

## Organisational Complaints Handling Policy and Procedure

(JULY17/OPS/SOP)

For QMS purposes only:

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Aug12	IRS 6508: re references to Care Inspectorate; Sections 12.7 and 13.0 added	27/08/12
Nov14	New Release	19/11/14
July17	Update to accord with SPSO Model Complaints Handling Procedures for Public Sector, Social Work and NHS.	

# Organisational Complaints Handling Policy and Procedure (JULY17/OPS/SOP)

## **ORGANISATIONAL COMPLAINTS HANDLING POLICY**

### **1 PURPOSE**

- To ensure that all complaints are resolved at the point closest to the complainant;
- To ensure that all complaints regarding any aspect of the services Capability Scotland provides, or other work that we undertake, are handled in an open, effective, consistent and appropriate manner;
- To ensure that all complainants are treated with dignity and respect throughout the process;
- To ensure that we learn from all complaints to deliver improvements in both service delivery and customer satisfaction.

### **2 DEFINITION**

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

2.1 The term "member of the public" in the above definition is designed to be fully inclusive of anyone not employed by Capability Scotland: it may be a customer, a family member, an external partner, a neighbour of one of our services, indeed anyone who is dissatisfied in the terms outlined above and below may tender a complaint.

2.2 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.

2.3 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 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 complainants to use the appropriate procedures.

## References

- **Appendix A** – Complaints Leaflet;
- **Appendix B** – Complaints Handling Procedure Flowchart
- **Appendix C** – Role of Complaints Investigation Officer;
- Have Your Say (HYS) Procedure;
- Improvement Request System (IRS) Procedure;
- Dignity at Work Procedure;
- Work Performance & Competence Procedure;
- Disciplinary Procedure;

## External References

- Scottish Public Services Ombudsman (SPSO) Model Complaints Handling Procedures (public sector, NHS and Social Work);
- Care Inspectorate requirement: Records that all registered care services (except childminding) must keep and guidance on notification reporting;
- General Teaching Council for Scotland Complaints Process
- SSSC Code of Conduct;
- Local Authority Complaints Procedures.

## Forms

- **Form 1** – Complaints Form;
- **Form 2** – Customer Complaint Log and IRS Tracking Form;
- **Form 3** – Acknowledgement of Complaint Letter;
- **Form 4** – Outcome of Stage 2 Investigation Letter

**Records** All complaints related records should be held locally in service Complaints' Folder.

The Customer Complaint Log and IRS Tracking Form (plus other information, as required) must also be forwarded on to the designated Complaints Officer who provides the central tracking/monitoring function on behalf of the EMB.

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**PROCEDURE**

**1 WHO CAN MAKE A COMPLAINT?**

- 1.1 Anyone who receives, requests, or is affected by our services can make a complaint. This is not restricted to the people who use our services, their relatives or their representatives, but may also include people who live in close proximity to a Capability Scotland service, such as a school, care home or day centre. Complaints may also be raised by external bodies, such as local authorities or the NHS and they can be made about any aspect of our organisation's services and functions, including support services such as HR, Finance and Facilities.
- 1.2 Services must ensure that they have copies of the Complaints Leaflet (**Appendix A**) accessible and visible in their services and must provide all customers with a copy as part of their written agreement.
- 1.3 Complaints may be made in different ways, but should be recognised as complaints and handled consistently. Complaints are "expressions of dissatisfaction": they may be expressed in a "Have Your Say" (HYS), or in a review, or face-to-face with a member of staff. Regardless of the method of communication they are still complaints and must be handled consistently in line with this procedure. If someone makes a written complaint via a HYS form, he/she is not required to also fill in a separate **Complaints Form (Form 1)**, but should be offered the opportunity to do so.
- 1.4 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 his or herself. In certain circumstances, the third party may raise a complaint without receiving consent, such as when there are concerns over someone's wellbeing or if there are Welfare Guardianship or Power of Attorney arrangements in place. The complaint should still be investigated, but the response may be limited by considerations of confidentiality. You must ensure that you follow Capability Scotland's policies and procedures on gaining consent and information sharing.
- 1.5 Independent advocates may bring complaints on behalf of the people we support, or their families, 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 complainant**.
- 1.6 If you have concerns that a complaint has been submitted by a third party purportedly representing a customer without appropriate authority from the customer, you should seek advice from a more senior member of staff. The provision of a signed mandate (such as that contained in the Complaint Form) 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.

**2 HANDLING ANONYMOUS COMPLAINTS**

- 2.1 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. Any decision not to pursue an anonymous complaint must be authorised by an Operations Manager (or equivalent) and notified to the relevant Director.

- 2.2 If an anonymous complaint makes serious allegations, these should be dealt with in a timely manner under relevant procedures. This may not be as a complaint, but could instead be handled under separate child protection, adult protection or disciplinary procedures.
- 2.3 If we pursue an anonymous complaint further, we will record the issues as an anonymous complaint in the service's Complaints File. This will help to ensure we take corrective action where appropriate.

### **3 WHAT IF A CUSTOMER DOES NOT WANT TO COMPLAIN?**

- 3.1 If a customer has expressed dissatisfaction 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 allow us to handle it through the Complaints Procedure. This will ensure that the customer is updated on action taken and gets a response to their complaint.
- 3.2 If a customer insists they do not wish to complain, you should record the complaint as an anonymous complaint. This will ensure that the customer's preferences are respected 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.

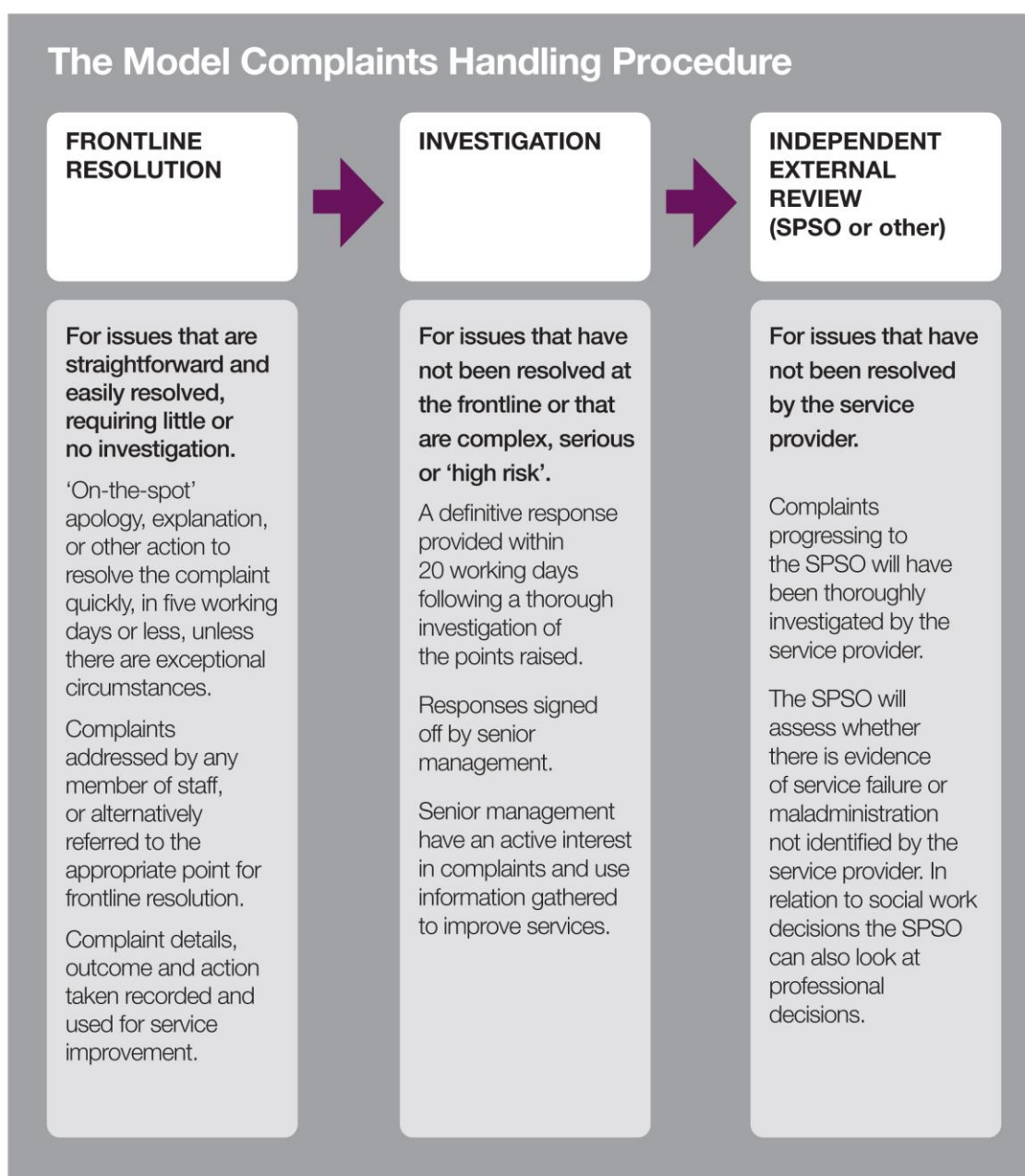
### **4 SUPPORTING THE COMPLAINANT**

- 4.1 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.
- 4.2 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 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.
- 4.3 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.
- 4.4 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.
- 4.5 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.

## 5 THE COMPLAINTS HANDLING PROCEDURE

- 5.1 Our Complaints Handling Procedure aims to provide a quick, simple and streamlined process for resolving complaints early and locally by capable, well-trained staff. It is fully informed by and consistent with the Scottish Public Services Ombudsman (SPSO)'s Model Complaints Handling Procedure(s).
- 5.2 Our complaints process provides two opportunities to resolve complaints internally:
- **frontline resolution (Stage 1)**, and
  - **investigation (Stage 2)**.

Thereafter, a complainant (if he or she continues to be unsatisfied) may take their complaint for external review, either to the relevant regulator, to the Scottish Public Service Ombudsman (SPSO) if the service (or school placement) has been arranged by a local authority, or to the local authority itself.



*(Source: Scottish Public Services Ombudsman (SPSO) Model Complaint Handling Procedure)*

- 5.3 For clarity, the term 'frontline resolution' refers to the first stage of the complaints process. It does not reflect any job description within Capability Scotland but means seeking to resolve complaints at the initial point of contact where possible.
- 5.4 The overall complaints handling procedure is reflected in the **Complaints Handling Procedure Flowchart (Appendix B)**.

## **6 RESPONSIBILITIES**

- 6.1 The majority of complaints will relate to the services and schools that we operate. Stage 1 complaints are the responsibility of the Service Manager and Stage 2 complaints are the responsibility of the Operations Manager. This equates to Principal Teacher and Head of School respectively for education services. For support services where there is no equivalent to the Operations Manager, this would equate to Finance or HR Manager for Stage 1 complaints and the relevant Director for Stage 2 complaints.
- 6.2 For the purposes of brevity, the terms "Service Manager" and "Operations Manager" will be used throughout this procedure, but for schools and support services, the appropriate equivalent adjustments should be made, as above. It is also possible that for particular complaints, a decision will be taken by a member of the EMB to change these standard responsibilities, in which event any changes must be explained fully to the relevant staff by the EMB member with overall responsibility.
- 6.3 When a complaint is made (either verbally or in writing) by a customer, carer or other user of a service, the Service Manager must be informed of this by the member of staff who receives the complaint. A copy of the **Complaints Form (Form 1)** must also be offered to the complainant to record their complaint. It is not essential that this form is used, but it has features that can support a satisfactory outcome so it should be provided if the complainant wishes to record their complaint in writing.
- 6.4 The Service Manager must then discuss the complaint with the relevant Operations Manager (or duty Operations Manager, in the event of leave) as soon as is practicable and agree the appropriate course of action to be followed in relation to the requirements of this procedure. Initial steps to resolve straight-forward issues should not be unnecessarily delayed while awaiting discussion with the Operations Manager.
- 6.5 The complainant must be issued with a copy of Capability Scotland's **Complaints Leaflet (Appendix A)** and steps must be taken to ensure that the information contained within it is in a form accessible to the complainant.
- 6.6 Sometimes complainants will directly approach the Chief Executive or a Director with a complaint. It is important that complaints are handled consistently and fairly, so in this situation, the complaint should be delegated to the appropriate Operations Manager to oversee the complaint in line with the standard complaints handling procedure. The Operations Manager must write to the complainant **within 3 days** acknowledging the complaint and advising that he/she has been asked to handle the complaint by the Chief Executive (or Director). The Operations Manager must advise the Chief Executive (or Director) on the outcome of the complaint process. In all other respects the handling of the complaint will be consistent with the normal processes of this complaints handling procedure.
- 6.7 Services must record their complaints locally at each service within a dedicated Complaints File, with a section for each complaint. This file must contain copies of all forms, reports and correspondence on all complaints relating to that service. Complaints information should not normally be held in customers' individual files.

- 6.8 At Capability Scotland, all complaints are also tracked centrally by a designated Complaints Officer. The **Complaints Log and IRS Tracking Form (Form 2)** meets both the service-level and central tracking requirements. This form must be updated and eventually signed off by the manager responsible for handling the complaint. The Complaints Log and IRS Tracking Form must also be emailed to the Complaints Officer at certain points in the complaints handling process, for central tracking purposes.

## **7 STAGE 1: FRONTLINE RESOLUTION**

- 7.1 Frontline (or Stage 1) resolution aims to quickly resolve straightforward complaints that require little or no investigation. A Service Manager must take overall responsibility for all frontline complaints. In the event of the Service Manager being the subject of the complaint (or other potential or perceived conflict of interests), then the Operational Manager will identify another manager to undertake this.
- 7.2 The main objective 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 complainant, or asking an appropriate member of staff to handle the complaint with oversight by the Service Manager.
- 7.3 Examples of a complaint requiring a **FRONTLINE** (Stage 1) response are:
- (i) Low risk issues where a resolution can be easily identified
  - (ii) A complaint that an employee was rude or unhelpful
- 7.4 In practice, frontline resolution means resolving the complaint at the first point of contact, wherever possible, or within **5 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, the complaint may be resolved 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.
- 7.5 A person can make a complaint in writing, face-to-face, by telephone, by email or online (via our website), or by having someone complain on their behalf. We will always consider if it is appropriate to attempt frontline resolution, regardless of how we have received the complaint. All complaints, including those which are quickly resolved, must be recorded by using the **Complaints Log and IRS Tracking Form (Form 2)**.
- 7.6 A **FRONTLINE** response will be managed by the Service Manager responsible for the delivery of the service in the following way:
- (i) On receiving a complaint, you must first decide whether the issue can be defined as a complaint. The person may express dissatisfaction about more than one issue. This may mean you treat one part as a complaint, while directing the person to pursue another part through an alternative route.
  - (ii) Raise an IRS detailing the complaint, which triggers central complaints tracking. This is done by completing the **Complaints Log and IRS Tracking Form (Form 2)** as far as possible and emailing it to Capability Scotland's designated Complaints Officer. The date of receipt of the complaint is always 'day 1', regardless of when the complaint is recorded.
  - (iii) Decide whether or not the complaint is suitable for frontline resolution. Some complaints will need more extensive investigation before you can give the complainant a suitable response. You must escalate these complaints immediately to the investigation stage (**Stage 2**).



- (iv) Acknowledge the complaint to the complainant. If the complaint is made face-to-face then a written acknowledgement may not be necessary, but if the complaint was in writing then a written response should be made using the standard letter (**Form 3 – Acknowledgement of Complaint Letter**), which should ideally be sent by email for speed, or if not possible, by post. This standard letter may be amended to meet the specific nature of the complaint but must always be polite, constructive and resolution-focused.
- (v) Where you think frontline resolution is appropriate, you must consider four key questions:
  - what exactly is the complaint (or complaints) about?
  - what does the complainant 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 complaint (or complaints) about?**

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

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

At the outset, clarify the outcome the complainant wants. Of course, the complainant 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 complainant 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 dissatisfied that they have not been assigned to the care worker they were expecting, when this worker is no longer with the organisation or is unavailable.

- (vi) Agree with relevant Operations Manager whether and how to inform external agencies and/or the Care Inspectorate as appropriate and the level of urgency.
- (vii) Where the complainant has any issues with regard to capacity or literacy every effort must be made to ensure that the person is communicated with in an accessible format. If the customer has a welfare guardian or power of attorney, he or she must be fully involved. Where the complaint relates to a financial matter, any financial guardian or power of attorney should also be fully involved.

**7.7 Timelines:**

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

**7.8 Extension to the timeline:**

- 7.8.1 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 complainant. This must only happen when an extension will make it more likely that the complaint will be resolved at the frontline resolution stage.

- 7.8.2 When you are considering an extension, you must get authorisation from the Operations 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. 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 (**Stage 2**). Where an extension is authorised, you must tell the complainant about the reasons for the extension, and when they can expect a response.
- 7.8.3 All attempts to resolve the complaint at the frontline 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 will be reported to the EMB on a quarterly basis.
- 7.9 **Closing the complaint at the frontline resolution stage:**
- 7.9.1 Regardless of how a complaint is resolved the complainant must be asked if they are satisfied with what has been done, and this must be recorded in the service's Complaints File. With a frontline complaint, a written explanation of the outcome of the complaint is not always necessary or appropriate, but the complainant (or representative) must be asked if they would like the response in writing and this should be provided if requested. The outcome must be fully explained to the complainant though, whether verbally or in writing. The needs of the complainant must be considered at all times when communicating all stages of the complaints process. It is essential to keep a record of the process and decision reached and what was communicated to the complainant, within the service's complaints file. The **Complaints Log and IRS Tracking Form (Form 2)** must also be updated and shared with the Complaints Officer, at the points specified in the form.
- 7.9.2 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 complainant should do if they remain dissatisfied.
- 7.9.3 The letter (or verbal communication) must also include the next stages in Capability Scotland's Complaints Procedure and the complainant's right to request that their complaint move to the next stage (Stage 2 – Investigation) if he/she is not happy with the proposed resolution.
- 7.9.4 The Service Manager must advise the Operations Manager of the outcome of the complaint and the nature of the resolution, and agree proposed closure. The Complaints Officer must be advised of the outcome and provided with a copy of the updated Complaints Log and IRS Tracking Form, plus any relevant evidence, after which the complaint can then be closed.
- 7.9.5 If any staff issues are identified these must be discussed with HR and cross-referenced with the relevant procedures. Any HR process can run in parallel to the original complaint or may supersede the complaint. This has to be agreed with HR and the Operations Manager.

## **8 WHEN TO ESCALATE TO THE INVESTIGATION STAGE**

- 8.1 The Service Manager must consider throughout this process whether or not there is a requirement to escalate the complaint to **Stage 2** as detailed below and this should be discussed with the Operations Manager, if the Service Manager believes that escalation is necessary or appropriate.
- 8.2 A complaint **must** be escalated to the investigation stage when:

- frontline resolution was tried but the complainant 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 before or after that point;
- the complainant 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.

8.3 When a previously closed complaint is escalated from the frontline resolution (Stage 1) to Stage 2, the original complaint should be reopened in the same **Complaints Log and IRS Tracking Form (Form 2)**.

## 9 STAGE 2: INVESTIGATION

9.1 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 (Stage 2) 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.

9.2 An investigation at Stage 2 aims to establish all the facts relevant to the points made in the complaint and to give the complainant a full, objective and proportionate response that represents our final position.

9.3 Examples of a complaint requiring a **Stage 2** response are those that involve:

- (i) A complainant being dissatisfied with the outcome of a Front Line response
- (ii) A significant and substantial breach of the National Care Standards.
- (iii) An issue that impacts on the contractual nature of the service.
- (iv) A serious incident including alleged theft, injury or other actual or potential harm.
- (v) A breach of regulatory Health & Safety and fire codes.
- (vi) A major delay in providing a service or repeated failure of service.
- (vii) An issue that could present reputational risk to the service or organisation.
- (viii) An accusation of a criminal offence having occurred.
- (ix) An accusation of a breach of Capability Scotland's standards of Conduct/Performance

Please note the above list is not exhaustive.

9.4 On receipt of a complaint, a Service Manager should report the matter directly to the Operations Manager and agree if a Stage 2 investigation is appropriate. If so, the Operations Manager becomes responsible for managing the ongoing resolution of the complaint. In schools this equates to the Head of School and for support services where there is no equivalent to the Operations Manager, this would equate to the relevant Director. For the purposes of brevity, the term "Operations Manager" will be used, but for schools and support services, the appropriate adjustments should be made, as above.

9.5 The Operations Manager responsible must then:

- (i) Inform the relevant Director immediately of the details of the complaint and the actions proposed.

- (ii) Commence a timeline of the complaint immediately including actions taken, contacts, phone calls etc and record in the service's Complaints File.
  - (iii) Respond to the complainant (or his/her representative) in writing, copied to the Complaints Officer, or by the complainant's preferred method of communication **within 3 working days** to indicate the process and timescales associated with a Stage 2 response. The standard letter (**Form 3 – Acknowledgement of Complaint Letter**), may be used for this purpose which should ideally be sent by email for speed, or if not possible, by post. This standard letter may be amended to meet the specific nature of the complaint.
  - (iv) Communicate with the relevant parties, as appropriate, e.g. guardian, power of attorney, next of kin, local authority, health agencies, Police, Care Inspectorate & SSSC as necessary, keeping the Director of Services and Development informed.
  - (v) Raise an IRS detailing the complaint, which triggers central complaints tracking. This is done by completing the **Complaints Log and IRS Tracking Form (Form 2)** as far as possible and emailing it to Capability Scotland's designated Complaints Officer. The date of receipt of the complaint is always 'day 1', regardless of when the complaint is recorded. Where a complaint has been escalated from Stage 1, the original Complaints Log and IRS Tracking Form should be continued.
- 9.6 The relevant Director will assign an Investigating Officer with relevant experience pertaining to the nature of the complaint (**see Appendix C – Role of Complaints Investigation Officer** for more information relating to the role of Investigating Officer).
- 9.7 The investigation must be completed **within 20 working days** of receipt of the complaint and must include formal discussions with the complainant, any guardians, powers of attorney or next of kin (where appropriate).
- 9.8 Throughout this process, if any staff conduct issues are identified, these must be raised with the Operations Manager without delay who will discuss with HR at the earliest opportunity to consider what action is required in accordance with any other relevant procedure. This process can run in parallel to the original complaint and/or may require a different approach to management of the original complaint. Suspension of staff members may be required at any point during the investigation process and should be discussed in detail with HR.
- 9.9 On completion of the investigation, the Investigating Officer will provide a full and detailed report of the investigation to the lead Operations Manager. The report must analyse all of the information gathered and establish what is likely to have happened. It is important that the report identifies the elements of the complaint(s) that are upheld or not upheld, with reasons. The report should also propose recommendations regarding resolution.
- 9.10 If the Operations Manager is unhappy with the process, content and findings of the investigation report, he/she may refer this to the relevant Director for adjudication.
- 9.11 **Closing the complaint at the investigation stage:**
- 9.11.1 The Operations Manager must prepare a response to the complainant, informed by the report from the Investigating Officer. This must be in writing (or by the complainant's preferred method of contact), copied to the Complaints Officer and other relevant parties. **Form 4 – Outcome of Stage 2 Investigation Letter** should be used as the basis for this correspondence, amended to meet the nature of the circumstances. 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 complainant, in the service's Complaints File. The response must also make clear to the complainant their right to further recourse to the Care Inspectorate, Education Scotland, Local Authority, Scottish Public Services Ombudsman etc., as appropriate.

- 9.11.2 The Operations Manager must also arrange for any notifications, as required, to regulators and/or professional bodies, in line with their requirements.
- 9.11.3 Where a complaint is upheld, we must apologise and give assurance that any lesson(s) learned from the complaint will be used to improve the standard of service in the future through the action taken on recommendations and any generic learning gathered during the process
- 9.11.4 The Operations Manager must also ensure that any findings from the investigation that have practice or improvement implications are communicated and implemented for their own services and intimated to the relevant Director if there are wider organisational implications.
- 9.11.5 The Operations Manager must confirm that all of the above is recorded and concluded by completing the **Complaints Log and IRS Tracking Form (Form 2)** and emailing a copy of this to the Complaints Officer. Where improvements to the service are required, these should be recorded and managed in accordance with the IRS System and captured within the service's Improvement & Development Plan.
- 9.11.6 Certain records may be required by the Complaints Officer for quality assurance and analysis purposes, which should be provided by the Operations Manager, subject to data protection or confidentiality constraints.

#### 9.12 **Timelines:**

- 9.12.1 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.

#### 9.13 **Extension to the timeline:**

- 9.13.1 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 / complainant. 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.
- 9.13.2 If there are clear and justifiable reasons for extending the timeline, Operations Managers / Heads of School will seek agreement for an extension with the relevant Director and set time limits on any extended investigation. The complainant must be updated on the reason for the delay and a revised timescale for completion provided to them. 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 complainant has agreed to mediation as a potential route for resolution.
- 9.13.3 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.

- 9.13.4 If a joint response is being prepared to a complaint that covers more than one service, the lead service must inform the complainant of the reasons for any delay and when they can expect a response, even if the delay relates to input from the other service.
- 9.13.5 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 the EMB on a quarterly basis.
- 9.14 **Alternative resolution and mediation:**
- 9.14.1 Some complex complaints, or complaints where complainants and other interested parties have become entrenched in their position, may require a different approach to resolving the matter. If so, this must be discussed and agreed with the relevant Director. Where appropriate, you may consider using services such as mediation or conciliation, using suitably trained and qualified mediators to try to resolve the matter.
- 9.14.2 Mediation will help both parties to understand what has caused the complaint, and so is more likely to lead to mutually satisfactory solutions.
- 9.14.3 If the organisation and the complainant agree to mediation, an extension to the timeline will need to be agreed.

## **10 GENERAL ACTIONS AND OTHER MATTERS**

- 10.1 The timescales are consistent with those set out in the SPSO's Model Complaints Handling Procedures. However the concept of "working days" is variable across Capability Scotland's workforce. For our purposes, 5 and 20 working days equate to 7 and 28 calendar days respectively.
- 10.2 The Service Manager is responsible for documenting corrective, improvement or development actions arising from complaints in their Improvement & Development Plans.
- 10.3 The Director of Services and Development is responsible for ensuring that any learning outcomes are shared across the organisation to improve customer service and service delivery. This may involve HR if there are training/ competence issues highlighted or other staffing implications.
- 10.4 Once matters have been resolved, a check for effectiveness of both the process and outcomes will be carried out by the Complaints Officer.
- 10.5 The Service's recording of complaints will be viewed as part of ongoing service audits and should be made available for organisational scrutiny, on request.
- 10.6 A commissioning Local Authority may in certain circumstances (and at its discretion) wish to directly investigate a complaint relating to a service that it has purchased for a customer, given their overarching duty of care. In this event Capability Scotland must provide access to records relevant to such an investigation and implement any reasonable corrective actions requested by the Local Authority in resolution.
- 10.7 In some instances, the main commissioner of a contract may have their own complaints process that needs to be adhered to. An example of this is in relation to Employment Services contracts, where any complaint received must be forwarded to the main contractor, and all investigations, and final outcome must be notified to them also.
- 10.8 If a service provided by us is registered with the Care Inspectorate, a complainant (or his/her representative) has the right to complain directly to the Care Inspectorate or to make use of our complaints handling procedure and thereafter make a complaint

to the Care Inspectorate regardless of any investigations undertaken by the Local Authority.

- 10.9 We must make available records of any complaints made by people who use the service, their representatives, relative or other person, to relevant regulators on request. The service's Complaint's Files should include details of the date received, issues raised, action taken, outcome of the investigation, and details of how the service informed the complainant about the outcome.
- 10.10 If it is not possible to address the cause of the complaint directly, this information will be passed to the Director of Services & Development for future planning or improvement initiatives.
- 10.11 When an employee has been the subject of a complaint they must be informed by the Service Manager of the outcome, as soon as the investigation has been completed and of any further actions required.

## **11 SUPPORT AVAILABLE FOR ALL STAFF**

- 11.1 Capability Scotland is committed to ensuring that employees work in an environment where everyone is treated with dignity and respect; (see **Dignity at Work Procedure**).
- 11.2 Any members of staff implicated in a complaint will be supported through our existing line management and staff support processes.

## **12 FURTHER RECOURSE IF THE COMPLAINANT IS NOT SATISFIED WITH THE OUTCOME**

- 12.1 If the complainant is not satisfied with the outcome of the Stage 2 process, they may have the right of recourse to an external regulator or to the Scottish Public Services Ombudsman (SPSO), to review their case. Complainants must be provided with details of the appropriate rights of recourse depending on the nature of the complaint:
- for our schools this would be to the SPSO,
  - for regulated care services this would be to the Care Inspectorate and/or to the SPSO.
  - for unregulated care services, this would be to the SPSO
  - for matters relating to fundraising, this would be via the process set out by the Office of the Scottish Charities Regulator and the Scottish Council of Voluntary Organisations
  - for matters relating to data protection breaches, this would be via the Information Commissioner
  - and for all other services or support services (or for advice) this would be to the SPSO, in the first instance.

## How to complain about Capability Scotland Services

Capability Scotland aims to provide a high quality service to our customers. We recognise that there may be times when we fail to meet the high standards we and others expect of us.

We welcome both comments and complaints about our services. We define a complaint as "An expression of dissatisfaction about Capability Scotland's action or lack of action, or about the standard of service provided by us".

This leaflet explains what to do if you want to make a complaint.

You can complain in a number of ways:

- Speak to a member of staff or the manager of the service – often complaints can be resolved quickly with an immediate explanation, a change in practice or an apology
- Use our complaints form – a copy should be inside this leaflet. It can also be filled in at our website: [www.capability-scotland.org.uk](http://www.capability-scotland.org.uk)
- Contact our Complaints Officer, whose details can be found on the back of this leaflet.

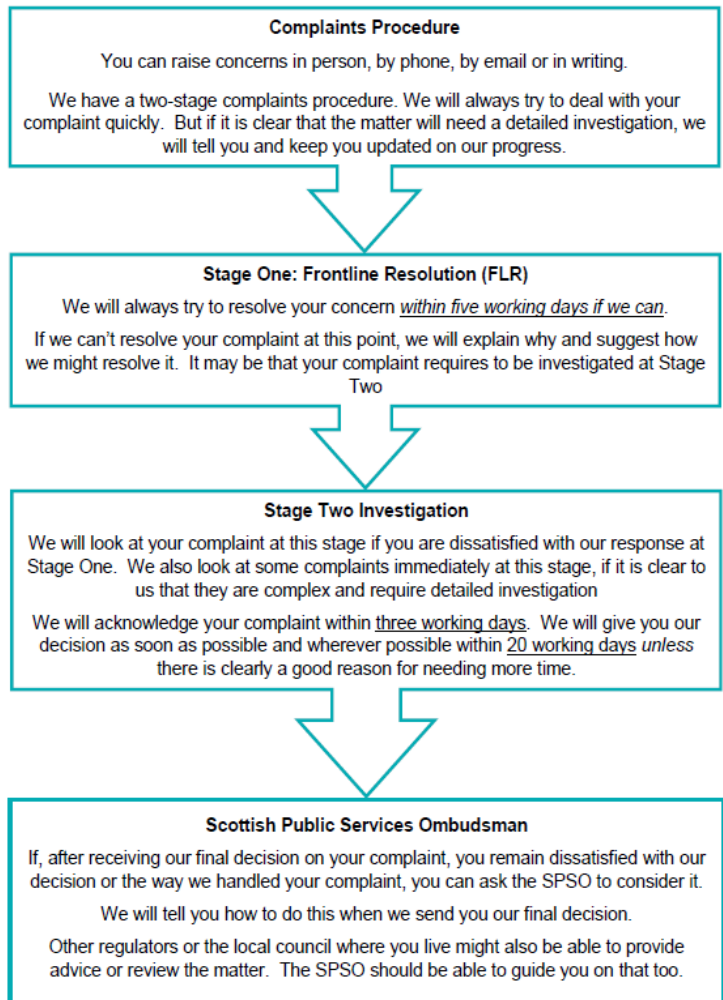
### What Happens Once I Have Made A Complaint

If you complain, the people providing you with the service will try to sort out any problems as quickly as possible. They may either speak to you or write to you once they have looked into things. We call this 'frontline resolution'. If you are not happy with this approach, or it fails to sort things out, then you can ask for a formal investigation of your complaint. This takes 20 working days and always results in a written response to you.

### What Can I Do If I Am Still Not Satisfied

If you are still unhappy with the outcome of your complaint investigation, you can contact the Scottish Public Services Ombudsman (SPSO). You can also contact the regulator of the service that you have complained about, for example the Care Inspectorate, or to your local Council. We will tell you about these options at the end of the investigation.

## APPENDIX A – COMPLAINTS LEAFLET

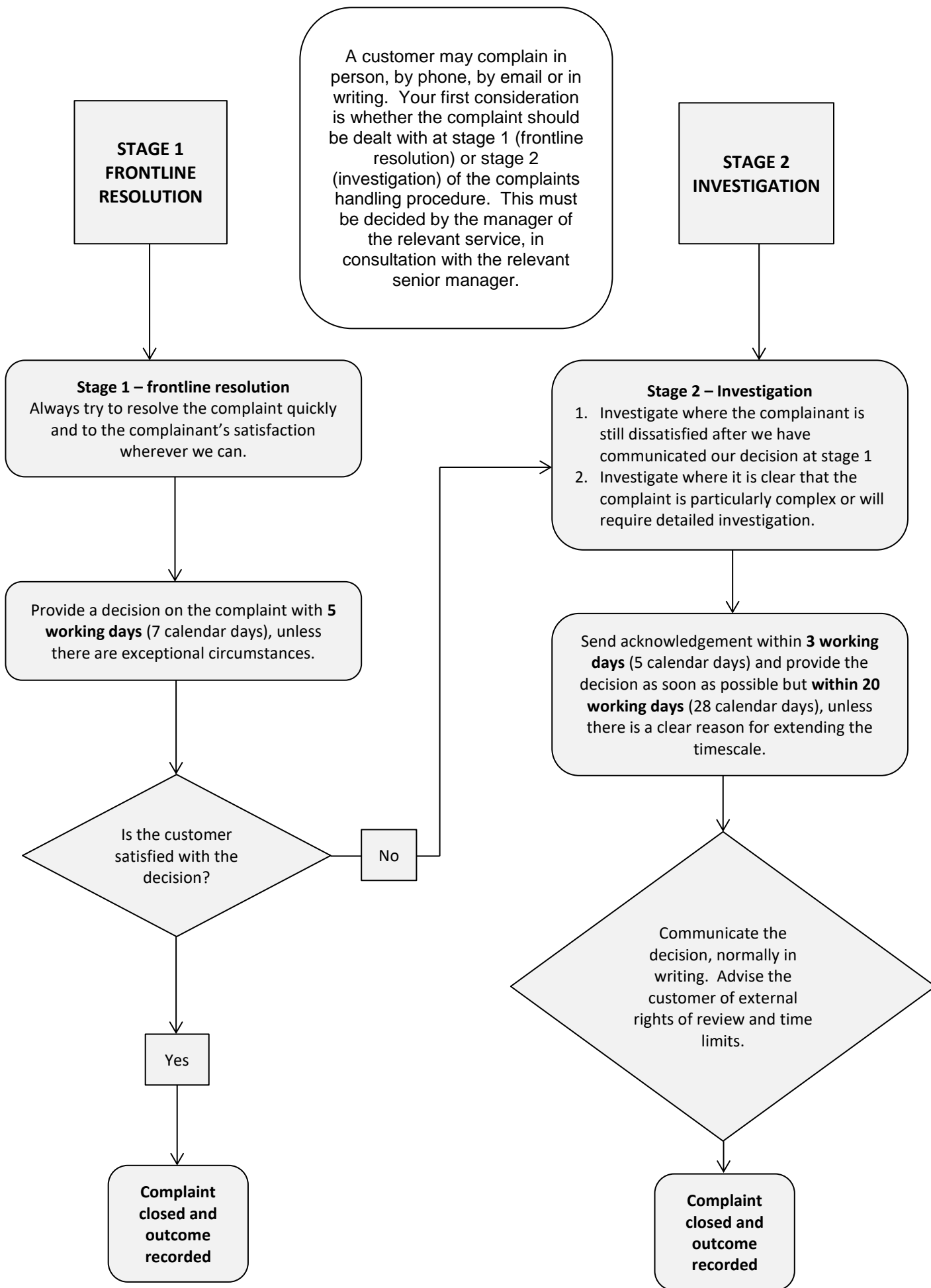


**This complaints leaflet can be made available in a variety of alternative formats. Please contact Capability Scotland's Complaints Officer to discuss your requirements:**

Tel: 0131 347 1072  
Fax: 0131 346 7864  
Textphone: 0131 346 7864,  
e-mail: [complaints@capability-scotland.org.uk](mailto:complaints@capability-scotland.org.uk)

Or in writing to:  
Complaints Officer  
Capability Scotland  
Osborne House  
1 Osborne Terrace  
Edinburgh, EH12 5HG





## **APPENDIX C - Role of Complaints Investigating Officer**

### **1 INTRODUCTION**

- 1.1 The main objective is to seek early resolution, resolving complaints at the earliest opportunity and as close to the point of service delivery as possible. Aiming to resolve complaints at Stage 1 should therefore always be considered. The following outlines the steps required when conducting a complaint investigation at Stage 2 of the complaints handling procedure. The decision to convene an investigation must be determined in line with the Stage 2 procedure. In most circumstances a Stage 2 investigation will be led by an Operational Manager, but this will vary depending on the organisational structure of the service handling the complaint. For the purpose of this procedure, the person leading the Stage 2 investigation will be referred to as the Responsible Manager.
- 1.2 An Investigating Officer, with relevant experience pertaining to the nature of the complaint will be appointed by the relevant Director.
- 1.3 A written brief, which details all currently known information and the primary areas for investigation will be prepared for the Investigating Officer by the Responsible Manager.
- 1.4 In the event of a potential conduct issue arising from a complaint, the Responsible Manager and an appointed HR Representative must have input to the written brief. This will be overseen by the Director of Human Resources.
- 1.5 The Investigating Officer must read the written brief and raise any concerns, comments or suggestions they might have and be confident that the brief covers all necessary and presently identified areas for the investigation.
- 1.6 Investigations should be carried out as quickly as possible, balancing prompt intervention with a thorough investigation. Timescales and priorities will be agreed and supported by their line manager. The Responsible Manager will be responsible for overall adherence to procedural timescales.
- 1.7 When conducting an investigation, a minute taker should be identified to support the Investigating Officer to produce a record of the interviews.
- 1.8 Prior to commencing the investigation, the Investigating Officer must familiarise themselves with any procedures and local operating processes relevant to the investigation.
- 1.9 The Investigating Officer must identify themselves as such to everyone involved when conducting their investigation.
- 1.10 All findings, records and discussions regarding the investigation must be treated as confidential and shared only for purposes of the investigation and or any subsequent authorised actions.

### **2 PREPARING FOR THE INVESTIGATION**

- 2.1 The Investigating Officer should be clear about all the points of the complaint and the chronology of events, as understood from the brief provided. If it is not clear from the information provided, a conversation or meeting with the complainant may be necessary to clarify these aspects.
- 2.2 The Investigating Officer will have access to and must consider all relevant evidence that will help inform the investigation, for example:

- Training Records
- Financial Records
- Staff Supervision / APR's
- Customer Records
- Risk Assessments
- Accident / Incident Reports
- Medication Records
- Signed Witness Statements
- Working History of Staff

Please note this list is not exhaustive.

2.3 The Investigating Officer will identify all individuals that they require to interview as part of the investigation and make the appropriate arrangements. The service will ensure that priority is given to their attendance and make all necessary resources available to support the investigation.

2.4 The Investigating Officer will make the following arrangements prior to an interview:

- (i) Where a customer is to be interviewed this must first be discussed with the individual and if appropriate their Social Worker, Parent/Carer, Guardian/ Power of Attorney and/or Service Manager confirming and planning for any additional support needs;
- (ii) Book a suitable room / venue.
- (iii) Notify and confirm dates, times and venues of the interviews with the appointed minute taker.
- (iv) Invite the individuals concerned to the investigation meeting.

### **3 CONDUCTING INTERVIEWS**

3.1 The Investigating Officer should take time ahead of interviews to construct the questions that will enable all areas of the brief to be investigated and an assessment reached.

3.2 The Investigating Officer should however not be restricted by the questions that they have constructed and be flexible to direct the questions in line with information that is presented on the day.

3.3 The Investigating Officer must allocate sufficient time to conduct each interview and be confident to challenge any areas where there appear to be discrepancies or where sufficient information or evidence has not been provided.

3.4 Where any discrepancies have arisen in the evidence provided, the Investigating Officer can re-convene meetings in order to address or challenge those.

3.5 In all circumstances, the Investigating Officer can rely on the support and compliance of all staff and services to help facilitate in this process.

3.6 Throughout and with due consideration to confidentiality, advice can be sought from the Responsible Manager, the Complaints Officer and HR.

### **4 INVESTIGATION REPORT**

4.1 The Investigation Report must include a title page with date and author's name and reference. This must be clearly marked "Strictly Private and Confidential".

- 4.2 The report should normally include (but not be restricted to):
- a chronology
  - a list of interviewees
  - the points of the complaint set out in a list
  - analysis, findings and recommendations for each point of complaint
  - a record of relevant policy, procedure, practice and legislation documents used to reach a conclusion on the points of complaints raised
  - recommendations and response to the customer's desired outcomes
  - any other relevant information
  - any practice issues identified as part of the investigation, for the attention of the service or wider organisation.
- 4.3 Comments from the Responsible Manager on a draft report should be considered before preparing a final report for his/her attention. The Responsible Manager will be responsible for communicating the outcome of the investigation to the complainant. If the Responsible Manager is unhappy with the process, content and findings of the investigation report, he/she may refer this to the relevant Director for adjudication.
- 4.4 The Investigation Report is for internal use only and will not be provided to the complainant in full.
- 4.5 All notes of the Investigating Officer must be retained confidentially within the complaint file, in case of review by the relevant regulatory body.

## **5 JOINT INVESTIGATIONS**

- 5.1 The Investigating Officer may be asked to carry out a joint investigation with an external body. If so, the Investigating Officer needs to be aware of the requirements of their respective agencies and report accordingly. They will, however, still be expected to carry out the investigation according to Capability Scotland's procedure.

## **6 POST INVESTIGATION**

- 6.1 Investigating Officers may be required to attend a disciplinary or grievance hearing (including appeals) as a result of their Investigation. The Chair of any such hearing will notify them of any requirement to attend.
- 6.2 The Investigating Officer will be notified of the outcome following a disciplinary or grievance hearing. Where no formal action is instigated the Investigating Officer will also be notified of this.
- 6.3 The Investigating Officer will receive a de-briefing in respect of his/her findings, with the relevant Director and/or Director of Human Resources. This will include identification and discussion of the key findings, areas for service or organisational improvement and consideration of personal impact and any support or assistance that may be required.