



Guide for MSPs and Councillors

Supporting constituents who have concerns or complaints about public services during COVID-19

FAQs

Introduction

1. Public services are under huge resource pressures as they focus on responding to COVID-19 and the delivery of essential services. At the Scottish Public Services Ombudsman we are taking full account of the current context in how we operate. While we are committed to delivering our statutory responsibilities, we in no way wish to put unnecessary pressure on public services. Equally, we are mindful of people's right to complain and the importance of holding public services to account.
2. The guidance below is not intended to be directive; it seeks to answer some common questions you may receive from your constituents and provides some suggestions for how you may be able to manage their expectations in relation to the delivery of public services and complaints in the current situation.

Complaints handling

Are public service organisations still responding to complaints?

3. Organisations will introduce their own contingency arrangements, making decisions about what work they categorise as essential, and prioritise. We understand that this may result in some (or all) complaints handling being delayed or put on hold.
4. We have reminded organisations of the need to comply with the model complaints handling procedure, particularly where complaint investigations have already begun. The procedure allows for timescales to be extended in appropriate circumstances, and we expect to see an increased use of these extension arrangements. Where such an extension is applied, it is important that organisations keep complainants updated about expected delays.
5. We are taking a proportionate approach and anticipate public bodies will do the same. We are encouraging people to be patient and understanding when it comes to complaints.

Which complaints will be prioritised during COVID-19?

6. The SPSO encourages organisations, where possible, to continue screening incoming complaints to identify any that fall into the category of 'essential work'. For SPSO 'essential work' complaints they are defined as:
 - complaints that concern COVID-19 or its impact and relate directly to current service provision for vulnerable people; and
 - complaints where we believe there is a real and present risk to public health and safety.
7. We also encourage organisations to progress these essential complaints where possible. Where this is not possible, they should explain to the complainant that they are not able to look into the matter at this time and provide an indication of when they may be able to do so. They should also signpost the complainant to SPSO.

8. We encourage organisations to take a 'resolution' approach to such complaints by focussing on action that can be taken to restore service provision or address current risks to health and safety.
9. Where a complainant who has been signposted to SPSO complains to us, we will assess whether the complaint meets the 'essential' criteria described in paragraph 5, and if so what action we should take.

What communication can complainants expect from organisations?

10. Organisations are encouraged to include information on the complaints section of their website on how complaints handling has been affected by COVID-19, and to use standard-form letters or emails in updating existing complainants on the situation. As an example, SPSO's information for customers is available here:
<https://www.spsso.org.uk/covid-19-update-for-customers>.
11. It is good practice for organisations to tell complainants:
 - how the organisation is prioritising complaints work
 - what complaint services are still available and which are suspended (for example, phone enquiries, face to face meetings, limited email access etc.)
 - what delays are expected
 - include an acknowledgement that the person's complaint is important to them, and an apology for the inconvenience and distress caused.

What delays can be expected?

12. This depends on the pressures on and staffing resources of the individual organisation during COVID-19. Given the uncertainty of the situation, this does not have to be a specific timeframe; for example, SPSO is currently advising complainants to expect 'significant delays of many months when submitting complaints to us' and delays in responding to emails.

Will the SPSO still be progressing complaints?

13. SPSO is attempting to provide a business as usual service. This is of course dependent on a number of issues, including the availability of our staff, technology to access systems and the requirement to interface with public sector providers who have all introduced their own contingency arrangements.
14. Where we can, we will be progressing two categories of complaints: 'essential new complaints' and, as far as possible, existing complaints.

Essential new complaints

15. As explained in paragraph 5, we have defined essential new complaints as complaints that concern COVID-19 or its impact and:
 - relate directly to current service provision for vulnerable people; or

- where we believe there is a real and present risk to public health and safety.
16. We are scanning all new complaints, and our staff will exercise their professional judgement about whether they meet the above criteria.
 17. Where our assessment indicates the criteria has been met, SPSO will progress 'essential' new complaints. It may be that we need to contact the relevant public service organisations for information about them. The Ombudsman has already written to all organisations about these arrangements. Whilst we recognise organisations are under pressure, we also expect them to appreciate the complaints' urgent nature. The letter we sent is available here: <https://www.spsso.org.uk/covid-19-update-for-public-service-organisations>

Other existing complaints

18. As regards all other complaints, the SPSO will investigate them as far as our resources, and the capacity of public bodies to respond to us, allow. However, realistically, it is unlikely complainants will receive responses in our normal timescales, and there is likely to be a delay before they are allocated for investigation.
19. While we appreciate the importance of complaints to people, we recognise that organisations that we might rely on for further case information, may encounter unprecedented challenges at the moment which in turn may cause us significant delays.

Signposting to SPSO

20. We ask you to only signpost to SPSO only where absolutely necessary. Please contact us by post 'Freepost SPSO' or by email at Ask@spsso.gov.scot. Unfortunately, we are currently unable to take phone enquiries via our 0800 number.

Top tips for addressing constituents' complaints handling concerns

In short, given the current situation, we are seeking people's co-operation and consideration and asking customers to exercise patience and understanding in case our or public bodies' complaints handling services falls below expectations or responses to complaints are delayed. We appreciate your support when answering your constituent's questions and:

- explaining the situation that public bodies and SPSO face
- explaining the need to prioritise services
- encouraging constituents to be patient wherever reasonable and appropriate
- explaining SPSO's approach to essential complaints
- signposting to SPSO if absolutely necessary

We hope this guide provides you with the relevant information to explain to your constituents the impact that COVID-19 is having on public bodies' and SPSO's complaints handling services and answer their questions.

If you have any general questions about complaints handling, please contact CSA@sps.gov.scot, or for urgent case related queries Ask@sps.gov.scot.

Scottish Welfare Fund

Are local authorities still responding to Scottish Welfare Fund (SWF) applications for crisis and community care grants?

21. Local authorities are continuing to respond to SWF applications. Processing awards within time limits for vulnerable people facing crisis situations should be their primary objective during this difficult time.
22. We are conscious that the Scottish Government has issued guidance to local authorities, advising them that decision letters do not have to be issued for the duration of the current COVID-19 situation; but that applicants should be advised of their decision and that records should be taken for auditing purposes.

What communication can applicants expect from local authorities?

23. While local authorities so not need to issue SWF decision letters during the COVID-19 pandemic, it is important that applicants are advised of, and have a record of their decision which should include their right to request an independent review.
24. We are sympathetic to the operational difficulties facing councils at present. In the interests of fairness and transparency, we have encouraged councils as far as practicable, to include sufficient information for applicants to understand the reasons for decisions. Providing as much information as possible will also help to ensure that people don't submit review requests simply because they don't understand reasons for decision.

Is the SPSO processing SWF review applications as normal?

25. While the Scottish Government has advised us that normal decision timescales are being relaxed to account for the higher than usual volumes of SWF applications, the SPSO will continue to provide feedback to councils on applications as usual where the timescales set out in section 13 of the Welfare Funds (Scotland) Regulations 2016, have not been followed.
26. By continuing to track feedback within the existing guidance, we are aiming to measure the impact of the COVID-19 pandemic on front-line services, so that it can

inform resourcing and future contingency planning at both local and national level.

Do applicants need to expect delays in the awarding of their grants?

Crisis grants

27. Where the SPSO upholds a crisis grant application at independent review, we respectfully ask that the award is paid by the council without delay. This is because applicants who have gone through the review process have already been waiting and are considered to be in urgent need.

Community care grant

28. We are conscious that the delivery and fitting of community care grant awards is unlikely to be possible at present for health and safety reasons. As such, we recognise that the standard timescale of awards being arranged within a week of SPSO decisions will not be achievable for councils.
29. We recommend that local authorities place these awards on hold until such time that they can be safely delivered. Where possible they should let the applicant know what they are likely to be. We appreciate that this could be challenging on a case-by-case basis so we have recommended that councils put general information on their website and in other published information.
30. We will ensure that our case reviewers tell applicants, as appropriate, that although a decision may have gone in their favour, there will be delay in the council fulfilling the award due to the current situation. If we have any particular concerns about a specific case, we will contact the council directly.

We hope this guide provides you with the relevant information to explain to your constituents the impact that COVID-19 is having on public bodies' and SPSO's Scottish Welfare Fund services and answer their questions.

For urgent SWF case related queries, please contact SWF@sps.gov.scot.

We are regularly updating our information for customers and organisations at <https://www.sps.gov.uk/news-and-media/covid-19-update>