



**WEST LOTHIAN COUNCIL**

# **Complaints Handling Procedure**

## **The complaints handling process**

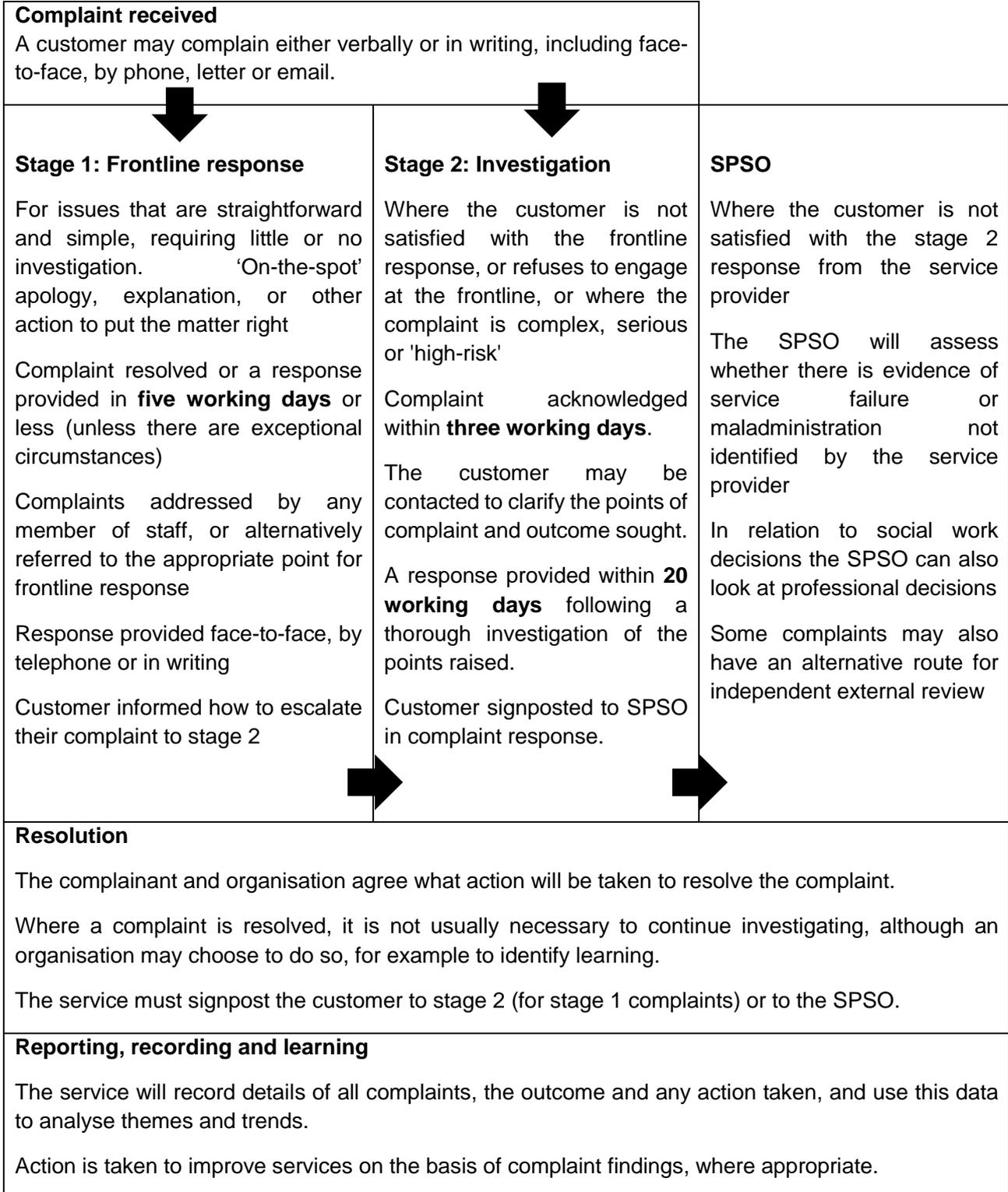
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## The complaints handling procedure

1. The Complaints Handling Procedure (CHP) aims to provide a quick, simple and streamlined process for responding to complaints early. Where possible, the service will resolve the complaint to the customer's satisfaction. Where this is not possible, the customer will receive a clear and reasoned response to their complaint.



## Resolving the complaint- Resolution Outcome

2. A complaint has the outcome “Resolution” when both the service and the customer agree what action (if any) will be taken to provide full and final resolution for the customer, without making a decision about whether the complaint is upheld, part upheld or not upheld.
3. The service will try to resolve complaints wherever possible, although it is accepted that this will not be possible in all cases.
4. A complaint may have the outcome “Resolution” at any point in the complaint handling process, including during the investigation stage. It is particularly important to try to resolve complaints where there is an ongoing relationship with the customer or where the complaint relates to an ongoing issue that may give rise to future complaints if the matter is not fully resolved.
5. Where a complaint has the outcome “Resolution”, the service would not normally need to continue looking into the complaint or provide a response on all points raised. The service will keep a clear record of how a complaint was resolved, what action was agreed, and the customer’s agreement to this as a final outcome. In some cases it may still be appropriate for the service to continue looking into the issue, for example where there is evidence of a wider problem or potential for useful learning.
6. In all Resolution cases, the service will record the complaint outcome (Resolution) and any action taken, and signpost the customer to stage 2 (for stage 1 complaints) or to the SPSO (for stage 2 complaints)
7. If the customer and service are not able to agree a resolution, the service will follow the Complaint Handling Procedure to provide a clear and reasoned response to each of the issues raised.
8. **NOTE:** In almost all cases, services should review each complaint to understand whether the complaint outcome is **upheld, part upheld or not upheld**. Understanding one of these outcomes helps inform service improvement activity. The use of the “Resolution” outcome may impede service improvement activity if the complaint is not fully investigated.

## What to do when the service receives a complaint

9. Members of staff receiving a complaint will consider four key questions. This will help to either respond to the complaint quickly (at stage 1) or determine whether the complaint is more suitable for stage 2:

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

10. It is important to be clear about exactly what the customer is complaining about. The customer may have to be contacted to provide more detail about the complaint.
11. The service will need to decide whether the issue can be defined as a complaint and whether there are circumstances that may limit the ability to respond to the complaint (such as the time limit for making complaints, confidentiality, anonymity or the need for consent). The service should also consider whether the complaint is serious, high-risk or high-profile.
12. If the matter is not suitable for handling as a complaint, this will be explained to the customer.
13. In most cases, complaints will be handled at stage 1 of the complaints procedure. If it is a complex complaint, it may need to be handled immediately at stage 2.

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

14. In most cases, the service will attempt to clarify the outcome the customer wants if this is unclear in the received complaint.

### **Can the customer expected outcome be achieved, or explain why not?**

15. If a staff member handling a complaint can achieve the expected outcome, for example by providing an on-the-spot apology or explain why they cannot achieve it, they will do so.
16. The customer may expect more than can be provided. If so, the service will tell them as soon as possible.
17. Complaints which can be resolved or responded to quickly should be managed at stage 1.

### **If the service cannot respond quickly, who can help?**

18. If the complaint is simple and straightforward, but the staff member receiving the complaint cannot deal with it because, for example, they are unfamiliar with the issues or area of service involved, the complaint will be passed to the appropriate service.
19. If the complaint is not simple and straightforward it may be handled immediately at stage 2.

## Stage 1: Frontline response

20. Frontline response aims to respond quickly (within five working days) to straightforward complaints that require little or no investigation.
21. Any member of staff may deal with complaints at this stage (including the staff member complained about, for example with an explanation or apology). The main principle is to respond to complaints at the earliest opportunity and as close to the point of service delivery as possible.
22. The service may respond to 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.
23. Complaints which are not suitable for frontline response will be identified early, and handled at stage 2: investigation.

## Notifying staff members involved

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24. If the complaint is about the actions of another staff member, where possible, the complaint may be shared with the staff member before a complaint response is provided.

## Timelines

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25. Frontline response must be completed within **five working days**. 'Day one' is always the date of receipt of the complaint (or the next working day if the complaint is received on a weekend or public holiday).

## Extension to the timeline

26. In exceptional circumstances, a short extension of time may be necessary due to unforeseen circumstances (such as the availability of a key staff member). Extensions will be agreed with an appropriate manager.
27. If a complaint is expected to take more than five working days to look into, it should be handled at stage 2 immediately. The only exception to this is where the complaint is simple and could normally be handled within five working days, but it is not possible to begin immediately (for example, due to the absence of a key staff member). In such cases, the complaint may still be handled at stage 1.

## Closing the complaint at the frontline response stage

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28. If the complaint decision is communicated either face-to-face or on the telephone, there is not a requirement to write to the customer as well. The service will must:
  - tell the customer the outcome of the complaint. The council's outcomes are: resolution, upheld, partially upheld and not upheld;
  - explain the reasons for the decision (or the agreed action taken to resolve the complaint, or the agreed action taken to resolve the complaint; and
  - explain that the customer can escalate the complaint to stage 2 if they remain dissatisfied and how to do so (the customer should not be signposted to the SPSO until the customer has completed stage 2).

29. The service will keep a full and accurate record of the decision given to the customer. If the service is not able to contact the customer by phone, or speak to them in person, a written response to the complaint will be provided if an email or postal address is available, covering the key complaint points.
30. If the complaint is about the actions of a particular staff member/s, the service will share any part of the complaint response which relates to them (unless there are compelling reasons not to).
31. The complaint should then be closed and the complaints system updated accordingly.

## Stage 2: Investigation

32. Not all complaints are suitable for frontline response and not all complaints will be satisfactorily addressed at that stage. Stage 2 is appropriate where:
- the customer is dissatisfied with the frontline response or refuses to engage at the frontline stage. Unless exceptional circumstances apply, the customer must escalate the complaint within six months of when they first knew of the problem or within two months of the stage 1 response, whichever is later
  - the complaint is not simple and straightforward (for example where the customer has raised a number of issues, or where information from several sources is needed before the service can establish what happened and/or what should have happened); or
  - the complaint relates to serious, high-risk or high-profile issues.
33. An investigation aims to explore the complaint in more depth and establish all the relevant facts. The aim is to resolve the complaint where possible, or to give the customer a full, objective and proportionate response that represents our final position. Complaints may be investigated by someone not involved in the complaint (for example, a line manager or a manager from a different area).
34. Details of the complaint must be recorded. Where appropriate, this will be done as a continuation of frontline response. If the investigation stage follows a frontline response, the officer responsible for the investigation should have access to all case notes and associated information.

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## Acknowledging the complaint

35. Complaints must be acknowledged within three working days of receipt at stage 2.
36. The service will issue the acknowledgement in a format which is accessible to the customer.
37. Where the points of a stage 2 complaint and expected outcomes are clear from the complaint, the service may set these out in the acknowledgement and ask the customer to get in touch if they disagree.
38. Where the points of complaint and expected outcomes are not clear, the customer may be contacted to discuss this further.

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## Agreeing the points of complaint and outcome sought

39. It is important to be clear from the start of stage 2 about the points of complaint to be investigated and what outcome the customer is seeking. The service may also need to manage the customer's expectations about the scope of the investigation.
40. Where the points of complaint are not clear, the service should contact the customer to confirm these. The service can contact the customer either by phone, face-to-face or in writing. A record of any discussion with the customer should be kept.
41. In all cases, the service must have a clear understanding of:
- **What are the points of complaint to be investigated?**
- While the complaint may appear to be clear, agreeing the points of complaint at the outset ensures there is a shared understanding and avoids the complaint changing or confusion

arising at a later stage.

The service will make every effort to agree the points of complaint with the customer if the points are unclear. In very rare cases, it may not be possible to agree the points of complaint (for example, if the customer insists on an unreasonably large number of complaints being separately investigated, or on framing their complaint in an abusive way). The service will manage any such cases in accordance with the council's Unacceptable Actions Policy.

- **Is there anything the service can't consider under the CHP?**

The service must explain if there are any points that are not suitable for handling under the CHP.

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

Where the outcome of the complaint is unclear the service may ask what outcome the customer is seeking. This may help direct the investigation and enables the service to focus on resolving the complaint where possible.

- **Are the customer's expectations realistic and achievable?**

It may be that the customer expects more than can be provided, or has unrealistic expectations about the scope of the investigation. If so, this should be made clear to the customer as soon as possible.

## Notifying staff members involved

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42. If the complaint is about the actions of a particular staff member/s, the service may notify the staff member/s involved (including where the staff member is not named, but can be identified from the complaint). The service may:

- share the complaint information with the staff member/s (unless there are compelling reasons not to);
- advise them how the complaint will be handled, how they will be kept updated and how the service will share the complaint response with them;
- discuss their willingness to engage with alternative complaint resolution approaches (where applicable); and
- signpost the staff member/s to a contact person who can provide support and information on what to expect from the complaint process (this must not be the person investigating or signing off the complaint response).

## Investigating the complaint

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43. The staff member investigating the complaint should consider:

- what happened? (this may include, for example, records of phone calls or meetings, work requests, recollections of staff members or internal emails)
- what should have happened? (this may include any relevant policies or procedures that apply); and

- is there a difference between what happened and what should have happened, and whether the service is responsible?

44. In some cases, information may not be readily available. The service will balance the need for the information against the resources required to obtain it, taking into account the seriousness of the issue (for example, it may be appropriate to contact a former employee, if possible, where they hold key information about a serious complaint).

### **Alternative complaint resolution approaches**

45. Where the service think it is appropriate, the service may use alternative complaint resolution approaches such as complaint resolution discussions, mediation or conciliation to try to resolve the matter and to reduce the risk of the complaint escalating further. If mediation is attempted, a suitably trained and qualified mediator should be used. Alternative complaint resolution approaches may help both parties to understand what has caused the complaint, and so are more likely to lead to mutually satisfactory solutions.

46. Alternative complaint resolution approaches may be used to resolve the complaint entirely, or to support one part of the process, such as understanding the complaint, or exploring the customer's desired outcome.

47. If the service and the customer (and any staff members involved) agree to using alternative complaint resolution approaches, it is likely that an extension to the timeline will need to be agreed. This should not discourage the use of these approaches.

### **Meeting with the customer during the investigation**

48. To effectively investigate the complaint, it may be necessary to arrange a meeting with the customer. Where a meeting takes place, the service will always be mindful of the requirement to investigate complaints (including holding any meetings) within 20 working days wherever possible. Where there are difficulties arranging a meeting, this may provide grounds for extending the timeframe.

49. As a matter of good practice, a written record of the meeting should be completed and provided to the customer. Alternatively, and by agreement with the person making the complaint, the service may provide a record of the meeting in another format. The service will notify the person making the complaint when to expect a written record of the meeting.

### **Timelines**

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50. The following deadlines are appropriate to cases at the investigation stage (counting day one as the day of receipt, or the next working day if the complaint was received at the weekend or on a public holiday):

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

### **Extension to the timeline**

51. 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. It is important to be realistic and clear with the customer about timeframes, and to advise them early if the service think it will not be possible to meet the 20 day timeframe, and

why. The service should bear in mind that extended delays may have a detrimental effect on the customer.

52. Any extension must be approved by an appropriate manager. The service will keep the customer and any member/s of staff complained about updated on the progress of the complaint.

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

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53. The response to the complaint should be in writing (or by the customer's preferred method of contact) and must be signed off by the appropriate manager or delegated officer who is empowered to provide the final response on behalf of the service.

54. The service will tell the customer the outcome of the complaint (whether it is upheld, partially upheld, not upheld or resolution). The complaint response in terms of good practice will:

- be clear and easy to understand, written in a way that is person-centred and non-confrontational;
- avoid technical terms, but where these must be used, an explanation of the term should be provided;
- address all the issues raised and demonstrate that each element has been fully and fairly investigated;
- where appropriate, include an apology where things have gone wrong;
- highlight any area of disagreement and explain why no further action can be taken;
- indicate that if they are not satisfied with the outcome of the stage 2 process, they may seek a review by the SPSO.

55. Where a complaint outcome is **resolution**, the response does not need to provide a decision on all points of complaint, but should instead confirm and record the resolution agreed.

56. If the complaint is about the actions of a particular staff member/s, the service will share with them any part of the complaint response which relates to them, (unless there are compelling reasons not to).

57. The service will record the decision, and details of how it was communicated to the customer, on the complaints system.

## **Signposting to the SPSO**

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58. Once the investigation stage has been completed, the customer has the right to approach the SPSO if they remain dissatisfied. The service must make clear to the customer:

- their right to ask the SPSO to consider the complaint;
- how to contact the SPSO.

59. The SPSO considers complaints from people who remain dissatisfied at the conclusion of the complaints procedure. The SPSO looks at issues such as service failure and maladministration (administrative fault), and the way the service has handled the complaint. There are some subject areas that are outwith the SPSO's jurisdiction, but it is the SPSO's role to determine whether an individual complaint is one that they can consider (and to what extent). All investigation responses must provide a signpost to the SPSO.

60. The SPSO recommends that the service use the wording below to inform customers of their right to ask the SPSO to consider the complaint. This information should only be included on the service's final response to 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 organisation's sector]*. The SPSO is an independent organisation that investigates complaints. It is not an advocacy or support service (but there are other organisations who can help you with advocacy or support).

If you remain dissatisfied when you have had a final response from *[the organisation]*, you can ask the SPSO to look at your complaint. You can ask the SPSO to look at your complaint if:

- you have gone all the way through the council's Complaints Handling Procedure
- it is less than 12 months after you became aware of the matter you want to complain about, and
- the matter has not been (and is not being) considered in court.

The SPSO will ask you to complete a complaint form and provide a copy of this letter (our final response to your complaint). You can do this online at

<https://www.spsso.org.uk/complain/form/start/> or call them on Freephone 0800 377 7330.

You may wish to get independent support or advocacy to help you progress your complaint. Organisations who may be able to assist you are:

- Citizens Advice Bureau
- Scottish Independent Advocacy Alliance

The SPSO's contact details are:

SPSO

Bridgeside House

99 McDonald Road

Edinburgh

EH7 4NS

(if you would like to visit in person, you must make an appointment first)

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)

### **Factoring complaints and complaints from shared owners**

61. The SPSO does not normally look at complaints about our factoring service or complaints from shared owners. These complaints can be considered by the First Tier Tribunal for Scotland (Housing and Property Chamber). Their contact details are on their website: <https://www.housingandpropertychamber.scot/>

62. Where the complaint relates to social housing, the service should still signpost these complaints to the SPSO, as there may be some aspects the SPSO can consider (for example, if the customer is dissatisfied with how the service have handled their complaint). However, the service should also notify the customer of their right to approach the Tribunal if they are dissatisfied with our response to these kinds of complaint.

## **Post-closure contact**

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63. If a customer contacts the service for clarification when they have received a final complaint response, the service may have further discussion with the customer to clarify the response and answer their questions. However, if the customer is dissatisfied with the response or does not accept the findings, the service will explain that the service has already given them our final response on the matter and signpost them to the SPSO.

## Appendix 1 - Timelines

### General

1. References to timelines throughout the CHP relate to working days. The service does not count non-working days, for example weekends, public holidays and days of industrial action where our service has been interrupted.
2. The service does not count school holidays as non-working days. Complaints received during school holidays should follow the same timelines as set out for frontline response and investigation, unless there are special circumstances which would extend these timelines.

### Timelines at frontline response (stage 1)

3. The service will aim to achieve frontline response within five working days. The date of receipt is **day one**, and the response should be provided (or the complaint escalated) on **day five**, at the latest.
4. If the service has extended the timeline at the frontline response stage in line with the CHP, the response should be provided on **day ten** where possible.

### Timelines at investigation (stage 2)

5. For complaints at the investigation stage, **day one** is:
  - the day the case is transferred from the frontline stage to the investigation stage;
  - the day the customer asks for an investigation or expresses dissatisfaction after a decision at the frontline response stage; or
  - the date the service receives the complaint, if it is handled immediately at stage 2.
6. The service must acknowledge the complaint within three working days of receipt at stage 2 i.e. by **day three**.
7. The service should respond in full to the complaint by **day 20**, at the latest. The service has 20 working days to investigate the complaint, regardless of any time taken to consider it at the frontline response stage.
8. Exceptionally, the service may need longer than the 20 working day limit for a full response. If so, the service will explain the reasons to the customer, and update them (and any staff involved) at least once every 20 working days.

### Frequently asked questions

*What happens if an extension is granted at stage 1, but then the complaint is escalated?*

9. The extension at stage 1 does not affect the timeframes at stage 2. The stage 2 timeframes apply from the day the complaint was escalated (the service have 20 working days from this date, unless an extension is granted).

*What happens if the service cannot meet an extended timeframe?*

10. If the extended timeframe at stage 1 is not met, the service should consider escalating the complaint to stage 2.
11. If the service cannot meet the extended timeframe at stage 2, a further extension may be approved by an appropriate manager if there are clear reasons for this. This should only occur

in exceptional circumstances (the original extension should allow sufficient time to realistically investigate and respond to the complaint). Where appropriate, the service will keep the customer and any member/s of staff complained about updated on the progress of the complaint.

*What happens when a customer asks for stage 2 consideration a long time after receiving a frontline response?*

12. Unless exceptional circumstances exist, customers should bring a stage 2 complaint within six months of learning about the problem, or within two months of receiving the stage 1 response (whichever is latest).

## Appendix 2 – The complaint handling process steps

A customer may complain verbally or in writing, including face-to-face, by phone, letter or email. Your first consideration is whether the complaint should be dealt with at stage 1 (frontline response) or stage 2 (investigation).

	Stage 1: Frontline response	Stage 2: Investigation
Step 1	Always try to respond quickly, wherever possible	<p>Investigate where:</p> <ul style="list-style-type: none"> <li>• The customer is dissatisfied with the frontline response or refuses to engage with attempts to resolve the complaint at stage 1</li> <li>• It is clear that the complaint requires investigation from the outset</li> </ul>
Step 2	Record the complaint and notify any staff complained about (where appropriate)	<p>Record the complaint and notify any staff complained about</p> <p>Acknowledge the complaint within <b>three working days</b></p>
		<p>You may choose to contact the complainant to agree:</p> <ul style="list-style-type: none"> <li>• Points of complaint;</li> <li>• Outcome sought;</li> <li>• Manage expectations (where required)</li> </ul>
Step 3	Attempt to respond to the complaint within the <b>five working day target</b>	Respond to the complaint as soon as possible, but within <b>20 working days</b> unless there is a clear reason for extending the timescale.
Step 4	The service should tell the customer how to escalate the complaint to stage 2 of the complaint handling procedure.	<p>Communicate the decision, normally in writing.</p> <p>Signpost the customer to SPSO and advise of time limits.</p>