



**CROFTING COMMISSION
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CROFTING COMMISSION COMPLIANTS HANDLING PROCEDURE

VERSION 4.6

Last Review: 27 July 2017

Next Review: 27 July 2019

FOREWORD

The Crofting Commission's Complaints Handling Procedure is a vital strand in ensuring continued improvement to our customer service. 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 introduces a standardised approach to handling complaints across government, which complies with the Scottish Public Services Ombudsman's (SPSO) 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 early resolution by capable, well-trained staff.

Complaints give us valuable information we can use to improve customer satisfaction. Our complaints handling procedure will enable us to address a customer's dissatisfaction and may also prevent the same problems that led to the complaint from happening again. For our staff, complaints provide a first-hand account of the customer's 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 saves money and creates better customer relations. Sorting them out as close to the point of service delivery as possible means we can deal with them directly 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.

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



Bill Barron
Chief Executive

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How to Use This Model Complaints Handling Procedure

This document explains to staff how to handle complaints. Another document provides information for customers on the complaints procedure. Together, these form our Complaints Handling Procedure (CHP).

It is designed to be adopted as an internal document. 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 complaints.

For further guidance, also see the SPSO's Statement of Complaints Handling Principles and best practice guidance. <http://www.valuingcomplaints.org.uk>

What Is A Complaint?

The Crofting Commission's definition of a complaint is:

'An expression of dissatisfaction by one or more members of the public and/or crofting communities about the Commission's action or lack of action, or about the standard of service provided by or on behalf of the Commission.'

A complaint may relate to:

- failure to provide a service
- inadequate standard of service
- dissatisfaction with the way the Commission's policies have been applied
- treatment by or attitude of a member of staff
- disagreement with a decision where the customer cannot use another procedure (for example an appeal to the Scottish Land Court) to resolve the matter
- the Commission's failure to follow the appropriate administrative process

This list does not cover everything.

[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 request for compensation
- issues that are in court or have already been heard by a court or a tribunal
- disagreement with a decision where a statutory right of appeal exists
- an attempt to re-open a previously concluded complaint or to have a complaint reconsidered where we have already given our final decision
- a request for us to investigate the actions of another body, such as a grazings committee
- an application to the Commission from a grazings committee or owner of a grazings to determine whether a shareholder has failed to comply with grazings regulations

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

[Appendix 2](#) gives more examples of 'what is not a complaint' and how to direct customers appropriately.

Handling Anonymous Complaints

The Commission cannot accept, or act upon, any comments made either anonymously or in confidence when they relate to a regulatory application.

However, if we receive an anonymous complaint relating to:

- maladministration,
- inadequate standard of service treatment by or attitude of a member of staff or Commissioner,
- the Commission's failure to follow the appropriate administrative process,
- failure of staff or a Commissioner to adhere to the Code of Conduct and Commission policies

We will consider the complaint if there is enough information 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 senior manager.

If an anonymous complaint makes serious allegations, we will refer it to a senior officer immediately.

If we pursue an anonymous complaint further, we will record the issues as an anonymous complaint in CIS or the Frontline Resolution log, depending on the nature of the complaint. This will help to ensure the completeness of the complaints data we record and allow us to take corrective action where appropriate.

If the anonymous complaint concerns a Commissioner or senior member of staff, please see [page 2](#).

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 deal with it through the complaints handling procedure. 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, record the issue as an anonymous complaint in Frontline Resolution or CIS. 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.

Who Can Make A Complaint?

Anyone who receives, requests or is affected by our services can make a complaint. Sometimes a customer may be unable or reluctant to make a complaint on their own. We will accept complaints brought by third parties as long as the customer has given their personal consent, and we have evidence of this.

Complaints Involving More Than One Service or Organisation

If a complaint relates to the actions of two or more of the Commission's services, you must tell the customer that they will get only one response covering all issues raised.

If a customer complains to the Commission about the service of another agency or public service provider, but the Commission has no involvement in the issue, the customer should be advised to contact the appropriate organisation directly. However,

where a complaint relates to a service provided by the Commission and the service of another agency or public service provider, (for example SGRPID, a regulator, Commissioner or another government department), and the Commission has a direct interest in the issue, you must handle the complaint about the Commission through the Complaints Handling Procedure. If you need to make enquiries to an outside agency in relation to the complaint always take account of data protection legislation and our guidance on handling our customer's personal information. The Information Commissioner has detailed guidance on data sharing and has issued a data sharing code of practice.

http://www.ico.org.uk/for_organisations/data_protection/topic_guides/data_sharing

Such complaints may include:

- Reports prepared by SGRPID
- Interaction with the Sponsor Division

Remember, if you need to consult a third party, this will increase the time it takes to resolve the complaints investigation.

THE COMPLAINTS HANDLING PROCEDURE

The Complaints Handling Procedure aims to provide a quick, simple and streamlined process for resolving complaints early and directly by capable, well-trained staff.

Our complaints process provides two opportunities to resolve complaints internally:

- frontline resolution/informal complaint, and
- investigation.

The Complaints Handling Procedure		
Frontline Resolution	Investigation	Independent External Review (Appeal to SPSO)
➔	➔	
For issues that are straightforward and easily resolved, requiring little or no investigation.	For issues that have not been resolved or that are complex, serious or “high risk”.	For issues that have not been resolved by the service provider.
“On –the-spot” apology, explanation, or other action to resolve the complaint quickly, in 5 working days or less, unless there are exceptional circumstances.	A definitive response provided with 20 working days following a thorough investigation of the points raised.	Complaints progressing to the SPSO will have been thoroughly investigated by the Commission.
Complaints addressed by any member of staff, or alternatively referred to the appropriate point for frontline resolution.	Responses signed off by senior management.	The SPSO will assess whether there is evidence of service failure or maladministration not identified by the Commission.
Complaints details, outcome and action taken recorded and used for service improvement.	Senior management have an active interest in complaints and use information gathered to improve services.	

For clarity, the term 'frontline resolution/informal complaint' refers to the first stage of the complaints process. It does not reflect any job description within the Commission but means seeking to resolve complaints at the initial point of contact where possible. Everyone may deal with such complaints in their day-to day roles.

Stage One: Frontline Resolution/Informal Complaint

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 deal directly with the complaint by telephone.

[Appendix 1](#) gives examples of the types of complaint we may consider at this stage, with suggestions on how to resolve them.

In practice, frontline resolution means resolving the complaint at the first point of contact with the customer, either by the member of staff receiving the complaint or other identified staff.

In either case, you may settle 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 frontline resolution, regardless of how you have received the customer's complaint.

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 element as a complaint, while directing the customer to pursue another element through an alternative route (**please read [Appendix 2](#) carefully**).
2. If you have received and identified a complaint, record the details on the complaints system. (See point No. 5).
3. Decide whether or not the complaint is suitable for frontline resolution. Some complaints will need to be fully investigated 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?
- If I cannot resolve this, who can help with frontline resolution?

5. For Frontline resolution record the details on the intranet. For complaints escalated to the Investigation Stage, open a case on CIS.



Anyone can deal with Frontline complaints – they are the minor expressions of dissatisfaction that require little or no investigation

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

It is important to be clear exactly what the customer is complaining about. You may need to ask the customer supplementary questions to get a full picture.

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, so 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 by providing an on-the-spot apology or explain why you cannot achieve it, you should do so. If you consider an apology is suitable, 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 the customer's expectations appear to exceed what the organisation can reasonably provide, you must tell them as soon as possible in order to manage expectations about possible outcomes.

You are likely to have to convey the decision face to face or on the telephone. If you do so face to face, by telephone or by e-mail, 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 passed to the customer. (See later information on how to record this on the Intranet).

If I can't 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 details of the complaint to your Line Manager who can allocate it to someone to resolve.

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 from other parties 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 asking the customer if they wish the complaint to be escalated to the Investigation Stage.

Extension to the Timeline

In exceptional circumstances, where there are clear and justifiable reasons for doing so, you may agree an extension of no more than five 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 ask for an extension, you must get authorisation from the appropriate senior 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. If, however, the issues are so complex that they cannot be resolved in five days, it may be more appropriate to escalate the complaint straight to the investigation stage. You must tell the customer about the reasons for the delay, and when they can expect your response.

If the customer does not agree to an extension but it is unavoidable and reasonable, a senior manager must decide on the extension. You must then tell the customer about the delay and explain the reason for the decision to grant the extension.

It is important that such extensions do not become the norm. Rather, the timeline at the frontline resolution stage should be extended only rarely. All attempts to resolve the complaint at this stage must take no longer than ten working days from the date you receive the complaint.

The proportion of complaints that exceed the five-day limit will be evident from reported statistics. These statistics go to our senior management team and Board 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 and explains the reasons for our decision. 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 intranet complaints recording page updated accordingly.

When to Escalate to the Investigation Stage

You must escalate a complaint to the investigation stage when:

- you tried frontline resolution but the customer remains dissatisfied and requests an investigation. This may happen immediately when you communicate the decision at the frontline stage, or sometime later

- the customer refuses to take part in frontline resolution
- the issues raised are complex and require detailed investigation
- 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, in CIS.

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 in providing, or repeated failures to provide, a service
- generate significant and on-going press interest
- pose a serious risk to an organisation's operations
- present issues of a highly sensitive nature, for example concerning:
 - a particularly vulnerable person
 - child protection
 - allegations of corruption against staff or Commissioners.

Stage Two: Investigation Stage

Not all complaints are suitable for frontline resolution and some complaints will be 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

Only staff at grades B2 and above will be expected to carry out a Complaints Investigation at Stage 2 of the CHP.

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 may be helpful 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?

Each point of the complaint to be investigated should be listed on the Investigation Plan and updated as you are carrying out the investigation. ([Appendix 4](#))

It may be that the customer expects more than we can provide. If so, you must make this clear to them 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 evidence to help us reach a decision.

Details of the complaint must be recorded on the system for recording complaints.

All information on Complaints dealt with by frontline resolution must be recorded on the Complaints Page of the intranet. This includes recording where cases are escalated to an Investigation, to be saved on CIS.

If the investigation stage follows attempted frontline resolution, you must hand over all case notes and associated information to the officer responsible for the investigation, 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

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-day limit. 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 timescale, senior management and the Complaints Committee will set time limits on any extended investigation, as long as the customer agrees. You must keep the customer updated on the reason for the delay and give them a revised timescale for completion. If the customer does not agree to an extension but it is unavoidable and reasonable, then senior management must consider and confirm the extension. 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 they cannot help because of long-term sickness or leave.
- You cannot obtain further essential information within normal timescales.
- Operations are disrupted by
- unforeseen or unavoidable operational circumstances, for example industrial action or severe weather conditions.
- 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.

As with complaints considered at the frontline stage, the proportion of complaints that exceed the 20-day limit will be evident from reported statistics. These statistics will go to our senior management team and the Board on a quarterly basis.

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

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 complaint. This must be escalated to the Senior Management Team and Complaints Committee. Where appropriate, they may consider using services such as mediation or conciliation using suitably trained and qualified mediators to try to resolve the matter and to reduce the risk of the complaint escalating further.

Mediation may 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, revised timescales will need to be agreed, and the case notes updated accordingly.

Closing the Complaint at the Investigation Stage

You must let the customer know the outcome of the investigation, in writing. Our response to the complaint must address all areas that we are responsible for and explain the reasons for our decision. You must record the decision, and details of how it was communicated to the customer, on the system for recording complaints. Using the appropriate decision letter template, you must also make clear to the customer:

- their right to ask Scottish Public Services Ombudsman to consider the complaint
- the time limit for doing so, and
- how to contact the Scottish Public Services Ombudsman.

Independent External Review

Once the investigation stage has been completed, the customer has the right to approach the Scottish Public Services Ombudsman if they remain dissatisfied.

The Scottish Public Services Ombudsman considers complaints from people who remain dissatisfied at the conclusion of our complaints procedure. The Scottish Public Services Ombudsman looks at issues such as service failures and maladministration (administrative fault), as well as the way we have handled the complaint.

The Scottish Public Services Ombudsman recommends that we use the wording on the next page of this document to inform customers of their right to ask the Scottish Public Services Ombudsman to consider the complaint. The Scottish Public Services Ombudsman also provides a leaflet, *The Ombudsman and your organisation*, which you may find helpful in deciding how and when to refer someone to the Scottish Public Services Ombudsman.

Information About The Scottish Public Services Ombudsman (SPSO)

The Scottish Public Services Ombudsman (SPSO) is the final stage for complaints about public services in Scotland. This includes complaints about the Scottish Government, NDPBs, agencies and other government sponsored organisations. If you remain dissatisfied with an organisation after its complaints process, you can ask the SPSO to look at your complaint. The SPSO cannot normally look at complaints:

- where you have not gone all the way through the organisation's complaints handling procedure
- more than 12 months after you became aware of the matter you want to complain about, or
- that have been or are being considered in court.

The SPSO's contact details are:

- SPSO
4 Melville Street
Edinburgh
EH3 7NS
- SPSO
Freepost EH641
Edinburgh
EH3 0BR

Freephone: **0800 377 7330** or call **0131 225 5300**

Fax: **0800 377 7331**

Online contact: www.spsso.org.uk/contact-us

Website: www.spsso.org.uk

Mobile site: <http://m.spsso.org.uk>

GOVERNANCE OF THE COMPLAINTS HANDLING PROCEDURE

Roles and Responsibilities

Overall responsibility and accountability for the management of complaints lies with the Chief Executive and Senior Management.

Our final position on an investigation 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.

The Chief Executive

The Chief Executive provides leadership and direction in ways that guide and enable us to perform effectively across the organisation. 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 takes an interest in all complaints but delegate's responsibility for dealing with the majority of investigations to Team Heads and other Senior Managers. Quarterly management reports assure the Chief Executive of the quality of complaints performance.

Senior Managers

On the Chief Executive's behalf, Senior Managers/Heads of Teams are responsible for:

- managing complaints and the way we learn from them
- overseeing the implementation of actions required as a result of a complaint
- investigating Stage 2 complaints
- deputising for the Chief Executive on occasion.

However, Senior Managers/Head of Teams may decide to delegate some elements of complaints handling (such as investigations and the drafting of response letters) to other staff. Where this happens, Senior Managers/Heads of Teams should retain ownership and accountability for the management and reporting of complaints. They may also 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. Investigation will always be carried out by staff at grade B2 or above.

Complaints Investigator

The complaints investigator is responsible and accountable for the management of the investigation. They 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 that could result in wider opportunities for learning across the organisation.

The complaints investigator may be the Chief Executive or a Senior Manager, a Head of Team or another member of staff at B2 grade or above.

All staff

A complaint may be made to any member of staff in the Commission. Therefore all staff must 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 personally handle the matter. We encourage all staff to try to resolve complaints early, as close to the point of service delivery as possible, and quickly to prevent escalation.

The Commission's Scottish Public Services Ombudsman (SPSO) liaison officer

Our SPSO liaison officer's role may 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.

Our SPSO liaison officer is Jane Thomas, Head of Corporate & Customer Services.

Complaints about Senior Staff/Commissioners

Complaints about senior staff can be difficult to handle, as there may be a conflict of interest for the staff investigating the complaint. When carrying out the investigation into the complaint the Investigating Officer must attempt to gather evidence from all the parties concerned including the person who is the subject of 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. In these situations the complaint would be initially dealt with by the Chief Executive in liaison with Sponsor Division in Edinburgh, if necessary. Complaints about the Chief Executive would be dealt with by the Convener and Sponsor Division. Complaints about Commissioners would be dealt with by the Chief Executive and the Convener. Complaints about the Convener will be dealt with by Sponsor Division. (See [Maintaining Confidentiality on page 20](#))

We must ensure we have strong governance arrangements in place that set out clear procedures for handling such complaints.

Claims for Compensation – Ex-Gratia Payments

Sometimes customers will demand that we pay them compensation because they claim we have got something wrong. We cannot accept a complaint if this is all it consists of. However, there may be occasions when it is appropriate to offer a customer reimbursement of expenses where we acknowledge we have made an error, which has caused direct extra costs or where demonstrable distress has been caused. The Board has approved a protocol for dealing with such cases. This can be found here.

Recording, Reporting, Learning and Publicising

Complaints provide valuable customer feedback. One of the aims of the complaints handling procedure is to identify opportunities to improve services across the Commission. 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 Scottish Public Services Ombudsman minimum requirements, as follows:

1. the customer's name and address
2. the date the complaint was received
3. the nature of the complaint
4. how the complaint was received
5. the service the complaint refers to
6. the date the complaint was closed at the frontline resolution stage (where appropriate)
7. the date the complaint was escalated to the investigation stage (where appropriate)
8. action taken at the investigation stage (where appropriate)
9. the date the complaint was closed at the investigation stage (where appropriate)
10. the outcome of the complaint at each stage
11. 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.

Items 1–7 must be recorded on the Complaints page of the intranet.

From 8–11 a Complaints Case must be opened on CIS and the appropriate workflow followed.

Reporting of Complaints

Complaints details 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 illustrate to 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 is reported regularly (and at least quarterly) to our senior management team and the Complaints Quality Assurance Committee and displayed on the website.

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 team involved understand the findings of the investigation and any recommendations made.

Senior management and the Complaints Quality Assurance Committee 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
- Attach the Investigation Plan, including details of corrective action against the complaints case
- 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 taken
- 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 staff learn from complaints

Publicising Complaints Performance Information

We also report on our performance in handling complaints quarterly in line with Scottish Public Services Ombudsman's requirements. This includes performance statistics showing the volumes and types of complaints 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. It 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 customers' information. To maintain confidentiality when a complaint is made against a member of staff/Commissioner the complaint is recorded on the intranet with only Senior Management having access to the information.

Managing Unacceptable Behaviour

(see [Appendix 5](#) on Unacceptable actions and behaviour)

Supporting the Customer

All members of the community have the right to equal access to our complaints handling procedure. Customers who do not have English as a first language may need help with interpretation and translation services, and other customers may have specific needs that we will seek to address to ensure easy access to the complaints handling procedure.

Customers may if they wish make their complaint in Gaelic but they should be advised that we require to have the letter/email translated, and our response to them. If they wish to make their complaint in Gaelic over the phone they should be passed to a Gaelic speaking member of staff.

We must always take into account our commitment and responsibilities to equality. This includes making reasonable adjustments to our service to help the customer where appropriate.

Several support and advocacy groups are available to support customers in pursuing a complaint and customers should be signposted to these as appropriate, for example the Citizens Advice Bureau.

Time Limit for Making Complaints

This complaints handling procedure sets a time limit of six months from when the customer first knew of the problem, 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 decision making 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 review of the matter, we may decide that this satisfies the special circumstances criteria. This will enable us to consider the complaint and try to resolve it.

A summary of the complaints procedure can be found at [Appendix 6](#).

COMPLAINTS: FRONTLINE RESOLUTION EXAMPLES

Complaint	Possible Actions to Achieve Resolution
Your staff promised to get back to me and they haven't.	<i>Apologise and either pass them to the person who should have got back to them or try to answer their query.</i>
An application form was returned invalid. The applicant telephones to complain.	<i>Explain why it was considered invalid and explain what they should do (these details should be in the letter issued when the application was returned).</i>
Why is it taking so long to get a decision?	<i>Explain what is happening and why and what happens next.</i>
The grazing committee is not registered but the notification forms have been sent to the Commission.	<i>Check to see if the notification form was received. If it was, apologise and process the form immediately. If it has not been received send another form to the Clerk to complete.</i>
I've just found out you are holding a meeting here tonight (Hearing) Why wasn't I informed?	<i>Check to see if the caller has an interest in the case and should have been alerted. If there has been an error, apologise and give details of the Hearing. If not, advise that the Hearing is advertised in the press.</i>
You have incorrect information on your website. I think this is misleading.	<i>Check the website. If the caller is correct, apologise for the error and explain it will be corrected. If there is a misunderstanding, explain this to the caller.</i>

WHAT IS NOT A COMPLAINT?

A concern may not necessarily be a complaint. For example, a customer might make a routine first-time request for a service. This is not a complaint, but the issue may escalate into a complaint if it is not handled effectively and the customer has to keep on asking for the service.

Below are examples of what is NOT a complaint.

Example 1:

A complaint about a regulatory decision made by the Commission. Regulatory decisions have their own specific appeal procedures, and, customers must be directed to the relevant procedure. Our decision or determination of the application can be appealed to the Scottish Land Court, George House, 126 George Street, Edinburgh EH2 4HH by any person with an interest in the case on any of the grounds set out in section 52A of the Crofters (Scotland) Act 1993, as amended. The appeal must be brought within 42 days from the date of public notification and should be made directly to the Land Court.

Example 2:

Where the final decision has been taken.

Example 3:

Someone has requested a Hearing but they are not the applicant or a recognised interested party to that application so their request is refused.

Example 4:

Where a complaint is purely that the law is wrong, for example, where the complainant wants the law changed. Direct them to their MSP

Example 5:

Request for information leading to us clarifying the position, e.g. someone has bought a croft and not told us.

Example 6:

Complainant wants to complain about a previous complaint that is closed.

Example 7:

Mr A (crofter) is complaining about an action of Mrs B (crofter). It may be appropriate to open a regulatory case on CIS and investigate but this is **not** a Complaint about the Commission. However, the way that staff conduct an investigation into a case e.g. how long it takes, may prompt a subsequent complaint.

Example 8:

We receive a letter alleging a grazing committee or an office bearer is acting improperly. **This is not a Complaint about the Commission.** It is a request to investigate the actions of the grazing committee and can only be considered under the relevant section of the Act (Section 47(8)). **ACTION:** pass letter to member of staff, who handles grazings issues.

Example 9:

We receive an application from a grazings committee or the owners of the grazings for a determination that a person has contravened or failed to comply with the grazings regulations. This is not a complaint about the Commission. It is an application to determine the actions of a shareholder and can only be considered under the relevant section of the Act (i.e. Section 52(1) to 52(1F)).

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 appropriate to merit 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, or
- 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 appropriate to merit 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.

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 3 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 five 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 five 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.

INVESTIGATION PLAN

The Plan can be accessed on the Intranet under Focal Groups→Complaints→Shared Documents→Complaint Template Letters→ Investigation Plan or click [here](#) for logging details of the complaint. The Plan should be saved onto the case on CIS.

INVESTIGATION PLAN								
COMPLAINANTS NAME: CASE REFERENCE: INVESTIGATING OFFICER: DEADLINE FOR RESPONSE:								
<i>The plan should inform the course of the investigation but never be afraid to re-plan, if this is not adequate</i>								
	Points of complaint	Issues to be explored	Evidence needed	Is evidence available?	Comments / Observations	Outcome (upheld, partially upheld, not upheld)	Recommended improvement / learning point	Has recommendation / action been approved?
1								
2								
3								
4								

POLICY FOR HANDLING UNACCEPTABLE ACTIONS AND BEHAVIOUR DURING CONTACT WITH THE CROFTING COMMISSION.

Introduction

We come into contact with many people in the course of the work of the Crofting Commission, and in the vast majority of cases these interactions are positive and productive for all parties. Occasionally, the behaviour or actions of individuals we have dealings with make it impossible for us to continue any constructive engagement. In this small number of cases we have to consider taking steps to protect our staff or to ensure that our ability to work effectively is not undermined. This Policy explains how we will approach these situations.

Aims and Objectives

We believe that all correspondents and complainants have the right to be heard, understood and respected. We also believe that our staff have the same rights.

We aim in all our dealings to:

- Make it clear to everyone we deal with, both on initial contact and throughout our engagement, what the Crofting Commission can and cannot do to meet their concerns and expectations
- Be open and not raise expectations that we cannot meet
- Deal fairly, honestly, consistently and appropriately with all correspondents and complainants, even those whose behaviour or actions we consider unacceptable
- Provide a service that is accessible to all
- Ensure that other people who use the services of the Crofting Commission and our staff do not suffer disadvantage as a result of the unacceptable behaviour of others.

Defining Unacceptable Actions

The Crofting Commission understands that people may act out of character in times of trouble or distress. Often they have experienced upsetting or distressing circumstances leading up to a complaint or concern being raised with us. We do not view behaviour as unacceptable simply because a correspondent or complainant is forceful or determined.

However, we consider actions that result in unreasonable demands on our business or unreasonable behaviour towards our staff as unacceptable. The Crofting Commission has grouped these actions under the following three broad headings.

Aggressive or Abusive Behaviour

We understand that people can feel passionate about the issues they discuss with us, and sometimes hurt, frustrated or angry. If those feelings escalate into aggression towards Crofting Commission staff, we consider that unacceptable. Violence towards or abuse of our staff will never be tolerated.

Violence and aggression are not restricted to acts which cause or threaten physical harm. They also include behaviour or language (whether oral or written) that may cause staff to feel afraid, threatened or abused. Examples of such behaviour include swearing, threats, personal verbal abuse, derogatory remarks and rudeness. Inflammatory statements and unsubstantiated allegations can also be abusive behaviour. Statements do not need to be made directly to a member of staff or expressly address or name them to be abusive or threatening. Even statements made outside the work environment, or directed towards friends or family of a staff member, may constitute unacceptable actions in the terms of this policy, on which the Crofting Commission will act. It is the overall context of the behaviour that is important.

Unreasonable Demands

People can make unreasonable demands on our resources by the nature and scale of the service they expect. Examples of such behaviour include repeatedly demanding responses within an unreasonable time-scale, placing unreasonable conditions on officials, insisting on seeing or speaking to a particular member of staff even when it isn't possible, refusing to accept that the Government cannot provide a particular service or action a particular issue, or repeatedly changing the exact nature of the complaint or issue they are raising or raising unrelated concerns. These kinds of behaviour can detract from the service we can offer to others placing a significant burden on the organisation. Dealing with such behaviour requires a disproportionate amount of time and diverts an unreasonable proportion of our financial and human resources away from our statutory functions. This can be difficult and stressful for staff to deal with when it is impossible to find common ground or a realistic approach to the issues being raised. What amounts to unreasonable demands will always depend on the circumstances surrounding the behaviour.

Unreasonable Persistence

Sometimes an individual will contact the Crofting Commission repeatedly about the same issue or closely related issues. Their manner in these contacts may be quite reasonable in itself, but the persistence of their approach is not – they take up a disproportionate amount of time or resources in exchanges that are unproductive to us and ultimately to themselves. Sometimes this persistence will take the form of serial complaining – lodging complaints about the handling of complaints, often across different organisations or parts of the same organisation. The defining characteristic is the persistence of approaches over time.

The Crofting Commission has the right to assess whether that persistence has reached the point of disrupting our ability to undertake the work of the Crofting Commission, or is amounting to harassment or unreasonable treatment of our staff.

Managing Unacceptable Actions

We will aim to ensure that a person is warned immediately if their actions are tending towards unacceptable, and what will follow if they persist. We will do so in a way calculated to defuse the situation, and the aim will be to bring the tone of communication back to a more reasonable level.

We will not tolerate any threat or use of physical violence against, or verbal abuse or harassment of, our staff. Such actions may be reported to the police, and will always be reported if physical violence is used or threatened.

Where we receive correspondence or a communication that is abusive towards staff, gratuitously offensive, or which makes clearly unreasonable demands, we will not deal with that communication, and will inform the correspondent of that fact. We will also warn the correspondent that if she or he continues to use such language that we will consider terminating all contact.

If someone ignores the warning they have been given, or if they use or threaten physical violence, we will take action aimed as far as possible at:

- Reducing the risk of harm to Crofting Commission staff
- Preventing the individual from inflicting further harm on him/herself or others
- Ensuring that the business of the Crofting Commission is carried out as efficiently and effectively as possible and to the extent required by law.

This action is likely to involve terminating or limiting contact with the individual.

Terminating or Limiting Contact

The process of terminating contact will be carefully managed. There are a number of issues to consider, and the decision to terminate will not be taken lightly or without sufficient evidenced grounds.

Generally, the recommendation to terminate contact will be made by the Chief Executive in consultation with the Convener. Where there has been correspondence to or with Commissioners, the Convener will be asked to confirm the decision. Where the primary reason for termination is the individual's unreasonable behaviour towards staff, the decision will be taken by the Chief Executive.

We will carefully consider the form of such a termination in order to balance the rights of the individual against the duty of the Crofting Commission to protect our staff and to avoid disruption of the business of the Crofting Commission. We will consider a range of options, such as: terminating all contact (subject to necessary limitations referred to below); terminating communication by specified channels only (e.g. refusing to take telephone calls from an individual); refusing to accept communication on a specified subject only; or requiring the individual to communicate only through a third party.

Limitations on Termination of Contact

Any consideration of limiting or terminating contact needs to start by considering the nature of the contact we have had. In some circumstances, for example, Crofting Commission staff are acting as regulators, often in a statutory role. In these cases, withdrawal of contact would be impossible or at least undesirable.

In deciding to terminate or restrict contact, we will not attempt to restrict the rights of an individual to raise requests under information legislation, such as the right to request information under the Freedom of Information (Scotland) Act 2002, the Environmental Information (Scotland) Regulations 2004 or the Data Protection Act 1998 as appropriate. Any such requests received will be considered under the normal terms of those access regimes – although of course such a request, if couched in terms that are harassing or unreasonable, may be deemed vexatious under FOISA or manifestly unreasonable under EIR(S).

We will also consider if the individual's or anyone else's rights under European Convention on Human Rights are engaged in this decision, especially Article 10 relating to freedom of expression (this will be of particular relevance if the individual is or could be seen to be a journalist or if our decision could be seen to have a chilling effect on the free reporting of matters of public interest).

Informing the Individual

When a decision to restrict or terminate communication with an individual is made, we will inform that individual of the decision and its terms. This communication will also make it clear what if any recourse the individual has to make representations regarding that decision (see below).

Where an Individual Represents an Organisation

An offending individual may be in contact with Crofting Commission staff as a representative of an organisation. In that case, an initial approach should be made, usually by a manager in the affected team, to the organisation itself. Some details of the approach needed are given on Saltire. The Crofting Commission reserves the right to terminate contact in the interests of our own staff even where an external organisation is not able or willing to act in respect of alleged unacceptable behaviour.

Measures to Prevent Contact

We will consider using technical measures to block an individual's attempts to contact us if that individual's communications have been judged to be abusive, threatening, or to constitute harassment of our staff. We will consider measures such as seeking to block an individual's telephone number or email address, and we will consider in more extreme cases whether to seek to interdict the individual or take other legal measures in order to protect our staff. Where we decide to implement technical blocking measures, e.g. of an email address, we will not necessarily make that known to the individual concerned. Whether to inform the individual of the use of technical measures will be a matter of judgement for the manager taking the decision to terminate or restrict contact.

Right of Appeal or To Make Representations

Where we decide to terminate all contact with an individual, we will offer no right of appeal and entertain no representations from them. We will make this clear in our final communication, and we will draw their attention to their right to complain about Crofting Commission services to the Scottish Public Services Ombudsman.

Where we decide to place restrictions on how an individual may contact us or on what subject etc., we will consider whether to offer a route for the individual to make representations to a senior member of staff in the Crofting Commission. This will not be a formal right of appeal but an opportunity for the Crofting Commission to consider if the restrictions we have decided to apply are unfair in some way to the individual affected.

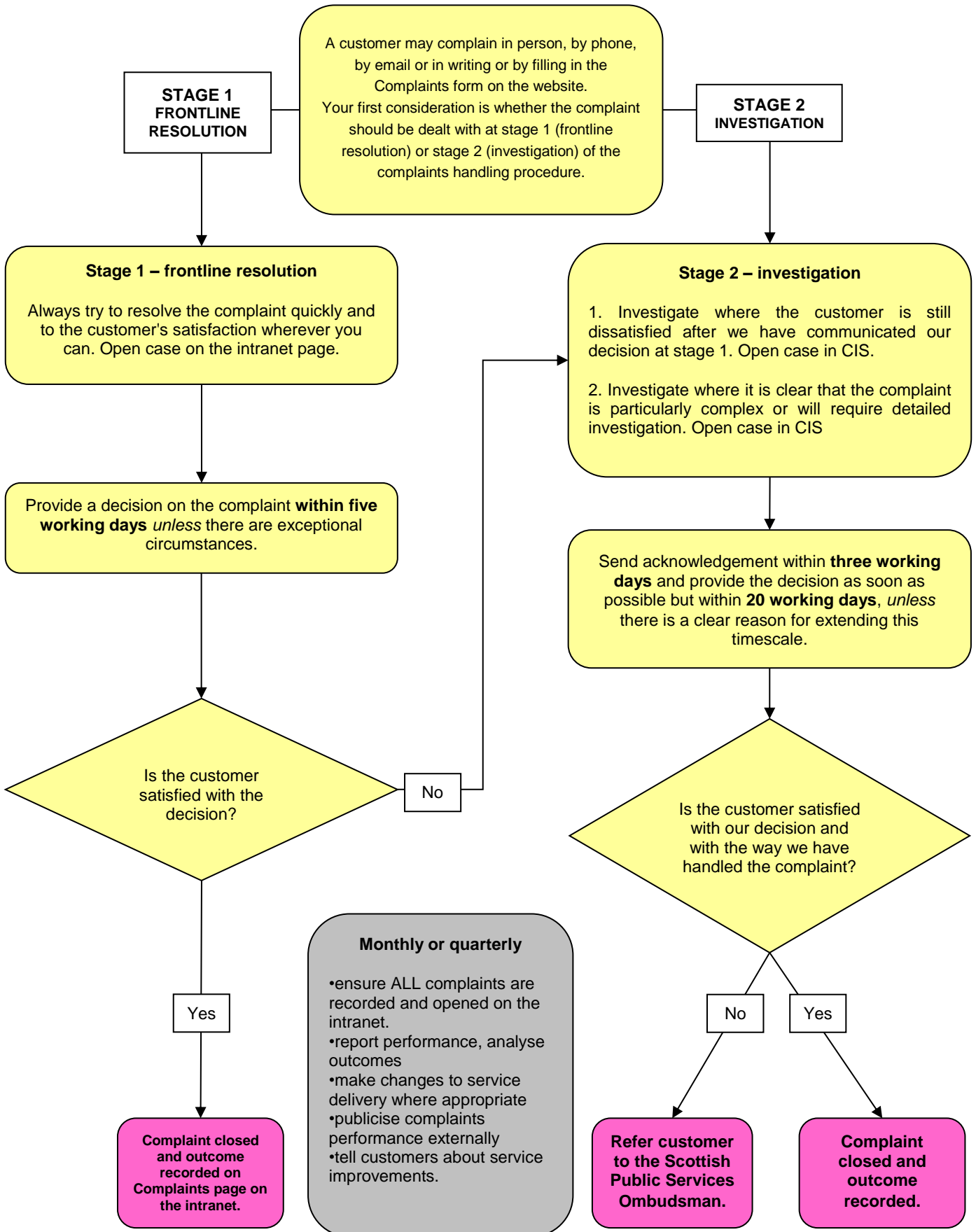
Where we have terminated or restricted contact and a significant amount of time has elapsed (at least 2 years), we will consider representations from an individual if something significant has occurred which will give us assurance that their behaviour has moderated sufficiently for us to lift restrictions.

Recording a Decision to Restrict Contact

We will record incidents involving unacceptable actions and behaviours as they occur, but will retain those records only for a limited period unless further action is decided on in that time. This period should be no longer than 20 days in general, but in some cases (e.g. where contact with an individual takes place on a quarterly cycle) should be longer, as appropriate.

Where it is decided to terminate or restrict contact with an individual, we will record that decision and the reasons for it. This record will be shared with units that have general public contact (Central Enquiry Unit, Ministerial Correspondence Unit, SGRPID), and also with any that either has been contacted by the individual or where it is judged possible or likely that the individual may contact a team.

THE COMPLAINTS HANDLING PROCEDURE



STAFF GUIDANCE WHEN DEALING WITH CUSTOMERS CORRESPONDING AFTER FINAL DECISION IS ISSUED

According to the Scottish Public Services Ombudsman, persistence is the most common problem staff and organisations have to deal with, when handling complaints. Many organisations find it difficult to deal with customers who continue to correspond on the issue they have complained about, when the complaints procedure has been exhausted. Despite the difficulty, it is important to provide clear guidance to assist staff, as customers who persistently seek to re-open a complaint or refuse to accept a final decision has been reached, soak up a disproportionate amount of staff resources and can also place staff in stressful situations.

Such customers may:

- Continue to correspond on the same point
- Repeatedly raise the same issue using 'new' arguments or by claiming to have new information
- Pursue completed complaints by referring the same issues to an MSP, who then starts the same cycle off again
- Use more than one route to try to open up the issue again – by emailing different members of staff with different points on the same issue, for instance.

Of course, we wish to reduce the incidence of complaints by making sure we are correctly applying our regulatory authority under the Crofting Acts and keeping the customer informed during what can be a protracted process.

Given that, while we must of course accept the individual's right to disagree with a decision we have made, the Complaints Handling Procedure provides the complainant with a clear Right of Appeal against that decision. If we have reached a final decision, we do not need to continue to explain that decision and it may well be unhelpful for both parties to continue to allow the dialogue to stay open. Getting stuck in a correspondence 'loop' of repeating explanations without being able to alter the decision gets both parties nowhere.

Clarity in the Decision

A clear final decision letter will help ensure the customer understands what the outcome of their complaint is. By showing the reasons for the decision, staff avoid confusion, even if the outcome is not what the customer hoped for.

What to Do If You Are Dealing With Someone Who Is Being Persistent

If the Complaints Handling Procedure has reached its conclusion, there is no need to continue to correspond with the complainant, unless there is clearly some benefit to be gained, for instance by providing clarification on meanings. However, continued requests for clarification may be used to perpetuate the correspondence, so clarify once if necessary but avoid this if it appears to be a route to re-open the case.

There may be instances when the complainant forwards genuinely new evidence or where staff realise an error has been made. In these circumstances, it would be appropriate to look again at the case.

If you feel you have said all you can on the issue and the next stage (to go to the Ombudsman) has been clearly set out for the complainant, it is important to let the person know you will not respond to any further communication on this complaint. And – most importantly – you must stick to this. If you have said you will not respond, then don't do so when the next letter arrives. Remember – the complainant has a Right of Appeal. You should politely make it clear that you have done all you can and that you will not respond to further communication on the issue. It will be important in these cases to ensure there are clear file notes so that, if the case does go to the Ombudsman, they can see what has happened and why.

The wording you may choose to use will depend on the circumstances but something along these lines may be appropriate:

“Our consideration of your complaint is at an end and will not be reviewed further by us. In line with our normal procedures, if you contact us again on this matter, we will file your correspondence but we will not acknowledge or respond to it. We have explained your right to take any concerns you have over how we have dealt with your complaint to the SPSO and I include their contact details again.”