

FAQ from the 2023 SPSO Conference

December 2023



Table of Contents

1. Introduction.....	4
2. Developing a child friendly complaints process.....	5
2.1 What are we defining as a child or young person?	5
2.2 What considerations are there to staffing restraints on the implementation of this?.....	5
2.3 Is the procedure just for use by young people? Or does it cover young people complaints as well as complaints made by adults where a child is mentioned?	5
2.4 What advice would you give where a complaint is from a parent who says letting the child know is not in their best interests?	6
2.5 It was mentioned that supports are going to be put in place to help public authorities to implement - what does that refer to?	6
2.6 How did you consider the issue of consent for the young person if they don't want any adults involved?.....	6
2.7 Will you be making the procedure and guidance child friendly?	6
2.8 How do we consider the child friendly process when there are serious mental health issues involved?.....	6
2.9 How are you going to engage in a modern way with children and young people to encourage complaints?	7
2.10 We introduced our child friendly complaint procedure earlier this year. Does the panel have any ideas about how we can encourage vulnerable children to use it?	7
2.11 What happens if the child retracts complaint once parents become aware?.....	7
2.12 Will finance be provided or made available to public bodies to implement the child friendly complaint procedure?	7
2.13 What was the most successful or effective way of engaging with children and young people through co-design?	7
2.14 Who determines whether the child has capacity to engage?.....	8
2.15 How do you plan to balance child empowerment and safeguarding?.....	8
2.16 How do you plan to manage expectations of what can be raised and outcomes?	8
2.17 Who will tell parents that their child can overrule the parents' wish to make a complaint?....	8
2.18 What if the child doesn't want the complaint to be taken forward but in not doing so would be to the detriment of the child?	8



2.19	Has consultation been done on young people and their expectation of resolution or methods of resolution?	9
3.	Top tips for good practice in complaints handling.....	10
3.1	What practical tools do you use to capture the learning from complaints?.....	10
3.2	Resource cuts mean that even when we have upheld complaints it can be years before we are able to fix things. How can we communicate this message?.....	11
3.3	How does the SPSO ensure that their subject matters experts are up to date on current practice?	12
3.4	Since lockdown there has been a change in the tone of complaints and people are quick to say harsh things about staff. How should we deal with this?	13
3.5	If you were setting up a new complaints service, what would be your top 3 best practice tips?	13
3.6	How would you manage people using the complaints process to ask questions rather than complaining, often on the back of receiving a complaint response?.....	14
3.7	Understanding and agreeing heads of complaint at times can be a challenge particularly in the early stages of contact . Any top tips from SPSO?	15
3.8	What support from management do you see as most important to help you do your job?..	15
3.9	Any advice on how to encourage a culture of learning from complaints in practice?	16
3.10	Does the SPSO take into account the lack of resources available in areas when considering complaints (particularly with GP health services)?.....	17
3.11	What is the best approach to handling complaints that involve more than one organisation and is complex?.....	18
3.12	How do different bodies ensure that the investigative process is impartial?.....	19
3.13	What is the commonest complaints handling issue SPSO are asked for advice about?.....	20
3.14	How are you linking your complaints data to improve service user experience?.....	20
3.15	How are improvements communicated to the public?	20
3.16	How do you train staff in complaint handling?.....	21
3.17	How do you manage reporting feedback to teams in terms of identifying trends and sharing good practice. Do you have standard complaint categories for reporting?	21
3.18	What approaches to prioritising cases do you use?.....	22
3.19	How do you ensure that the learning identified is progressed?	22
4.	Resolution based approaches to complaint handling.....	24



4.1	Would it be right to say that there are cases that cannot be 'resolved', in that the outcome the complainant seeks is simply not possible?.....	24
4.2	How should we work with customers who remain dissatisfied after an agreed resolution has been delivered?	24
4.3	Should we record someone who withdraws a complaint as resolved or just not upheld? ...	25
4.4	What is your greatest achievement to date with resolution?	25
4.5	Do customers understand the definition of resolved?	25
4.6	Do you have any advice of how best to encourage buy in from senior management in regards to recording resolved complaints?	26
4.7	Can you "resolve" differences of opinion? You can explain why you took the position you did, but some complainants will never accept that.	26
4.8	What tools can we use to resolve cases?	27
4.9	Would you re-open a closed frontline response case and escalate to a stage 2 if the customer came back a few weeks later unhappy?	27
5.	Q&A with SPSO senior team	28
5.1	Why don't organisations get to see complaints that are made about them? Understanding what complainants have said would be really helpful when responding.	28
5.2	Does the SPSO have any updates on delays on allocating cases?	28
5.3	How do you assess priority cases?	28
5.4	If a complaint is being investigated by SPSO and you are struggling to get information from colleagues how would you respond to the investigative officer?.....	29
5.5	Do you have a policy or guidance for SPSO complaint handlers regarding who they engage with in local authorities?	29
5.6	Are there any plans to introduce financial penalties as part of SPSO powers, similar to those in England?	29
5.7	Has the SPSO made any kind of submission in terms of a complaints process for the proposed National Care Service?	30



1. Introduction

- 1.1 This document provides written responses to common questions submitted via Slido during the panel sessions at the SPSO conference held on 16 November 2023. Panel members consisted of staff from SPSO alongside other public sector organisations.
- 1.2 It was not possible to provide responses to all questions submitted. Similar or overlapping questions have been grouped into a single question and answer.
- 1.3 **Please note that this document is not official guidance from SPSO** but a collection of answers to questions asked at the SPSO conference in the context of the relevant panel session. In some cases, answers have been provided in a collaborative approach involving more than one panel member.



2. Developing a child friendly complaints process

Chaired by Paul Gorman from the Empowered Children and Young People Team of the Children's Right's Unit at the Scottish Government, the panel discussed the new child friendly complaints process being developed by the SPSO and what it means for public bodies. The panel members, who have all been involved in the co-design of the new process, discussed the importance of meaningfully involving children and young people in the design of services that impact on them.

2.1 **What are we defining as a child or young person?**

We use the definition within the UNCRC which defines a child or young person as anyone under 18.

2.2 **What considerations are there to staffing restraints on the implementation of this?**

We recognise the pressures local complaints processes are already under, and have strived throughout the co-production process to ensure that the new process is as efficient as possible, whilst also feeding back resourcing concerns to the Scottish Government. While the feedback from the pilot has been encouraging that the new process should not represent a large increase in work in the vast majority of cases, we consider the additional steps introduced are necessary to ensure children's rights under the UNCRC are met - rights which will be legally challengeable following enactment of the UNCRC incorporation bill.

2.3 **Is the procedure just for use by young people? Or does it cover young people complaints as well as complaints made by adults where a child is mentioned?**



The procedure covers complaints made by or on behalf of children, as well as those made by adults about matters that affect a child or children, as children have legal rights we must respect in all of those scenarios.

2.4 What advice would you give where a complaint is from a parent who says letting the child know is not in their best interests?

This will always be a complex scenario that will need to be tailored to the specific circumstances of the child and the case, and the SPSO are here to help for such complex scenarios. In general though, it would be for your organisation to listen to the views of the parent, and take account of the rights of both parent and child to reach a view on whether there was a best interest argument not to tell the child, which we would expect to only be in exceptional circumstances.

2.5 It was mentioned that supports are going to be put in place to help public authorities to implement - what does that refer to?

Primarily, support relating to child friendly complaints will be by direct contact with the SPSO. However, there are a number of other funded programs looking at general training and implementation of the wider UNCRC.

2.6 How did you consider the issue of consent for the young person if they don't want any adults involved?

Full details of how to assess whether to involve parents and other responsible adults is included in the Child Friendly Complaints Handling Procedure.

2.7 Will you be making the procedure and guidance child friendly?

We hope to produce more child-facing materials in the near future. What we have drafted at present is necessarily complex and intended for use primarily by public sector staff.

2.8 How do we consider the child friendly process when there are serious mental health issues involved?



One of the core themes we hope to put at the centre of the new process is tailoring our approach to the needs of the child involved. But we must also be mindful of our duties to make reasonable adjustments, as well as the usefulness of taking a reasonable adjustment approach even where there is not a legal duty to do so.

2.9 How are you going to engage in a modern way with children and young people to encourage complaints?

We are still working on our communications approach to raise awareness about the new process, and will share details of this in due course.

2.10 We introduced our child friendly complaint procedure earlier this year. Does the panel have any ideas about how we can encourage vulnerable children to use it?

Our co-design work suggested that the most important route into the complaints process, especially for vulnerable children, is that the adults who work closely with them on a day-to-day basis can identify potential complaints and offer the complaints process in a way that feels safe and informal. We therefore believe awareness raising with key staff is a high priority to encourage complaints from vulnerable groups.

2.11 What happens if the child retracts complaint once parents become aware?

If the child has ownership of the complaint and can fully understand it, they should have control over whether the complaint process continues.

2.12 Will finance be provided or made available to public bodies to implement the child friendly complaint procedure?

At present there are no plans to provide additional funding for public bodies to implement the child friendly complaints procedure.

2.13 What was the most successful or effective way of engaging with children and young people through co-design?



In our experience, both in person or online options can be effective if done well - ideally they need to be fun and engaging. Most importantly, it must be very clearly explained what impact they will have so children know their input will be meaningful and not tokenistic.

2.14 Who determines whether the child has capacity to engage?

It is for the organisation managing the complaints process to reach a view on this. It will depend on that organisation's structure who exactly has responsibility to input on or reach a decision, though we would encourage you to consider who is best placed to do this in each case.

2.15 How do you plan to balance child empowerment and safeguarding?

As both the Principles and Procedure make clear, any child protection concerns should follow child protection procedures and be reported to social work and or the police without delay.

2.16 How do you plan to manage expectations of what can be raised and outcomes?

We would expect expectations about scope and outcomes to be managed in the same way as any other complaint, albeit respecting the child's communication preferences.

2.17 Who will tell parents that their child can overrule the parents' wish to make a complaint?

This will depend on the communication preferences of the complainants and will vary within individual organisations.

2.18 What if the child doesn't want the complaint to be taken forward but in not doing so would be to the detriment of the child?

If the child has capacity to fully understand the complaint and any consequences of their decision, trust should be placed in them to make their own decision. However, the organisation still has a duty to consider the



child's best interests in any decision made, including discontinuing a complaint, so in certain exceptional circumstances, this has the potential to result in a different approach. The SPSO are available to provide advice and assistance in such complex scenarios.

2.19 **Has consultation been done on young people and their expectation of resolution or methods of resolution?**

Children have very clearly told us that resolution is their preferred approach to complaints, with children being less likely than adults to be looking for an investigation, and more likely to be seeking practical outcomes. We therefore anticipate that resolution based approaches will have a big role to play in handling complaints from children.



3. Top tips for good practice in complaints handling

Chaired by Andrew Sheridan, Head of Improvement, Standards and Engagement at SPSO, the panel showcased best practice in complaints handling. The panel shared their experience of learning and improving from complaints, and top tips for building a positive culture of learning from complaints. Panel members were:

- Carol Craig-McDonald, Inverclyde Council (**IC**)
- Kevin Rooney, NHS Lanarkshire (**NHSL**)
- Alison Fenech, Scottish Public Services Ombudsman (**SPSO**)

3.1 What practical tools do you use to capture the learning from complaints?

IC: The training we deliver to complaint handlers has a specific topic that covers learning from complaints. We plant this seed at the outset within the training with the key message being that learning from complaints is an integral output from investigating the complaint and reducing the likelihood of reoccurrence or to improve a particular process.

We cover the key procedural requirements we expect the officer handling the complaint to undertake when learning points have been identified. They are recorded in the complaint system and are referred to in our response letters to show the complainant that we have understood their complaint and that we are taking action from the issues identified. These are the steps we take towards embedding the practice.

Regular oversight checks are undertaken to identify any feedback opportunities that are noted and ensuring this is shared with the relevant staff area to have a focused conversation on the requirements that they need to achieve. Communication is important to keep the regular focus on these requirements.



On top of this, we publish our learning on the council's website and discuss them with the Corporate Management Team to ensure it is given the focus and attention that it requires.

NHSL: Over recent years, a number of process developments have been introduced in NHS Lanarkshire, to support learning being at the heart of the complaints procedure and utilising information to inform service development and improvement, including:

- Amended witness statement processes and documentation to encourage reflection and learning from those closest to the source of the complaint – recognising that they may be best placed to make improvement suggestions
- Learning and actions are communicated to the complainant within a specific 'learning summary' at the conclusion of the Stage 2 response (for upheld/partially upheld complaints).
- The Healthcare Complaints Analysis Tool (HCAT) has been applied in a number of areas. The tool helps to identify different scenarios e.g. some areas could have a high number of complaints with low severity. Others may have a low number of complaints, but high severity.
- Learning is recorded on Datix to ensure that robust evidence of agreed actions is provided.
- Complaints have been incorporated into the organisational Learning Bulletin.

3.2 **Resource cuts mean that even when we have upheld complaints it can be years before we are able to fix things. How can we communicate this message?**

SPSO: It is important to be clear from the outset whether the outcomes that the person is looking for can be achieved through the complaints process, and manage expectations early on where necessary. If the person expects more than you can provide, you should tell them as soon as possible.



Being honest and open when things have gone wrong, and giving information about what fixes can be put in place now will show that you understand the issue, and that you are listening to feedback, and should help build service users' trust in the process and the organisation.

NHSL: We follow an approach where recommendations emerging from upheld or partially upheld complaints should be:

- Specific
- Measurable
- Accountable
- Reasonable
- Timely
- Effective
- Reviewable

We keep recommendations realistic and communicate these clearly. There may be elements outwith our control, but clarity is key.

3.3 **How does the SPSO ensure that their subject matters experts are up to date on current practice?**

SPSO: Our advisers are experienced professionals with relevant and current expertise in their field of practice. They are all registered with their professional body or regulator and are selected on the basis of their knowledge and skills. Advisers receive induction and training for their role from the SPSO and attend an annual seminar as part of their continuing professional development. The advice they provide is subject to quality assurance checks.

Most of our advisers are based in Scotland. The benefit of this is that they are fully aware of the Scottish context, which can be different from other parts of the UK. It also allows us to get advice directly and quickly. In health



cases, we also sometimes use the English Parliamentary and Health Service Ombudsman's panel of clinical advisers, most usually where we don't have an adviser with a particular specialism.

3.4 Since lockdown there has been a change in the tone of complaints and people are quick to say harsh things about staff. How should we deal with this?

SPSO: It is important to ensure that difficult engagement does not become the 'norm'. There should be a clear and well communicated policy in place within the organisation about how you expect staff to interact with people who engage with the service and in turn how you expect service users to treat staff. Staff should be well aware of this policy, and be clear on what to do when engagement becomes difficult. All service departments and teams within an organisation should take a consistent approach to this. We have published our own Engagement policy on our website and encourage organisations to adopt and adapt it for use within their local context. Further guidance on dealing with difficult engagement can be found in our complaints handling practice guide.

3.5 If you were setting up a new complaints service, what would be your top 3 best practice tips?

SPSO: In responding to this question we're assuming that the 'new' complaints service is a re-organisation / restructuring of previous complaints handling arrangements in a Scottish public service organisation where the two-stage complaints handling procedure is already embedded within local processes.

It is essential that, when setting up a new complaints service, leadership and senior management renew their commitment to valuing complaints, welcoming feedback, and learning from complaints and should ensure that the organisation has procedures in place to act on any service delivery issues that are identified. The organisation must continue to handle complaints in line with the Complaints Handling Principles and the relevant



Model Complaints Handling Procedure and complaints must be considered as part of the organisation's overall governance and assurance arrangements.

The complaints service, and any other relevant staff, should have access to a good complaints management system, which enables the organisation to meet at least the minimum required by the MCHP in relation to recording complaints, capturing learning, and reporting complaints.

The organisation must also ensure that staff are confident in identifying complaints, be familiar with how to apply the CHP and empowered to resolve complaints. Training on the CHP should be part of the induction process for all new staff, and refresher training should be provided for current staff on a regular basis.

There are tools on the SPSO website that organisations can use to work towards developing an efficient, effective and high quality complaints service that meets all the requirements of the MCHP such as Complaints Improvement Framework (please write to ise-csa@sps.gov.scot to request the spreadsheet that accompanies the framework) and the Complaints process quality assurance tool.

3.6 How would you manage people using the complaints process to ask questions rather than complaining, often on the back of receiving a complaint response?

SPSO: If someone continues to correspond with the organisation having received their stage 2 response, you can provide clarification where needed and answer their questions. It is appropriate to change the decision if the person has new evidence or a clear indication you have made an error – clarity in your decision will help you and the complainant to focus on this. However, if the person is dissatisfied with the response or does not accept your findings, you should explain that you have already given them your final response on the matter and signpost them to the SPSO. If the person is



being persistent on the same points covered in the stage 2 response, you should let them know that you will not continue to correspond on those same points (and ensure that you stick to this), and advise them that they should escalate the matter to the SPSO as an independent external review body, and the final stage for complaints about public services.

IC: It may be that we haven't communicated the messages as clearly as we could have, therefore, we can learn from this. A light response may have been given, which has led to the additional clarification sought from the complainant. We will assist individuals with questions however if they are continuing to go over the whole investigation again, once we have attempted to clear up the concern/confusion/answer any questions, we would then remind the service user of their right to approach the SPSO if they remain dissatisfied.

3.7 Understanding and agreeing heads of complaint at times can be a challenge particularly in the early stages of contact . Any top tips from SPSO?

SPSO: If it is clear from contact / correspondence with the individual that they are experiencing difficulties / vulnerabilities, and / or adjustments to the service may be required, staff should proactively ask the person whether they require any reasonable adjustments, for example how and when it would be best to communicate with them. Staff should be clear with the person about the purpose of their contact, and explain why it is so important to have a shared understanding on the points of complaints as well as the outcomes they are looking to achieve.

3.8 What support from management do you see as most important to help you do your job?

IC: Being approachable is the first key quality that ensures I can do my role effectively. Having a structure and route to communicate with management is important too. Additionally, being listened to and seeing the value of my



experience. Balancing this alongside the knowledge of the management team really ensures an all-rounded thinking approach is taken to the job.

In my time at Inverclyde Council, I have been fortunate to have regular meetings with the Corporate Management Team which includes the Chief Executive. I have been given the oversight of the entire complaint handling in the Council and the support is cascaded right the way down to staff at all levels using the Extended Corporate Management. Complaints being seen as part of the things we do here at the Council is another benefit of how complaints are viewed too.

NHSL: To support the work of complaints handlers, management should:

- provide consistent messaging through a learning-focused process
- provide a point of escalation, for example where there are no justifiable reasons for the delay with statements
- be committed to development/improvement and the resources needed
- support people in that role, and recognise the challenges of the nature of role
- be assured by the local processes we have in place – e.g. avoiding the creation of a 2 tier-process.

3.9 **Any advice on how to encourage a culture of learning from complaints in practice?**

SPSO: As a minimum, organisations must:

- seek to identify the root cause of complaints
- take action to reduce the risk of recurrence; and
- systematically review complaints performance reports to improve service delivery.

This should instil a strong culture of learning from complaints within the organisation, and should be backed up by a clear commitment from



leadership and senior management to learning from complaints across all services. Here are some practical ways to ensure this approach is embedded within the organisation:

- Complaints feature as a documented agenda item in team, management and senior management team meetings
- The organisation always looks to solve the core issue which led to the complaint and learn from the outcome of complaints so as to reduce the potential for more/similar complaints
- The organisation always feeds back to the complainant to confirm that action has been taken and how services have improved
- The organisation regularly reviews the information gathered from complaints to identify trends, themes or patterns and uses it to inform service improvements
- Processes should be in place to identify and respond immediately to critical or systemic service failures identified from complaints

IC: I always embed that we should not fear or be afraid of learning from a complaint - that the real value they bring is for us to listen, respond and learn, to improve the trust and relationship of the service user. I also ask staff to consider the complaints as a gift, an opportunity to put something right whether that be a simple apology, an explanation, an improvement or fix to a process. When one presents itself and we take a learning point and implement it, it can stretch beyond that one complaint that surfaced the issue and reach far more service users. This is where the gifts expand as not every service user needs to raise the complaint for the learning to be taken. The skill is identifying and acting early. For this reason we become more efficient as we will handle less complaints for the same issue but reap all the benefits from the process improved.

3.10 Does the SPSO take into account the lack of resources available in areas when considering complaints (particularly with GP health services)?



SPSO: Yes, we fully understand the pressures on public services at present, including general practice. We look at each individual case based on its own merits and gather evidence from both parties to the complaint. Where a service may be impacted by resource issues, we would consider the impact this is having on the complainant, whether the service being provided is a statutory obligation or otherwise, whether the case has been given the relevant priority and whether steps are being taken by the organisation to improve any access failings.

For example, where there are delays in obtaining GP appointments, we might look to check that the service can actually be accessed, whether the patient's appointment has been appropriately prioritised and whether the process required to make the appointment is reasonable, and accessible. We may also ask to see evidence of steps being taken to improve the situation if delays are significant/access is limited.

3.11 What is the best approach to handling complaints that involve more than one organisation and is complex?

SPSO: The MCHP covers this particular scenario (for the NHS and other sectors). If the person has complained to you about the service of another organisation or public service provider, and you have no involvement in the issue, the person should be advised to contact the appropriate organisation directly.

Where the complaint relates to the actions of two or more areas within the organisation, you must tell the person who will take the lead in dealing with the complaint, and explain that they will get only one response covering all issues raised.

The organisations involved should be mindful of complaints timescales and let the person know as soon as they can where it becomes clear that you will need more time, and tell the person the reason for the delay and a revised timescale for responding.



If the issues raised relate specifically to one or other of the organisations, staff should communicate clearly with the person to explain, and agree how the complaint will be handled. In this case, it may be more appropriate that the person receives two separate responses on the matters relating to the individual services.

IC: My key piece of advice is to identify the requirement for a corporate response from more than one service area early in the process to maximise the time you have to investigate and respond to the complaint. It is useful to ensure The Directors sign off the complaint letter that is being issued. This shows that they are satisfied that the investigation carried out and the outcome is accurate from their perspective. This ensures that the Service Area(s) are owning the problems and not passing the buck.

3.12 **How do different bodies ensure that the investigative process is impartial?**

SPSO: We recognise that it can be very difficult for complaints investigators to be fully independent, for example if they work in a small organisation or team, or are being asked to make decisions where those involved are more senior to them. People working in this role can, however, take steps to ensure and demonstrate that their thinking isn't unreasonably influenced in any way or by anyone when making their decision. They will need to be scrupulous about making their decision based on the evidence they have gathered during the investigation, and be able to recognise if they are being swayed or influenced by something or someone else.

IC: We have embedded a process whereby biases should be called out early and that we must be transparent in our roles when gathering statements from employees/contractors to evaluate them objectively. Where complaints require segregation from a service, we will allocate an investigating officer outside of the Directorate of the service to support impartiality. The Chief Executive will be briefed on the findings too.



3.13 What is the commonest complaints handling issue SPSO are asked for advice about?

SPSO: The most common complaints handling query we're asked about is dealing with difficult engagement. Our complaints handling practice guide gives tips and guidance to support organisations approach the most common problems that can occur when managing complaints. We have also published our own Engagement policy on our website and encourage organisations to adopt and adapt it for use within their local context.

3.14 How are you linking your complaints data to improve service user experience?

NHSL: We have changed our data to go beyond KPI reporting (which is broadly based on closed cases). We have created dashboards on live information, which enable us to identify delays/specific bottlenecks and for corrective action to be taken. We also look at justified delays with complaint handling versus system delays, seeking to reduce system delays.

IC: The oversight of complaints and the root cause is evaluated quarterly. A review for proactive learning is undertaken to ensure we are improving service user experience. This is cyclical and we also look for repeat complaints, common trends, and will drill down to service areas as applicable and request actions if necessary.

3.15 How are improvements communicated to the public?

SPSO: In line with the MCHPs, organisations must publish, on a quarterly basis, information on complaints outcomes and actions taken to improve services, and publish an annual complaints performance report on their website in line with SPSO requirements (the report will include performance statistics and complaints trends and actions taken).

Organisations may also decide to share learning and action taken to improve services with the wider public through publication of case studies or 'you said, we did' leaflets as well as through monthly/ quarterly newsletters.



3.16 **How do you train staff in complaint handling?**

SPSO: The SPSO currently runs two complaints handling courses:

- Good complaints handling – stage 1 self-guided online course, with an assessment upon completion
- Complaints Investigation Skills – a trainer-led course delivered online, focussing on stage 2 investigations

Further details of the courses and prices are available on our website. For bookings and other any training enquiries please email:

training@spsso.gov.scot.

NHSL: We have looked at different approaches e.g. short animation on the CHP and a support guide for Stage 1 handlers – which is provided with induction materials. We have also created a witness statement guide and animation to support different roles/functions in the CHP – this is circulated with requests for comment.

IC: We have built complaints handling training into the induction training. It forms part of individual development plans, and the managers are tasked with the actions that are required to be put in place for new employees who will be expected to handle complaints. We have a blended approach to this learning which uses the e-learning platform to commence the knowledge expansion of how we deal with complaints, the SPSO's learning courses and our Complaint officer runs face to face training sessions once the core basic training has been completed.

3.17 **How do you manage reporting feedback to teams in terms of identifying trends and sharing good practice. Do you have standard complaint categories for reporting?**

IC: The Corporate Management Team complaint handling quarterly performance report is shared with Service Areas. This has detailed analysis undertaken right across the Service areas which identifies what we have done well, what we have to improve on, and trends we have observed. We



also use standard complaint categories to assist with this although they will be updated in the New Year (2024) when we introduce our new complaint system.

NHSL: We continue to use the ISD national categories, but recognise the limitations. We are trying to expand the scope of thematic analysis, looking at specific areas.

3.18 **What approaches to prioritising cases do you use?**

IC: We do this at allocation stage and then again, as urgency or vulnerabilities are identified, we revisit this. This is reactive to the needs of service users. The Complaint Officer supports the services if we identify conflicts or challenges ahead and we will ensure when we re-prioritise cases that we keep the complainant updated. If necessary, we will leverage support to keep a balanced delivery across all the competing priorities.

NHSL: We have implemented a triage process for Stage 2 complaints – from extreme to negligible. This enables us to prioritise higher risk complaints, but this does impact on KPI achievement, as they are often the more complex/time-consuming complaints. As part of the triage process, any immediate actions are identified and progressed.

3.19 **How do you ensure that the learning identified is progressed?**

NHSL: We have implemented an approach that ‘closes the loop’ – what we’ve said we’re going to do is done within a reasonable timescale. We receive evidence to be held within the complaint file.

IC: We capture the learning within the response letters that we issue, and we record this into the complaint system. Where there is an SPSO case where learning points have been identified, we will issue the evidence as part of our communication to the SPSO to show what we have done. Where we require time to implement improvement action, we will create an action plan with the focused actions. The Director and Head of Service will own this until



conclusion, and they will delegate the actions through the relevant Service Manager. Once the action plan is completed, we will update the SPSO and provide the evidence of completion to demonstrate the learning taken forward.



4. Resolution based approaches to complaint handling

Chaired by Rosemary Agnew, Scottish Public Services Ombudsman, the panel discussed the importance of a resolution based approach to complaints handling. The panel shared their own experiences and learnings from achieving resolution-based outcomes and discussed best practice.

4.1 **Would it be right to say that there are cases that cannot be 'resolved', in that the outcome the complainant seeks is simply not possible?**

Resolution is not about agreeing outcomes that are unrealistic or unachievable. Where things are not possible we should explain why, but also explore possible alternative solutions. Resolution is about an organisation and a customer agreeing what action will be taken to provide full and final resolution for the customer. There will undoubtedly be occasions where the organisation and the customer cannot agree on what the action should be and, therefore, the complaint cannot be resolved in line with the MCHP definition.

4.2 **How should we work with customers who remain dissatisfied after an agreed resolution has been delivered?**

If the complaints process is at an end, and all actions agreed have been carried out, then SPSO wouldn't be expected to revisit the same matters again (the CHP makes this clear). We tell people in this situation that they can bring new matters as new complaints but that we won't reopen or enter into further discussion about the closed complaint.

You should talk to the customer to find out why they are now dissatisfied, given that they recently agreed to your organisation taking action that would resolve the complaint for them. Find out if the action was not delivered in the way the customer thought it would be, or if something has changed for the customer since they agreed to the resolution or since the action was



delivered. Clarity in communication should hopefully help prevent a scenario like this from happening.

4.3 Should we record someone who withdraws a complaint as resolved or just not upheld?

A withdrawn complaint is neither resolved nor upheld, as the relevant actions have not been taken that would allow you to reach either conclusion. If someone withdraws a complaint, it should be recorded as withdrawn on your system. If your system does not currently have an outcome category of withdrawn, you need to ask your systems colleagues to add one.

4.4 What is your greatest achievement to date with resolution?

For me (panel member from Highland Council), the introduction of resolution timed perfectly with the introduction of the corporate complaints model for Highland Council, and this helped considerably in empowering my team of Customer Services Officers who had been used to passing the complaint back to an officer. This often led to increased timeframes and frustration for the customer. We worked with Services to provide us with the information to answer the issues – access to systems, training and development, and we are able to answer many complaints immediately, often on the day of receipt. This has benefited customers significantly but also given a greater level of satisfaction to the team.

4.5 Do customers understand the definition of resolved?

Yes and no. Customers whose complaints are resolved by telephone call are asked explicitly if they are content with the response, if there is anything else that we can do to assist, and if they are content that their complaint has been resolved and does not require escalation. It is more difficult with written responses, and this does require further explanation to customers and often some further follow up correspondence and/or telephone calls.

It's not essential that customers understand the definition of resolved. It's more important that staff understand the definition of resolved and can



explain to customers clearly that if both the organisation and the customer agree that something specific will be done to 'fix the problem' for the customer, then there's no need for the organisation to take any further action.

4.6 Do you have any advice of how best to encourage buy in from senior management in regards to recording resolved complaints?

For us (panel member from Highland Council), it has taken some time to gain buy in and I think this will always be an ongoing process. We have chipped away at this by resolving more complaints at Frontline than ever before, reducing the escalation, reducing timescales, and reducing time spent on complaint by Services. We have sold the benefits of this at every opportunity that by resolving complaints quickly and easily we save the organisation time and money.

For SPSO, there are two things to highlight here. One is that trying to resolve complaints is a requirement of the SPSO Statement of Complaints Handling Principles and the Model Complaints Handling Procedure and always has been – the difference with the 2021 MCHP is that resolved is now a reportable outcome alongside upheld, partially upheld and not upheld. The second is explaining the benefits of resolving complaints; faster positive outcomes for complainants means happier customers, which also means resource savings (time and money) for organisations and improved ongoing relationships with customers who value a responsive organisation that listens to them.

4.7 Can you "resolve" differences of opinion? You can explain why you took the position you did, but some complainants will never accept that.

It's probably not worth the time. Resolution is less about what happened, and more about agreement on what is going to be done. There will be occasions where an organisation and a customer cannot agree on what the action should be taken to resolve a complaint and, therefore, the complaint



cannot be resolved in line with the MCHP definition. It is possible for dialogue to resolve differences of opinion, but that might not result in a resolved complaint that is in line with the definition in the MCHP.

4.8 **What tools can we use to resolve cases?**

Skills such as active listening, good general communication skills, management skills to delegate and empower, and empathy/emotional intelligence all help when trying to resolve complaints. It is also helpful to bear in mind the complaint handling principle of being user-focused by putting the complainant at the heart of the process.

4.9 **Would you re-open a closed frontline response case and escalate to a stage 2 if the customer came back a few weeks later unhappy?**

Yes. People have the right to escalate their complaint. You can still explore why the customer wasn't happy with the resolution at stage 2, or you could decide an investigation is the best option after discussion with the customer.

The MCHP states that, in all cases, you must record the complaint outcome (resolved) and any action taken, and signpost the customer to Stage 2 (for Stage 1 complaints) or to the SPSO (for Stage 2 complaints) as usual. You are signposting because the customer has the right to escalate their complaint to the next stage, even after a complaint has been closed as resolved.



5. Q&A with SPSO senior team

5.1 Why don't organisations get to see complaints that are made about them? Understanding what complainants have said would be really helpful when responding.

It is important to remember that a complaint escalated to the SPSO has normally been through the local two stage process. Our early actions are to decide whether we can accept the complaint - that is a matter of jurisdiction, and if we can, should we? At that stage we may ask the public body for information about their complaint response or any actions they have taken, to inform our early consideration. If we decide we can and should investigate a complaint, this is a more formal step and at that point we will agree with the complainer the heads of complaint we are investigating. These are shared with the public body. We do not share the actual complaint made to us because it may contain issues we are not investigating, and makes it clear to the public body and complainant what our investigation will cover from the outset.

5.2 Does the SPSO have any updates on delays on allocating cases?

Due to the impact of COVID-19 and an increase in demand for our service in 2023 there is currently a delay of up to 80 days in allocating some complaints to a complaints reviewer. This has reduced from 11 months in 2022. This delay does not apply to everyone who brings a complaint to SPSO. If a complaint is not one we can look at we usually tell people within a few weeks. For complaints we can look at we have a system in place that prioritises them for allocation. We ask people to tell us if their circumstances change so we can review their priority.

5.3 How do you assess priority cases?

We have a system that prioritises cases for allocation where the person affected is vulnerable, if the issue is time sensitive or where there is



significant public interest. We assess for priority as part of our initial assessment process and if the case is considered a priority it will, depending on the circumstances, either be allocated immediately or within a few weeks.

5.4 If a complaint is being investigated by SPSO and you are struggling to get information from colleagues how would you respond to the investigative officer?

We would expect the organisation to let us know as soon as possible if they are unable to meet our timescales for responding (rather than waiting till the day the response is due) and to let us know the reason for the delay. We can and will grant extensions to organisations to give them more time to respond if there is a clear explanation for the delay and a reasonable basis for extending the timescale. We expect the organisation to provide the information/evidence requested by the extended deadline.

5.5 Do you have a policy or guidance for SPSO complaint handlers regarding who they engage with in local authorities?

We don't have a specific engagement policy for complaints reviewers and local authorities. Most organisations have a complaints team or complaints liaison officer and our complaints reviewers will usually engage with them via email in the first instance if they need information and/or evidence for complaints they are considering. Complaints reviewers might also contact the organisation by telephone or request a video call for if they consider it would be useful to do so. Complaints reviewers' contact details are available on their correspondence so they can also be contacted directly by the organisation. Our complaints reviewers carry a mixed caseload of complaints covering different sectors. This means that you may receive contact from a number of different complaints reviewers about complaints they are considering.

5.6 Are there any plans to introduce financial penalties as part of SPSO powers, similar to those in England?



No. Our [redress policy](#) covers financial redress to reimburse where there is quantifiable loss. This is in keeping with the general principle of trying to put the complainant back in the position they would have been in.

5.7 Has the SPSO made any kind of submission in terms of a complaints process for the proposed National Care Service?

Yes. We made a submission ins September 2022 which is available on [our website](#).