



# Complaints Handling Procedure for Inverclyde Integration Joint Board (IJB)

## Part 2:

### When to use this procedure

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## What is a complaint?

1. Inverclyde IJB's definition of a complaint is: 'an expression of dissatisfaction by one or more members of the public about Inverclyde Integration Joint Board's action or lack of action, or about the standard of service provided by or on behalf of Inverclyde IJB.'
2. For clarity, where an employee also receives a service from Inverclyde IJB as a member of the public, they may complain about that service.
3. A complaint may relate to the following, but is not restricted to this list:
  - failure or refusal to provide a service
  - inadequate quality or standard of service, or an unreasonable delay in providing a service
  - dissatisfaction with one of our policies or its impact on the individual
  - failure to properly apply law, procedure or guidance when delivering services
  - failure to follow the appropriate administrative process
  - conduct, treatment by or attitude of a member of staff or contractor (**except** where there are arrangements in place for the contractor to handle the complaint themselves: see **Complaints about contracted services**); or
  - disagreement with a decision, (**except** where there is a statutory procedure for challenging that decision, or an established appeals process followed throughout the sector).
4. **Appendix 1** provides a range of examples of complaints we may receive, and how these may be handled.
5. A complaint **is not**:
  - a routine first-time request for a service (see **Complaints and service requests**)
  - a request for compensation only (see **Complaints and compensation claims**)
  - issues that are in court or have already been heard by a court or a tribunal (see **Complaints and legal action**)
  - disagreement with a decision where there is a statutory procedure for challenging that decision (such as for freedom of information and subject access requests), or an established appeals process followed throughout the sector
  - a request for information under the Data Protection or Freedom of Information (Scotland) Acts
  - a grievance by a staff member or a grievance relating to employment or staff recruitment
  - a concern raised internally by a member of staff (which was not about a service they received, such as a whistleblowing concern)
  - a concern about a child or an adult's safety
  - an attempt to reopen a previously concluded complaint or to have a complaint reconsidered where we have already given our final decision
  - abuse or unsubstantiated allegations about our organisation or staff where such actions would be covered by our Unacceptable Actions Policy or

- a concern about the actions or service of a different organisation, where we have no involvement in the issue (**except** where the other organisation is delivering services on our behalf: see **Complaints about contracted services**).
6. **Appendix 2** gives more examples of 'what is not a complaint' and how to direct customers/service users appropriately.
  7. We will not treat these issues as complaints, and will instead direct customers/services users to use the appropriate procedures. Some situations can involve a combination of issues, where some are complaints and others are not, and each situation should be assessed on a case-by-case basis.
  8. If a matter is not a complaint, or not suitable to be handled under the CHP, we will explain this to the customer/service user, and tell them what (if any) action we will take, and why. See **What if the CHP does not apply**.

## Who can make a complaint?

9. Anyone who receives, requests, or is affected by our services can make a complaint.
10. We also accept complaints from the representative of a person who is dissatisfied with our service. See **Complaints by (or about) a third party**.

## Supporting the customer/service user

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11. All members of the community have the right to equal access to our complaints procedure. It is important to recognise the barriers that some customers/service users may face complaining. These may be physical, sensory, communication or language barriers, but can also include their anxieties and concerns. Customers/service users may need support to overcome these barriers.
12. We have legal duties to make our complaints service accessible under equalities and mental health legislation. For example:
  - the Equality Act (Scotland) 2010 – this gives people with a protected characteristic the right to reasonable adjustments to access our services (such as large print or BSL translations of information); and
  - the Mental Health (Care and Treatment) (Scotland) Act 2003 – this gives anyone with a ‘mental disorder’ (including mental health issues, learning difficulties, dementia and autism) a right to access independent advocacy. This must be delivered by independent organisations that only provide advocacy. They help people to know and understand their rights, make informed decisions and have a voice.

Examples of how we will meet our legal duties are:

- proactively checking whether members of the public who contact us require additional support to access our services
  - providing interpretation and/or translation services for British Sign Language users; and
  - helping customers access independent advocacy (the Scottish Independent Advocacy Alliance website has information about local advocacy organisations throughout Scotland).
13. In addition to our legal duties, we will seek to ensure that we support vulnerable groups in accessing our complaints procedure. Actions that we may take include:
    - helping vulnerable customers identify when they might wish to make a complaint (for example, by training frontline staff who provide services to vulnerable groups)
    - helping customers access independent support or advocacy to help them understand their rights and communicate their complaints (for example, through the Scottish Independent Advocacy Alliance or Citizen’s Advice Scotland); and
    - providing a neutral point of contact for complaints (where the relationship between customers and frontline staff is significant and ongoing).
  14. These lists are not exhaustive, and we must always take into account our commitment and responsibilities to equality and accessibility.

## **How complaints may be made**

15. Complaints may be made verbally or in writing, including face-to-face, by phone, letter or email.
16. Where a complaint is made **verbally**, we will make a record of the key points of complaint raised. Where it is clear that a complex complaint will be immediately considered at stage 2 (investigation), it may be helpful to complete a complaint form with the customer's/service user's input to ensure full details of the complaint are documented. However, there is no requirement for the person to complete a complaint form, and it is important that the completion of a complaint form does not present a barrier to people complaining.
17. Complaint issues may also be raised on **digital platforms** (including **social media**).
18. Where a complaint issue is raised via a digital channel managed and controlled by Inverclyde IJB, (for example an official twitter address or facebook page), we will explain that we do not take complaints on social media, but we will tell the person how they can complain.
19. We may also become aware that an issue has been raised via a digital channel not controlled or managed by us (for example a youtube video or post on a private facebook group). In such cases we **may** respond, where we consider it appropriate, by telling the person how they can complain.
20. We must always be mindful of our data protection obligations when responding to issues online or in a public forum. See Part 1: Maintaining confidentiality and data protection.

## **Time limit for making complaints**

21. The customer/service user must raise their complaint within six months of when they first knew of the problem, unless there are special circumstances for considering complaints beyond this time (for example, where a person was not able to complain due to serious illness or recent bereavement).
22. Where a customer/service user has received a stage 1 response, and wishes to escalate to stage 2, unless there are special circumstances they must request this either:
  - within six months of when they first knew of the problem; or
  - within two months of receiving their stage 1 response (if this is later).
23. We will apply these time limits with discretion, taking into account the seriousness of the issue, the availability of relevant records and staff involved, how long ago the events occurred, and the likelihood that an investigation will lead to a practical benefit for the customer/service user or useful learning for the organisation.
24. We will also take account of the time limit within which a member of the public can ask the SPSO to consider complaints (normally one year). The SPSO have discretion to waive this time limit in special circumstances (and may consider doing so in cases where we have waived our own time limit).

## Particular circumstances

### Complaints by (or about) a third party

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25. Sometimes a customer/service user may be unable or reluctant to make a complaint on their own. We will accept complaints from third parties, which may include relatives, friends, advocates and advisers. Where a complaint is made on behalf of a customer/service user, we must ensure that the customer/service user has authorised the person to act on their behalf. It is good practice to ensure the customer/service user understands their personal information will be shared as part of the complaints handling process (particularly where this includes sensitive personal information). This can include complaints brought by parents on behalf of their child, if the child is considered to have capacity to make decisions for themselves.
26. The provision of a signed mandate from the customer/service user will normally be sufficient for us to investigate a complaint. If we consider it is appropriate we can take verbal consent direct from the customer/service user to deal with a third party and would normally follow up in writing to confirm this.
27. In certain circumstances, a person may raise a complaint involving another person's personal data, without receiving consent. The complaint should still be investigated where possible, but the investigation and response may be limited by considerations of confidentiality. The person who submitted the complaint should be made aware of these limitations and the effect this will have on the scope of the response.
28. See also [Part 1: Maintaining confidentiality and data protection](#).

In circumstances where the person does not have the capacity to consent to the complaint being made on their behalf, it is likely to be relevant (for example) to make a judgement call on whether the person making the complaint on the person's behalf has a legitimate interest in the person's welfare and that there is no conflict of interest. It would also be good practice to keep the patient on whose behalf the complaint is being made, informed of the progress of any investigation into the complaint, in so far as that is possible and appropriate.

Independent advocates may bring complaints on behalf of service users or other customers, if they are unable to raise an issue themselves, or if they are unable to identify when something is wrong.

If there are concerns that a complaint has been submitted by a third party without appropriate authority from the customer/service user, advice should be sought from senior colleagues. The provision of a signed mandate from the customer/service user will normally be sufficient for us to investigate a complaint. However, the timing of when we require this mandate may vary depending on the circumstances. If the complaint raises concerns that require immediate investigation, this should not be delayed while a mandate is sought. It will, however, be required before the provision of a full response to the third party. Third parties acting in the capacity of Welfare Power of Attorney or Welfare Guardian are required to submit a written certificate of authorisation.

### Serious, high-risk or high-profile complaints

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29. We will 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. Serious, high-risk or high-profile complaints should normally be handled immediately at stage 2 (see [Part 3: Stage 2: Investigation](#)).

30. We define 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 ongoing 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, or
  - child protection.

## **Anonymous complaints**

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31. We value all complaints, including anonymous complaints, and will take action to consider them further wherever this is appropriate. Generally, we will consider anonymous complaints if there is enough information in the complaint to enable us to make further enquiries. Any decision not to pursue an anonymous complaint must be authorised by the complaints manager

32. If we pursue an anonymous complaint further, we will record it as an anonymous complaint together with any learning from the complaint and action taken.

33. If an anonymous complainant makes serious allegations, these should be dealt with in a timely manner under relevant procedures. This may not be the complaints procedure and could instead be relevant child protection, adult protection or disciplinary procedures.

## **What if the customer/service user does not want to complain?**

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34. If a customer/service user has expressed dissatisfaction in line with our definition of a complaint but does not want to complain, we will explain that complaints offer us the opportunity to improve services where things have gone wrong. We will encourage the customer/service user to submit their complaint and allow us to handle it through the CHP. This will ensure that the customer/service user is updated on the action taken and gets a response to their complaint.

35. If the customer/service user insists they do not wish to complain, we are not required to progress the complaint under this procedure. However, we should record the complaint as an anonymous complaint (including minimal information about the complaint, without any identifying information) to enable us to track trends and themes in complaints. Where the complaint is serious, or there is evidence of a problem with our services, we should also look into the matter to remedy this (and record any outcome).

36. Please refer to the example in **Appendix 1** for further guidance.

## **Complaints involving more than one area or organisation**

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37. If a complaint relates to the actions of two or more areas within our organisation, we will tell the customer/service user who will take the lead in dealing with the complaint, and explain that they will get only one response covering all issues raised.

38. If a customer/service user complains to us about the service of another organisation or public service provider, but we have no involvement in the issue, the customer/service user should be advised to contact the appropriate organisation directly.
39. If a complaint relates to our service and the service of another organisation or public service provider, and we have a direct interest in the issue, we will handle the complaint about Inverclyde IJB through the CHP. If we need to contact an outside body about the complaint, we will be mindful of data protection. See [Part 1: Maintaining confidentiality and data protection](#).

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## **Complaints about contracted services**

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40. Where we use a contractor to deliver a service on our behalf we recognise that we remain responsible and accountable for ensuring that the services provided meet Inverclyde IJB's standard (including in relation to complaints). We will either do so by:
- ensuring the contractor complies with this procedure; or
  - ensuring the contractor has their own procedure in place, which fully meets the standards in this procedure. At the end of the investigation stage of any such complaints the contractor must ensure that the customer/service user is signposted to the SPSO.
41. We will confirm that service users are clearly informed of the process and understand how to complain. We will also ensure that there is appropriate provision for information sharing and governance oversight where required.
42. Inverclyde IJB has discretion to investigate complaints about organisations contracted to deliver services on its behalf even where the procedure has normally been delegated.

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## **Complaints about senior staff**

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43. Complaints about senior staff can be difficult to handle, as there may be a conflict of interest for the staff investigating 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. We must ensure we have strong governance arrangements in place that set out clear procedures for handling such complaints.

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## **Complaints and other processes**

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44. Complaints can sometimes be confused (or overlap) with other processes, such as disciplinary or whistleblowing processes. Specific examples and guidance on how to handle these are below.

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### **Complaints and service requests**

45. If a customer/service user asks Inverclyde IJB to do something (for example, provide a service or deal with a problem), and this is the first time the customer/service user has contacted us, this would normally be a routine service request and not a complaint.
46. Service requests can lead to complaints, if the request is not handled promptly or the customer/service user is then dissatisfied with how we provide the service.

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### **Complaints and disciplinary or whistleblowing processes**

47. If the issues raised in a complaint overlap with issues raised under a disciplinary or whistleblowing process, we still need to respond to the complaint.

48. Our response must be careful not to share confidential information (such as anything about the whistleblowing or disciplinary procedures, or outcomes for individual staff members). It should focus on whether Inverclyde IJB failed to meet our expected service standards and what we have done to improve things, in general terms.
49. Staff investigating such complaints will need to take extra care to ensure that:
- we comply with all requirements of the CHP in relation to the complaint (as well as meeting the requirements of the other processes)
  - all complaint issues are addressed (sometimes issues can get missed if they are not also relevant to the overlapping process); and
  - we keep records of the investigation that can be made available to the SPSO if required. This can be problematic when the other process is confidential, because SPSO will normally require documentation of any correspondence and interviews to show how conclusions were reached. We will need to bear this in mind when planning any elements of the investigation that might overlap (for example, if staff are interviewed for the purposes of both the complaint and a disciplinary procedure, they should not be assured that any evidence given will be confidential, as it may be made available to the SPSO).
50. The SPSO's report [Making complaints work for everyone](#) has more information on supporting staff who are the subject of complaints.

### **Complaints and compensation claims**

51. Where a customer/service user is seeking financial compensation only, this is not a complaint. However, in some cases the customer/service user may want to complain about the matter leading to their financial claim, and they may seek additional outcomes, such as an apology or an explanation. Where appropriate, we may consider that matter as a complaint, but deal with the financial claim separately. It may be appropriate to extend the timeframes for responding to the complaint, to consider the financial claim first.

### **Complaints and legal action**

52. Where a customer/service user says that legal action is being actively pursued, this is not a complaint.
53. Where a customer/service user indicates that they are thinking about legal action, but have not yet commenced this, they should be informed that if they take such action, they should notify the complaints handler or the complaints manager and that the complaints process, in relation to the matters that will be considered through the legal process, will be closed. Any outstanding complaints must still be addressed through the CHP.
54. If an issue has been, or is being, considered by a court, we must not consider the same issue under the CHP.

## **What to do if the CHP does not apply**

55. If the issue does not meet the definition of a complaint or if it is not appropriate to handle it under this procedure (for example, due to time limits), we will explain to the customer/service user why we have made this decision. We will also tell them what action (if any) we will take (for example, if another procedure applies), and advise them of their right to contact the SPSO if they disagree with our decision not to respond to the issue as a complaint.
56. Where a customer/service user continues to contact us about the same issue, we will explain that we have already given them our final response on the matter and signpost them to the SPSO. We may also consider whether we need to take action under our Unacceptable Actions Policy.
57. The SPSO has issued a [template letter for explaining when the CHP does not apply](#).

## **Appendix 1 – Complaints**

The following table shows specific examples of complaints that may be considered at the frontline stage, and suggest possible actions.

<b>Complaint</b>	<b>Possible actions</b>
Complaints relating to the Strategic Plan of the HSCP	Identify specific areas of concern and discuss with complainant how the Strategic Plan was created and which stakeholders were involved..
Complaints relating to the budget allocated to an HSCP Service	Discussion with the complainant on how the priority areas are identified via the Scottish Government and the budgets are allocated according to this priority. The remaining allocations are agreed via the IJB and local stakeholders.
Complaints relating to the non involvement of a local third sector service provider in the strategic plan	Collect all the details regarding the third sector provider and discuss at the IJB if there is a way to utilise the services and involve them going forward.

## **Appendix 2 – What is not a complaint?**

A concern may not necessarily be a complaint. For example, a customer/service user 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/service user has to keep on asking for service.

A customer/service user may also be concerned about a decision made by the organisation. These decisions may have their own specific review or appeal procedures, and, where appropriate, customers/service users must be directed to the relevant procedure.

**Example 1: Service user is not happy with the service being provided by the Community Mental Health Team.** This should be dealt with using the NHS Complaints procedure and the complainant advised this will be passed to the relevant team.

**Example 2: Care at home workers are constantly late and rude to the service users partner.** This should be dealt with using the Council complaints procedure and the complainant advised this will be passed to the relevant team.

**Example 3: There is no parking at the Inpatient Unit.** This should be dealt with using the NHS Complaints procedure and the complainant advised this will be passed to the relevant team.

**Example 4: Service user has requested to see their records and is not happy with the content.** This should be dealt with using the NHS/Council Complaints procedure and the complainant advised this will be passed to the relevant team.