not be accepted as a complaint. Instead it should be explained to the customer that East Lothian Council has a statutory obligation to investigate such matters, and this is not conditional upon their agreement or approval. Their objection to the process is not considered to be a complaint, though they may be directed to seek appropriate legal advice to protect their rights.

## **7. Looked after and accommodated children/adults under local authority guardianship**

East Lothian Council has a special duty of care to children in its care or adults for whom it exercises decision-making powers. Special care should be taken when investigating complaints made by or on behalf of those individuals.

Artificial barriers of confidentiality should not be imposed to prevent people with a relevant interest in the affairs of an incapacitated adult from complaining on their behalf.

Children who are looked after by the Local Authority may complain. They may have little in the way of a support network and may be estranged from their family. It may also be inappropriate for the family to represent the child's interests. Particular care, therefore, should be taken to ensure that the child's complaint is understood and, particularly for younger children, that the response is understood by them.

In both cases, the need for personal contact with the customer, and the possible involvement of advocacy services, should be actively considered.

#### **8. Grievances/Staff complaints**

This procedure is for external customers of East Lothian Council to complain about services received by them or affecting them or to complain on behalf of others. It is not an appropriate procedure for the handling of complaints by staff, which should be routed through the usual HR/Personnel processes.

#### **9. Allegations of fraud/criminality/professional malpractice or incompetence**

Discretion is required where the complaint is so serious as to immediately merit investigation under disciplinary processes or referral to another agency.

If it is determined that the complaint falls into this category, you should always try to respond to the complaint within the CHP timescales. Even where the outcome of the complaint leads to further internal procedures being followed, the customer can still be advised of this as an outcome, and the complaint closed, with signposting to the SPSO.

However, in some cases, particularly where the police are involved, you may have to await the outcome of another process before you can decide on the outcome of the complaint. Where such a decision is made you must inform the customer and advise them of their right to come to the SPSO if they are dissatisfied with this approach.

#### **10. Complaints brought by foster carers**

Complaints brought by foster carers can relate to the support services they receive from East Lothian Council, the way our staff engage with them, or services a child in their care is or was receiving or has requested from us.

Any complaint brought by a foster carer on behalf of a foster child in the care, or formerly in their care, should be considered under this CHP. A foster carer has sufficient interest in the wellbeing of a child to complain on their behalf. Where possible, the views of the child should also be taken into account and if they are different from the views of the foster carer, this should be referred to in the response.

Foster carers who are recruited and supported by us may bring complaints about these services. However, approval and de-registration of the carer by East Lothian Council may be considered through alternative appeal mechanisms. As noted under the section 'Complaints and appeals', these appeals must be handled in line with the CHP timescales and end with signposting to the SPSO.

Complaints from foster carers supported by private agencies will not be addressed within this CHP if the complaint is wholly about their own circumstances and support rather than those of the child. Such complaints should be directed to the complaints process of the relevant agency.

An agency foster carer may still complain about the way our staff have interacted with them or about any element of service that they might reasonably expect to be provided by East Lothian Council, for example invitations to meetings, provision of information about the child in their care or the manner and content of communications with East Lothian Council. This list is not exhaustive and such complaints should be carefully considered in terms of the role of East Lothian Council's staff, before directing them to pursue their complaint with their fostering agency.

Where a complaint cannot be considered in part or in whole by East Lothian Council, the customer must be given a clear explanation as to why this is, what (if any) parts of their complaint will be investigated and how they may refer the matter to the SPSO.

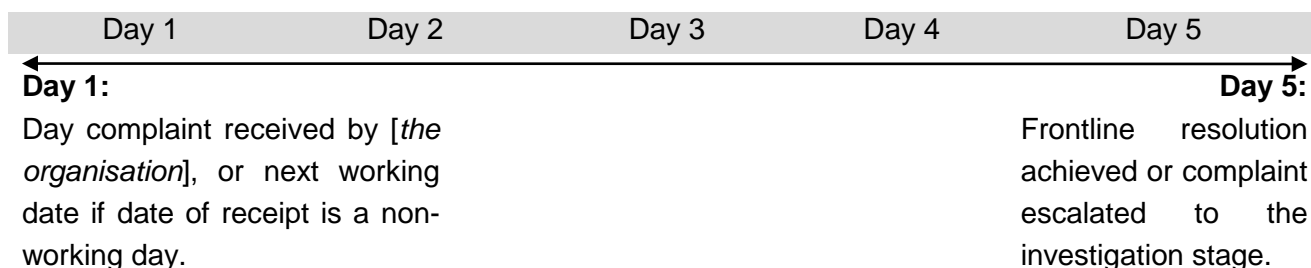
## Appendix 3 - Timelines

### General

References to timelines throughout the CHP 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

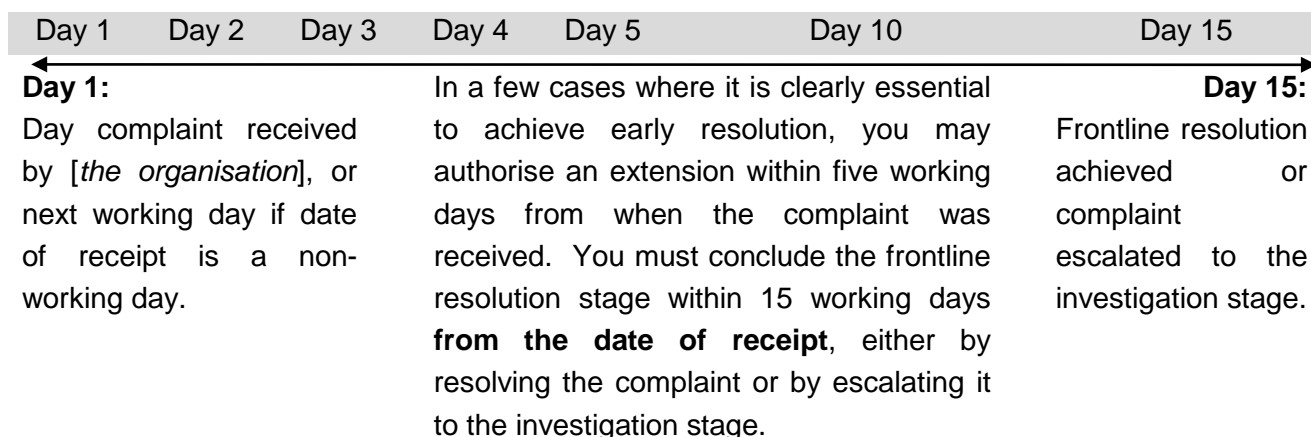
You must aim to achieve frontline resolution within five working days. The day you receive the complaint is day 1. Where you receive it on a non-working day, for example at the weekend or on a public holiday, day 1 will be the next working day.



The date of receipt will be determined by the organisation's usual arrangements for receiving and dating of mail and other correspondence.

### Extension to the five-day timeline

If you have extended the timeline at the frontline resolution stage in line with the CHP, the revised timetable for the response must take no longer than 15 working days from the date of receiving the complaint.



### Transferring cases from frontline resolution to investigation

If it is clear that frontline resolution has not resolved the matter, and the customer 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 customer is told this will happen.

## Timelines at investigation

You may consider a complaint at the investigation stage either:

- after attempted frontline resolution, or
- immediately on receipt if you believe the matter to be sufficiently complex, serious or meriting a full investigation from the outset.

## Acknowledgement

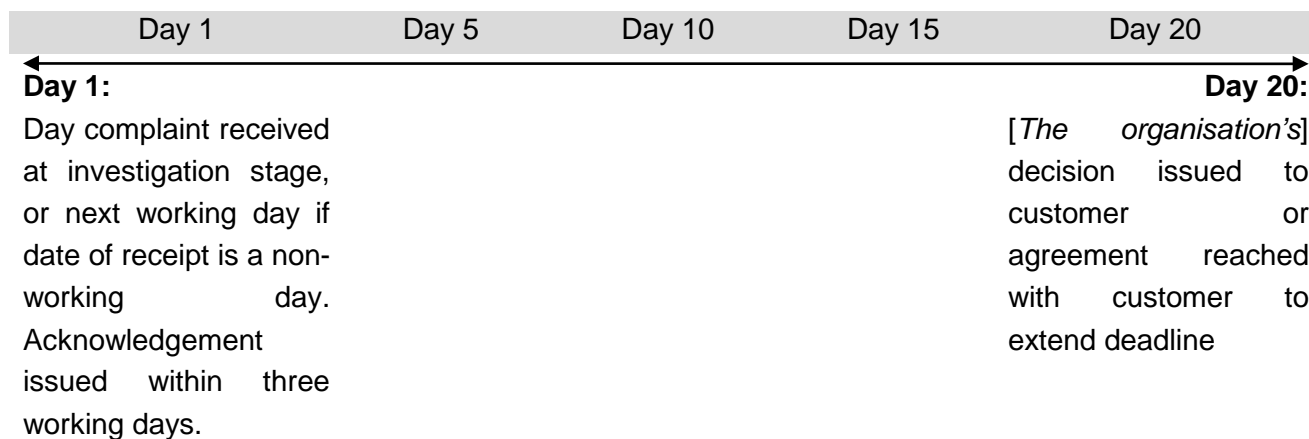
All complaints considered at the investigation stage must be acknowledged within **three working days** of receipt. The date of receipt is:

- the day the case is transferred from the frontline stage to the investigation stage, where it is clear that the case requires investigation,
- the day the customer asks for an investigation after a decision at the frontline resolution stage. You should note that a customer may not ask for an investigation immediately after attempts at frontline resolution, or
- the date you receive the complaint, if you think it sufficiently complex, serious or meriting a full investigation from the outset.

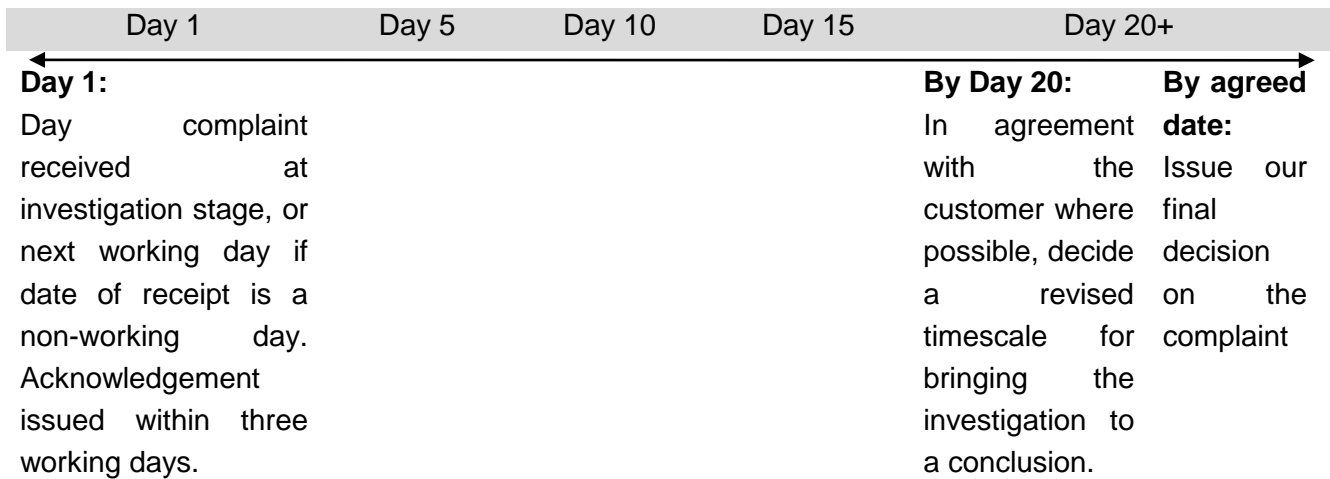
## Investigation

You should respond in full to the complaint within **20 working days** of receiving it at the investigation stage.

The 20 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 you have 20 working days to investigate the complaint, regardless of any time taken to consider it at the frontline resolution stage.

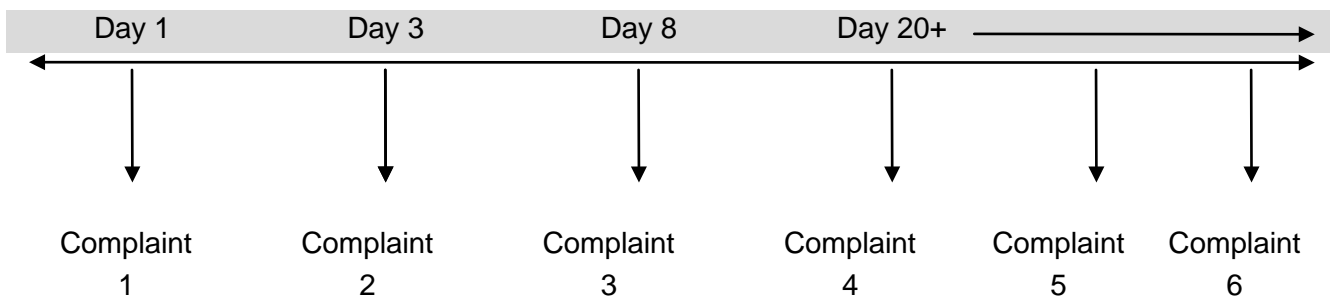


Exceptionally you may need longer than the 20-day limit for a full response. If so, you must explain the reasons to the customer, and agree with them a revised timescale.



**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:

**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 ten working 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 20-day limit.

#### **Complaint 5**

We considered complaint 5 at the frontline resolution stage, where an extension of ten working days was authorised. At the end of the frontline stage the customer was still dissatisfied. At their request, we conducted an investigation and issued our final response within 20 working days. Although the end-to-end timeline was 30 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 20-day limit, so we agreed a revised timescale with the customer for concluding the investigation beyond the 20-day limit.



## Appendix 4 - The complaints handling procedure

