

Orkney & Shetland Valuation Joint Board

The Local Authority Model Complaints Handling Procedure

Part 2:

When to use this procedure

<i>Version</i>	<i>Description</i>	<i>Date</i>
1	Local Authority MCHP published on SPSO website	March 2012
1	Social Work MCHP published on SPSO website	December 2016
2	Combined and revised version published on SPSO website	January 2020
3	Adapted and published on Orkney & Shetland VJB's website	April 2021

Contents

What is a complaint?	3
Who can make a complaint?	5
Supporting the customer.....	5
How complaints may be made	7
Time limit for making complaints	8
Particular circumstances	9
Complaints by (or about) a third party.....	9
Serious, high-risk or high-profile complaints.....	9
Anonymous complaints.....	10
What if the customer does not want to complain?.....	10
Complaints involving more than one area or organisation.....	10
Complaints about contracted or commissioned services / ALEOs.....	11
Complaints about senior staff.....	11
Complaints and other processes.....	11
<i>Complaints and service requests</i>	11
<i>Complaints and disciplinary or whistleblowing processes</i>	12
<i>Contact from MPs, MSPs or Councillors [Optional section]</i>	12
<i>Complaints and compensation claims</i>	12
<i>Complaints and legal action</i>	13
What to do if the CHP does not apply	14
Appendix 1 – Complaints	15
Appendix 2 – What is not a complaint?	19

What is a complaint?

1. The Orkney & Shetland Valuation Joint Board's definition of a complaint is: an expression of dissatisfaction by one or more members of the public about the Orkney & Shetland Valuation Joint Board's action or lack of action, or about the standard of service provided by or on behalf of the Orkney & Shetland Valuation Joint Board.
2. For clarity, where an employee also receives a service from the Orkney & Shetland Valuation Joint Boards 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 first-time report of a fault
 - 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 – such as council tax, non-domestic rating and the electoral register
 - Formal complaints concerning valuations under the Valuation Acts
 - Objections to inclusions in the Electoral Register
 - 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 a separate 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. We will not treat these issues as complaints, and will instead direct customers 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.
7. If a matter is not a complaint, or not suitable to be handled under the CHP, we will explain this to the customer, and tell them what (if any) action we will take, and why. See **What if the CHP does not apply**.
8. **Appendix 2** gives examples of more complex complaints. The section on **Complaints relevant to other agencies** provides information about some of the other agencies that may be able to assist customers if their complaint is not appropriate for this CHP.

Who can make a complaint?

9. Anyone who receives, requests, or is affected by our services can make a complaint. This is not restricted to 'service users' and their relatives or representatives, but may also include people who come into contact with or are affected by these services, for example people who live in close proximity to a social work service provision, such as a care home or day centre. In this procedure these people are termed 'customers', regardless of whether they are or were using a service.
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

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 may face complaining. These may be physical, sensory, communication or language barriers, but can also include their anxieties and concerns. Customers 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 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.
13. Examples of how we will meet our legal duties are:
 - Regularly and proactively checking whether members of the public who contact us require additional support to access our services
 - Where appropriate, 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).
14. 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).
15. 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

16. Complaints may be made verbally or in writing, including face-to-face, by phone, letter or email.
17. Where a complaint is made **verbally**, we will make a record of the key points of complaint raised.

Time limit for making complaints

18. The customer 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).
19. Where a customer 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).
20. 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 or useful learning for the organisation.
21. 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

22. Sometimes a customer may be unable or reluctant to make a complaint on their own. We will accept complaints from third parties, which may include relatives, friends, advocates and advisers. Where a complaint is made on behalf of a customer, we must ensure that the customer has authorised the person to act on their behalf. It is good practice to ensure the customer 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.
23. The provision of a signed mandate from the customer 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 to deal with a third party and would normally follow up in writing to confirm this.
24. 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.

Serious, high-risk or high-profile complaints

25. 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**).
26. 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 our operations
 - present issues of a highly sensitive nature, for example concerning:
 - immediate homelessness
 - a particularly vulnerable person
 - child protection, or
 - adult protection.

Anonymous complaints

27. 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 an appropriate senior manager.
28. 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.

29. 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 does not want to complain?

30. If a customer 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 to submit their complaint and allow us to handle it through the CHP. This will ensure that the customer is updated on the action taken and gets a response to their complaint.
31. If the customer 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).
32. Please refer to the example in **Appendix 1** for further guidance.

Complaints involving more than one area or organisation

33. If a complaint relates to the actions of two or more areas within our organisation, we will tell the customer who will take the lead in dealing with the complaint, and explain that they will get only one response covering all issues raised.
34. If a customer complains to us about the service of another organisation or public service provider, but we have no involvement in the issue, the customer should be advised to contact the appropriate organisation directly.
35. 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 *[the organisation]* 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**.
36. Such complaints may include:
- a complaint made to us about a claim for housing benefit where the customer's dissatisfaction relates to the service we have provided and the service the DWP has provided, or
 - a complaint made to us about anti-social behaviour where the customer's dissatisfaction relates to the service we have provided and the service the housing association has provided.

Complaints about senior staff

37. 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. Complaints about senior staff may be referred to the Clerk to the Orkney & Shetland Valuation Joint Board.

Complaints and other processes

38. 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.

Complaints and service requests

39. If a customer asks Orkney & Shetland Valuation Joint Board to do something (for example, provide a service or deal with a problem), and this is the first time the customer has contacted us, this would normally be a routine service request and not a complaint.

40. Service requests can lead to complaints, if the request is not handled promptly or the customer is then dissatisfied with how we provide the service.

Complaints and disciplinary or whistleblowing processes

41. 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.

42. 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 Orkney & Shetland Valuation Joint Board failed to meet our service standards, where relevant, or expected standards and what we have done to improve things, in general terms.

43. 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).

44. 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

45. Where a customer is seeking financial compensation only, this is not a complaint. However, in some cases the customer 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

46. Where a customer says that legal action is being actively pursued, this is not a complaint.
47. Where a customer 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 and the Assessor & ERO 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.
48. 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

49. 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 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.
50. Where a customer 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.

Appendix 1 – Complaints

The following tables give examples of complaints that may be considered at the frontline stage, and suggest possible actions. For ease of reference, examples of social work complaints are provided in a separate table.

Complaint	Possible actions to achieve resolution
The customer complains that their application to be registered has not been dealt with timeously.	<ul style="list-style-type: none"> • Apologise to the customer and resolve the issue by processing the application.
The customer has provided evidence to verify their claim for a reduction in Rateable Value but no response has been provided.	<ul style="list-style-type: none"> • Apologise to the customer. • Consider the evidence as a matter of priority and/or in line with the relevant appeal procedures.
The customer complains that a member of staff did not attend a pre-arranged meeting.	<ul style="list-style-type: none"> • Speak to the member of staff, or the line manager to explain the customer's complaint and to agree how to resolve the issue, for example by arranging a new time and date for the meeting. • Explain the reasons for the failed appointment and apologise to the customer.
The customer complains that the quality of advice provided is not satisfactory.	<ul style="list-style-type: none"> • Ask the relevant staff involved to review the guidance provided to assess whether or not it is acceptable. • If appropriate, agree that more/better information should be provided. • Explain and apologise to the customer. • Obtain a report from the member(s) of staff involved to confirm that further information has been provided to the satisfaction of the customer. • Feedback the lessons learned from the complaint into a service improvement plan.
The customer expresses dissatisfaction in line with the definition of a complaint, but says she does not want to complain – just wants to tell us about the matter.	<ul style="list-style-type: none"> • Tell the customer that we value complaints because they help to improve services. Encourage them to submit the complaint. • In terms of improving service delivery and learning from mistakes, it is important that customer feedback, such as this, is recorded, evaluated and acted upon. Therefore, if the

Complaint	Possible actions to achieve resolution
	customer still insists that they do not want to complain, record the matter as an anonymous complaint. This will avoid breaching the complaints handling procedure. Reassure the customer that they will not be contacted again about the matter.

Appendix 2 – What is not a complaint?

1. 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 service.
2. In some cases a measure of discretion or further clarification is required in determining whether something is a complaint that should be handled through this procedure or another matter which should be handled through another process. There are also some specific circumstances when complaints should be handled in a particular manner.
3. The following paragraphs provide examples of the types of issues or concerns that must not be handled through the complaints handling procedure. This is not a full list, and you should decide the best route based on the individual case.
4. 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 service.
5. A customer may also be concerned about matters which have their own specific review or appeal procedures, and, where appropriate, customers must be directed to the relevant procedure. This procedure should not, therefore, be used for dealing with customer complaints that are covered by the statutory appeal systems, listed below:

6.

Non-Domestic Rating Valuation	Formal Appeal to Assessor, Local Valuation Appeal Committee, Lands Tribunal, Lands Valuation Appeal Court
Council Tax	Formal Proposal to Assessor, Local Valuation Appeal Committee, Court of Session
Electoral Registration	Appeal to ERO, Sheriff Court
Freedom of Information	Seek redress via FOI 'Review' process or Appeal to Information Commissioner

Claims for compensation

7. A customer may seek compensation from us if they consider us liable. This includes issues such as personal injury or loss of or damage to property. Claims for compensation only are not complaints, so you must not handle them through the complaints handling procedure. It should be clear, however, that where a customer wants to complain about the matter leading to their request for compensation, for example employees of Orkney and Shetland Valuation Joint Board damaging their home, or any part of a property in relation to surveys or inspections etc., you may consider that matter as a complaint, but deal with the request for compensation separately. You may decide to suspend complaint action pending the outcome of the claim for compensation. If you do this, you must notify the customer and explain that the complaint will be fully considered when the compensation claim has been decided.

8. If you receive a compensation claim, you should explain to the customer the process for claiming compensation in line with our policy on these claims.