

## PERTH AND KINROSS COUNCIL

**Housing and Health Committee - 6 November 2013**  
**Scrutiny Committee – 27 November 2013**

**Review and Update of Housing and Community Care Social Work Complaints Procedure**

**Executive Director (Housing and Community Care)**

**PURPOSE OF REPORT**

This report presents an updated Social Work Complaints Procedure which takes into account the principles introduced in the model Complaints Handling Procedure introduced by the Scottish Public Service Ombudsman (SPSO) in April 2013.

**1. BACKGROUND / MAIN ISSUES**

- 1.1 The current Social Work Complaints Procedure was introduced in April 2005. It is a statutory requirement to have such a procedure which at present remains separate from the Corporate model complaints handling procedure. It has been updated to more accurately reflect the Service's organisational structure and the move towards more modernised ways of working. In addition, the new procedure now more accurately reflects the way the complaints procedure works in practice.

**2. PROPOSALS**

- 2.1 Committee is asked to agree to the attached report which is the revised procedure for social work complaints. It will be reviewed further once the results of the various governmental working groups are reported and the relevant legislation is amended.

**3. CONCLUSION AND RECOMMENDATION(S)**

- 3.1 Housing and Health Committee are asked to agree this updated version of the Social Work Complaints procedure.

**Author(s)**

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**Approved**

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John Walker	Executive Director, Housing and Community Care	24 October 2013

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Council Text Phone Number 01738 442573

## 1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

*The undernoted table should be completed for all reports. Where the answer is 'yes', the relevant section(s) should also be completed. Where the answer is 'no', the relevant section(s) should be marked 'not available (n/a)'.*

<b>Strategic Implications</b>	<b>Yes / None</b>
Community Plan / Single Outcome Agreement	<b>Yes</b>
Corporate Plan	<b>Yes</b>
<b>Resource Implications</b>	
Financial	<b>None</b>
Workforce	<b>None</b>
Asset Management (land, property, IST)	<b>None</b>
<b>Assessments</b>	
Equality Impact Assessment	<b>None</b>
Strategic Environmental Assessment	<b>None</b>
Sustainability (community, economic, environmental)	<b>None</b>
Legal and Governance	<b>None</b>
Risk	<b>None</b>
<b>Consultation</b>	
Internal	<b>Yes</b>
External	<b>None</b>
<b>Communication</b>	
Communications Plan	<b>None</b>

### 1. Strategic Implications

#### Community Plan / Single Outcome Agreement

- 1.1 (ii) *Developing educated, responsible and informed citizens*  
 (iv) *Supporting people to lead independent, healthy and active lives*  
 (v) *Creating a safe and sustainable place for future generations*

#### Corporate Plan

- 1.2 *This section should set out how the proposals relate to the achievement of the Council's Corporate Plan Priorities:*
- (ii) *Developing educated, responsible and informed citizens;*  
 (iv) *Supporting people to lead independent, healthy and active lives; and*  
 (v) *Creating a safe and sustainable place for future generations.*

## 2. Resource Implications

### Financial

None

### Workforce

None

### Asset Management (land, property, IT)

None

## 3. Assessments

### Equality Impact Assessment

- (i) Assessed as **relevant** and the following positive outcomes expected following implementation:

- The procedure is accessible to all customers
- The procedure will have a positive impact on service users as it will identify improvement actions which in turn will improve services for our customers

- 3.3 The proposals have been considered under The Environmental Assessment (Scotland) Act 2005 and no further action is required as it does not qualify as a PPS as defined by the Act and is therefore exempt.

### Sustainability

N/A

### Legal and Governance

N/A

N/A

### Risk

N/A

#### **4. Consultation**

##### Internal

- 4.1 This report has been discussed with members of Housing and Community Care SMT, Community Care Management Team, Legal Services and some members of Corporate Complaints Working Group

##### External

N/A

#### **5. Communication**

- 5.1 All relevant staff have been notified of the key changes and paperwork amended to reflect the changes.

#### **6. BACKGROUND PAPERS**

Housing and Community Care: Social Work Complaints Procedure 2005

#### **7. APPENDICES**

Appendix 1 Draft Social Work Complaints Procedure 2013



1 April 2013

# **PERTH and KINROSS COUNCIL**

## **SOCIAL WORK**

### **COMPLAINTS PROCEDURE HOUSING and COMMUNITY CARE**





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**PERTH AND KINROSS COUNCIL  
HOUSING AND COMMUNITY CARE SERVICES**

## **SECTION 1 – THE COMPLAINTS PROCEDURE IN CONTEXT**

### **1 INTRODUCTION**

This document describes the Complaints Procedure that is operated by Perth and Kinross Council to deal with social work complaints from 1 April 2013. This procedure is relevant to complaints relating to social work services provided by Perth and Kinross Council Housing and Community Care only (see also Section 14). This paper identifies the mechanism by which complaints will be processed and provides guidance notes on specific issues as they relate to complaints.

The Complaints Procedure involves three stages. In the first informal problem-solving stage, every attempt should be made to mediate and resolve the complaint. This stage is known as Front Line Resolution (FLR). This activity requires to be recorded (see section 2). In the second stage, unresolved complaints are to be formally recorded and investigated by senior staff within Perth and Kinross Council Housing and Community Care Services. Where the complainant is not satisfied with the response they receive in respect of a complaint, the matter may then be referred to the Complaints Review Committee.

The procedure does not prejudice the right of members of the public to pursue a complaint through any other channel (eg with the contracted provider, or via a local Councillor of Perth and Kinross Council, Scottish Commission for the Regulation of Care, Scottish Public Services Ombudsman, MP, MSP, etc).

It should also be noted that this procedure is distinct from the Council's staff grievance and disciplinary procedures.

### **2 STATUTORY FRAMEWORK**

In terms of Section 5B of the Social Work (Scotland) Act 1968 as amended by Section 82 of the National Health Service and Community Care Act 1990, Perth and Kinross Council Housing and Community Care Services has a statutory responsibility to establish and maintain a formal procedure for the receipt and consideration of complaints by or on behalf of service users. This duty is expanded upon in the guidance issued by the Scottish Office (refer to Circular SWSG 5/1996).

### **3 AIMS OF COMPLAINTS PROCEDURE**

This Procedure is designed to ensure that Complaints/Problems are resolved quickly, fairly and as close as possible to the point of service delivery. At the same time, it is designed to ensure that Perth and Kinross Council Housing and Community Care can learn from the circumstances of the complaint and take corrective action where appropriate.

The Objectives of the Complaints Procedure are in line with expectations stated in Circular SWSG 5/1996, including:

- a Facilitating ease of access to the procedure to enable service users or their representatives to make their views readily known;
- b Providing the means of challenging decisions on service provision/non-provision or other matters of concern to service users;
- c Ensuring that complaints are acted upon;
- d Ensuring that no officer is involved in investigating a complaint relating to his or her own actions or judgement;
- e Enabling complaints to be resolved as quickly and as close to the point of service delivery as possible;
- f Assisting Managers to monitor the extent to which quality assurance and service objectives are being achieved.

#### **4 WHO CAN COMPLAIN?**

A complaint is an expression of dissatisfaction for which some redress is sought, made by or on behalf of:

- A person or group directly or indirectly seeking or receiving a service from Perth and Kinross Council Housing and Community Care Services (including carers);
- Anyone who has been referred for an assessment for service;
- A person who has been refused a service;
- Other persons whose possible need for a service, which Perth and Kinross Council Housing and Community Care Services has the power or duty to provide, has come to Perth and Kinross Council Housing and Community Care Services attention.

Please note that a complaint can be made verbally or in writing.

Many of those using Perth and Kinross Council Housing and Community Care Services and making a complaint are the most vulnerable people in our community. Some people will require significant help to exercise their right to make a complaint. Processes and information must be accessible to all and those handling complaints should be alert and sensitive to the needs of the individual at all times.

Complaints regarding the actions of employees, which involve the exercise of statutory duties, can be investigated even if an action cannot be changed.

The actions of an employee can be investigated to determine whether these have been pursued with due care, thoroughness, attention to relevant evidence and based on principles of professional good practice.

## SECTION 2 – HANDLING COMPLAINTS – THE PROCESS

### 5 RESOLVING COMPLAINTS AS CLOSE TO POINT OF SERVICE DELIVERY

Prior to recording any representations as formal complaints, all staff, and in particular Managers, should consider whether the matter can be resolved quickly to the complainant's satisfaction. This process is known as front line resolution (FLR) and is a key to an effective complaints handling process.

**In the interests of efficiency, all staff should seek to resolve matters of concern raised with them, directly or indirectly in the course of their daily duties. The resolution of many informal representations therefore constitutes a normal part of staff workload.**

If a member of staff is unable to speedily deal with concerns raised by a customer then they should be informed that the matter will be raised with the member of staff's line manager and agreement reached of the time it is likely to take for a response. There is an expectation that FLR's will be dealt with as promptly as possible, however for reporting purposes the customer service standards of 15 working for a final response should be adhered to.

Informal representations may be made verbally to any officer but should be directed to the person who is in the best position to respond in charge in the expectation of a speedy and satisfactory resolution.

**An electronic system of recording these FLR's will be available for logging this activity.** If this is not available staff should ensure that the details are passed to a team member or sent to the Complaints Co-ordinator who will ensure the contact is recorded.

Staff should ensure that recipients of services are aware of their right to make a formal complaint where a matter cannot be resolved using FLR. Staff must ensure that the public are aware of addresses and telephone numbers of officers who can formally receive complaints if they do not wish to make this at the source of the service. The different ways in which the complaint can initially be made should also be made clear (ie verbally or in writing, by phone or in person, by complaints leaflet or by letter, etc).

Perth and Kinross Council Housing and Community Care are committed to making the complaints procedure accessible to all. This may require information to be available in different formats and languages and for alternative arrangements for steps in the process to be agreed at the outset e.g. an alternative to written consent.

### 6 PROCEDURE FOR DEALING WITH FORMAL COMPLAINTS

Where the complainant is dissatisfied with the FLR response, then the complainant can request that their complaint is escalated to the next stage Stage 2, Investigation Stage. Members of the public may choose to submit

their complaint in writing, by e mail or over the telephone in some other format (eg an audio tape). Where the complainant does not feel able to write the complaint, it can be written down for them by their representative or a Perth and Kinross Council employee. There may be circumstances where the complainant is represented by an independent advocate or representative from Independent Advocacy in Perth and Kinross, the CAB or another community agency. Where possible, the complainant's agreement to what has been written, should be indicated.

- **Receiving a Complaint**

On receipt of a complaint staff should pass all information including copies of any letters to the Service Complaints Co-ordinator. If the complaint appears to be racist in nature, reference should be made to Perth and Kinross Council's policy on the reporting of Racial Incidents. In such cases, advice should be sought from the Complaints Officer and/or the Services' representative on the multi-agency panel for Racial Harassment.

On receipt of the Complaints information the Service Complaints Co-ordinator is responsible for:

- a Appointing a Senior member of Perth and Kinross Council, Housing and Community Care Services (ie Locality Manager, Team Leader, Unit Manager or above) to investigate the complaint;
- b Acknowledging the complaint using a suggested template letter. This must be done within a maximum of five days from the date the complaint was originally received.
- c Logging the complaint on the CRM system to allow for monitoring and reporting progress.
- d Forwarding the required paperwork either hard copy or electronically to the appointed Investigating Officer and supporting them with the investigation.

- **Investigating a Complaint**

The Investigating Officer must contact the complainant within 3 days and offer to interview them. This interview should be arranged at a place and time convenient to the complainant and should be concerned with eliciting the fullest details of the complaint. The complainant must be advised in advance that they will be advised in writing of the outcome of the investigation within 28 days of the initial date of receipt of the complaint, or given an explanation for any delay; the expected date of completion; their right of referral, if applicable, to the Complaints Review Committee if remaining dissatisfied.

It is good practice for the content of the interview to be recorded on a standard template. The template may be completed at the time of interview, when the signature of the complainant should also be requested.

If it is not possible to complete this section at the interview a copy of this statement should then be sent to the complainant for approval and their signature. A stamped addressed envelope should be provided to ensure this is returned to the Investigating Officer.

Complaints will vary substantially in their complexity, however, in general once the complainer has been interviewed the Investigating Officer should:

- a Obtain, or have access to, relevant files and other documents. All staff are required to provide the Investigating Officer with access to all relevant documentation. Should additional documentation or reference points exist, the Investigating Officer should be advised of these.
- b Establish the relevant sequence of events from the documents and the names of the staff/others most directly involved in the content of the complaint.
- c Complete an investigation plan to ensure that the relevant issues are covered in the investigation.
- d Interview staff/others involved directly in the complaint and, when appropriate, staff in relation to Perth and Kinross Councils policies and procedures. It is good practice if these interviews are recorded using the templates provided. A separate form should be completed for each interview undertaken.

A copy of the template should be sent to the interviewee for approval and their signature, if this section was not completed at the time of interview. Once signed this should be returned to the Investigating Officer.

Interviews recorded on Forms C1 are a confidential record of the interview between the interviewee and the Investigating Officer. They should not be routinely copied to any other person and should be retained by the Investigating Officer in case the matter is referred to the Complaints Review Committee at a later date.

Once the Investigating Officer is satisfied that the complaint has been investigated fully, he/she should prepare a report using the template provided setting out the evidence obtained and, if appropriate, any recommended action.

Once the investigation is complete all related documentation should be forwarded to the Service Complaints Co-ordinator.

**It is the responsibility of the Head of Service / Complaints Officer to respond to the complaint, not the Investigating Officer.**

- **Responding to a Complaint**

On receipt of the related papers from the Investigating Officer, it is the Service Complaints Co-ordinators responsibility to:

- a Update the Customer Relation Management (CRM) system
- b Read the report and make a judgement on the information and evidence available and review the findings of the Investigating Officer.
- c Discuss the matter with the Investigating Officer if required or if there is any confusion regarding the officer's recorded findings.
- d Prepare a written response to the complainant on suggested template letter SL2 (see Appendix 4), advising of the findings of the investigation and the proposed action, if any, by Perth and Kinross Council Housing and Community Care . The date of this response, which should be posted "recorded delivery", should be recorded on the system

A stamped addressed envelope should be included with standard letter SL2 to enable the complainer to notify Perth and Kinross Council Housing and Community Care Services whether the response has been accepted or not. If no response is received from the complainant within 28 days, it will be taken that the complainant is satisfied with Perth and Kinross Council Housing and Community Care response.

- **Recording, Analysing and Reporting Complaints**

The Service Complaints Co-ordinator will maintain a record of all formal statutory complaints (including copies of the original complaint, investigation notes and final response). In addition, he/she will prepare an annual report on complaints received highlighting recurrent themes about services, and providing an analysis on the effectiveness of the Complaints Procedure. This information will be disseminated to members of the Perth and Kinross Council Housing and Community Care Management Team to assist in the consideration of professional practice issues. It will also be used by strategic planning as a measure of quality control and to assist in the planning of future services and the monitoring of contracts.

In line with Perth and Kinross Council, Housing and Community Care policy of promoting openness and transparency in terms of handling complaints, the Annual Report on Complaints will be made available to the public on request.

- **Supporting Staff**

Any employee(s) whose practice is complained about must be advised of this by their line Manager and be kept informed about progress. It is the responsibility of the Investigating Officer to ensure that the line Manager is aware of all relevant developments. The employee(s) have the right to record their views about the complaint. Where required by the circumstances of any complaint, and requested by the employee(s) involved, the Complaints Officer will identify an officer who can provide formal support to any employee who is being complained about. The employee can have a role in deciding who might be an appropriate person



to perform this function. Depending on the given circumstances, the Supporting Officer might not be from the employee's line management structure.

The Supporting Officer should wherever possible meet with the employee and provide information about the support being proffered, including Perth and Kinross Council's Counselling Service. Where the Supporting Officer is from outwith the line management structure, the Locality Manager is still responsible for keeping the employee informed regarding the progress of the complaint.

The Complaints Officer will ensure all relevant staff are advised of the outcome of the complaints investigation, (including the staff member who is the subject of the complaint.) Should a complaint against an employee be upheld, and is of a serious nature, Perth and Kinross Council may be obliged to notify the Scottish Social Services Council and disciplinary action may be taken.

## **7 COMPLAINTS REVIEW COMMITTEE**

Where the complainant is not satisfied with the response and indicates within 28 days that he/she wishes to have the matter further reviewed (and if necessary referred to Complaints Review Committee), the Complaints Officer should:

- a Discuss any possible resolution with the Head of Service, Perth and Kinross Council Housing and Community Care Services, Services who should, where possible, make a final attempt to resolve the matter to the complainant's satisfaction.
- b Where no immediate resolution is possible the original complaint papers, including standard letters SL1 and SL2 should be sent to the Chief Social Work Officer for their information and to Democratic Services to start the CRC process.

### **• Arranging a Complaints Review Committee**

Where a complainant is dissatisfied with any part of the written response to a formal complaint and wishes the matter to be referred to a Review Committee, they must advise Perth and Kinross Council, Housing and Community Care Services of this within 28 days from the date of the response from Perth and Kinross Council, Housing and Community Care Services. This may be done through the complainer's response to standard letter SL2, or other correspondence indicating dissatisfaction.

Such a request should be facilitated within 56 days from the date of receipt. Recommendations must also be made by the Committee within this timescale.

The Service complaints co-ordinator should ensure that:

- a The relevant paperwork is forwarded to Democratic Services to allow the enactment of the appeal procedure.

- **The Remit, Function and Membership of the Complaints Review Committee**

### **Remit**

To review formal complaints which have previously been investigated but where disagreement exists regarding the findings or proposed action resulting from the complaint, and where the complainer has formally requested such a review.

“Formal Complaints” refer to those representations which come within the terms of Section 5B of the Social Work (Scotland) Act 1968 and the subsequent statutory (or formal) Complaints’ Procedure operated by Perth and Kinross Council Housing and Community Care Services.

### **Function**

The function of the Complaints’ Review Committee is to examine objectively and independently the facts regarding the complaint as presented both by the complainant and Perth and Kinross Council Housing and Community Care Services, then to make recommendations to the Perth and Kinross Council Housing and Community Care Committee.

### **Membership**

The membership shall consist of three independent persons (not elected members), a chairperson and two members. One member will have knowledge and experience of:

- i Social Work matters; and
- ii The conduct of proceedings before a review body or tribunal; whilst the other will have experience in at least one of these areas.

The chairperson appointed shall be an *independent person*, described within Scottish Office circular SWSG5/1996 as a person who is not:

- a A member of the political party forming the ruling group on the Council or an officer of any local authority, and who has not been such a member or officer during the period of 1 year prior to being appointed to the review committee;
- b A person who is a member of, or employed by an organisation to which the local authority have delegated any of their social work functions; or
- c A spouse of such member, officer or person.

### **Quorum**

Minimum of 2 members.

## **Frequency of Meetings**

As required, meeting within a timescale which allows recommendations to be made in writing to the Scrutiny Committee as soon as is reasonably practicable, and within 56 days after the complainer has requested reference to the Complaints Review Committee.

## **General**

The arrangements and administration of the Complaints Review Committee will be handled by Democratic Services following referral by the service.

Recommendations shall be submitted to the Scrutiny Committee following each sitting.

It is the responsibility of the Complaints Officer to liaise with the Head of Democratic Services in respect of the referral to the Complaints Review Committee, ensuring clarity about the areas of continuing disagreement.

It is however, the responsibility of Democratic Services to administer any such Committee Meeting.

- **Operation of the Complaints Review Committee**

The Complaints Review Committee is a sub-committee of Perth and Kinross Council's Scrutiny Committee:

- a Appointed to review any matter in accordance with the procedure;
- b Consisting of 3 persons independent of the local authority;
- c Drawn from a panel of persons appointed by the Local Authority to serve as required as members of the committee.

- **Outcomes of the Complaints Review Committee**

Democratic Services should formally advise the Scrutiny Committee of the decision of the Complaints Review Committee and any recommendations made by the Committee within 56 days from the date the complainant requested reference to the Committee.

At the same time Democratic Services will inform the complainant, within 42 days, of the decisions of the Complaints Review Committee and any recommendations made, advising that these will be addressed at the next meeting of the Scrutiny Committee.

## **If the Scrutiny Committee endorses the recommendations:**

The complainant will be informed in writing.

Executive Director of the relevant service will instruct any action required of Perth and Kinross Council Housing and Community Care Services' staff.

**If the Scrutiny Committee rejects the recommendations:-**

The reasons for rejection will be recorded within the Minutes of the Scrutiny Committee along with any alternative actions proposed.

The complainant will be advised of the committee decision and of any alternative action proposed.

If a Review Committee is unable to make recommendations within 56 days of the referral, or the Scrutiny Committee unable to decide appropriate action and a written response forwarded to the complainant within 42 days of the Review Committee's recommendations, Democratic Services will write to the complainant explaining reasons for delay and seeking agreement as to any extension required until recommendations or decisions are likely to be made.

A timeline for the above process is detailed in Appendix.

## **SECTION 3 – KEY RESPONSIBILITIES OF STAFF**

### **Responsibilities of Officer Receiving a Complaint**

*The Officer who receives the complaint has responsibility for ensuring that the Complaints Procedure is described and explained to the complainant. They will ensure that every attempt is made to address the complaint informally as close as possible to the point of service delivery and that any member of the public who is considering making a formal complaint is provided with the information leaflet. They will also forward the formal complaint to the Complaints Officer for registration and investigation on the same day of receipt of the complaint.*

### **Responsibilities of Head of Community Care**

*The Head of Community Care is the Senior Officer in Perth and Kinross Council Housing and Community Care Services with overall responsibility for managing the investigation of complaints. This includes a number of processes as well as identifying any necessary supports for employees. This role entails also ensuring that timescales are kept to, that the best means of resolving the complaint are identified and pursued, and that lessons may be learned as a result of the complaint.*

### **Responsibilities of Investigating Officer**

*The Investigating Officer has the task of clarifying the details of the complaint and investigating the complaint. The Investigating Officer should endeavour to find appropriate means of resolving the complaint. A report should be prepared for the Complaints Officer identifying the issues involved and the available options. It should include recommendations and a draft response to the complainant. The response should normally include proposals that have already been discussed and, as far as possible, agreed with the complainant.*

### **Responsibilities of Complaints Officer**

*The Complaints Officer monitors the operation of the Complaints Procedure and provides advice, assistance and information to employees and members of the public. The Complaints Officer will monitor the operation of the Complaints Procedure to ensure its effectiveness and review progress in relation to the implementation of any resultant action plans. The Complaints Officer will also provide regular reports on the operation of the Complaints Procedure to the Perth and Kinross Council Housing and Community Care Services Management Team which will include the determination of information about the number and types of complaints received.*

## **SECTION 4 – GUIDANCE NOTES ON SPECIFIC ISSUES**

### **8 ANONYMOUS COMPLAINTS**

Persons making a complaint must be made aware of the right to request anonymity but should be made aware of the implications of retaining anonymity on the ability of Perth and Kinross Council Housing and Community Care to investigate the matter adequately.

*Although anonymous complaints present special difficulties as they may prevent a formal written response, they require to be formally logged. They must be taken seriously and the Complaints Officer should determine what action is necessary, depending on the nature and seriousness of the complaint. The substance of the complaint will be enquired into, and any verification or substantiation recorded and action taken to address issues raised.*

Where possible, an attempt should be made to establish the identity of the complainant to enable the Investigating Officer to clarify matters where required to enable a response to be given.

### **9 DISCLOSURE OF CONFIDENTIAL INFORMATION**

Occasionally, it may not be possible to fully investigate or respond to a complaint without disclosing confidential information which:

- a Relates to a third party who has not consented to disclosure.
- b Is sensitive information relating to the client and cannot be disclosed to the authorised representative.
- c May cause serious harm to the client or another person if disclosed.
- d Has implications for the prevention, detection or prosecution of a crime.

In the circumstances outlined above, the Investigating Officer should make every effort to proceed with the complaint investigation by:

- a Seeking the permission of third parties to disclose information to the complainant or their representative.
- b Seeking the permission of the client to disclose sensitive information to the authorised representative.
- c Explaining the difficulties to the complainant and seeking their agreement to deal with the complaint within the imposed limits of confidentiality.

If it is not possible to provide a full response due to the imposed limits of confidentiality and if it has not been possible to reach an agreement with the complainant on a limited response, then the complaint should be suspended and the complainant advised to take one of the following courses of action:

- a Make a subject access request under the provisions of the Data Protection Act 1998.
- b Refer the matter to the Scottish Public Services Ombudsman.

- c Refer the matter to the Information Commissioner.
- d Seek legal advice and/or action for redress.

Should the complainant take one of the actions outlined above and thereby gain access to the information in question, then the suspension of the complaint should be lifted and investigation and response proceed without further undue delay.

If advice is required in relation to this issue then staff should consult the relevant senior officer with responsibility for Data Subject Access.

## **10 ABUSIVE COMPLAINTS**

An abusive complaint is one submitted in terms that are threatening, racist, sexist, profane, or employ violent or sexual imagery outwith the context of the complaint. If a complainant submits a verbal complaint and is abusive, staff should advise the complainant that staff are not required to tolerate such abuse and politely request that the complainant moderate their language. If the complainant ignores the request to moderate their language then staff should advise the complainant that they may terminate the exchange and that the police will be informed if the complainant continues to be abusive. If they still fail to produce the required reduction in abuse then staff should terminate the exchange.

If staff have terminated any exchange with an abusive complainant and have already taken full details of the complainant then the details should be forwarded to the Service Complaints Co-ordinator with an attached note as to the nature of the exchange. If the staff have terminated an exchange with an abusive complainant without taking full details of the complaint then they should write to the complainant where possible enclosing a complaints leaflet and asking that the complainant re-submit the complaint in writing to the Service Complaints Co-ordinator. Finally, where written complaints are submitted in abusive terms, the acknowledgement to the complainant should make reference to this and advise that staff are not required to tolerate such abuse and that, if repeated, this may limit the ability of staff to investigate and respond to complaints.

Repeated abuse by a complainant (whether verbal or written) will be notified to the Service Complaints Co-ordinator who will review the case and take the following action as necessary:

- (a) Write to the complainant requesting that he/she modifies their language in future or face limitations on the investigation of the complaint;
- (b) Instruct the Investigating Officer to investigate and respond to the complaint without contacting the complainant for further information or clarification of the complaint and advise the complainant accordingly; or
- (c) Advise the complainant that in future, complaints will only be accepted if submitted in writing to the Service Complaints Co-ordinator, and that staff will not engage in dialogue with the complainant.

These actions must be taken for all complainants in the order presented, that is (c) must be taken after prior use of (b), and (b) after (a).

If, after instituting all measures as outlined above, the Service Complaints Co-ordinator feels that even written complaints are so abusive as to place an unreasonably onerous burden on staff, then a written submission will be prepared for consideration by the Complaints Review Committee with a view to declaring a complainant a **vexatious** complainant.

## **11 PERSISTENT COMPLAINTS**

A persistent complainant is one who makes a complaint that is the same as, or substantially indistinguishable from, one that has already been submitted by, or on behalf of, the same client and formally responded to through the statutory procedure. If staff receive a complaint which they believe has already been considered and disposed of then the matter should be referred to the Service Complaints Co-ordinator who would advise:

- (a) That the complaint is a new complaint and should be investigated and responded to 'as normal' under the Complaints Procedure; or
- (b) That the complaint needs to be reinvestigated and should be responded to again. In these circumstances, the complainant should be clearly advised that the complaint has been dealt with before and that the complainant should exercise their rights to have the complaint review or referred to the Complaints Review Committee should they remain dissatisfied with the response on this occasion.
- (c) That the complaint does not need to be reinvestigated or responded to. The Service Complaints Co-ordinator will write to the complainant stating that the matter has been disposed of and will not be responded to again, whilst confirming the rights of the complainant to submit complaints on other issues in future.

The above should not be construed as restricting the rights of complainants to make similar complaints about repeated failures of Perth and Kinross Council Housing and Community Care Services to deliver services on different occasions, unless staff believe that the complainant is a vexatious complainant.

Since none of these measures prevent the complainant from submitting a new complaint to Perth and Kinross Council, Housing and Community Care Services then a referral to the Complaints Review Committee is not necessary. The directions are clear that Perth and Kinross Council Housing and Community Care Services has no obligation to consider complaints previously considered and disposed of.

## **12 VEXATIOUS COMPLAINTS**

A vexatious complainant is one who makes a complaint in order to pursue aims, or satisfy needs, unrelated to actual issues raised in the complaint. They may be a client or an authorised representative. Such a complainant may have a personal grievance against Perth and Kinross Council Housing and Community



Care Services and derive satisfaction from the process of submitting complaints. The complainant may believe that submission of a sufficiently large number of complaints, or complaints covering an extensive range of issues, will demoralise Perth and Kinross Council Housing and Community Care staff, or consume sufficient resources as to make Perth and Kinross Council Housing and Community Care amenable to granting to the complainant the outcome they actually desire.

To characterise a complainant as being vexatious requires a judgement by Perth and Kinross Council Housing and Community Care Services staff. Even if a complainant were vexatious they are unlikely to admit this and would simply state, and perhaps believe, that there had been a large number of failures by Perth and Kinross Council Housing and Community Care or Education and Children's Services in relation to delivery of services to them or the client they represent. Because a vexatious complainant cannot be objectively characterised in the way that the persistent or abusive complainant may be, a careful consideration of the case is required.

Where staff feel that the complainant is vexatious the matter should be referred to Service Complaints Co-ordinator who will assess the case based upon:

- (a) The number of complaints submitted by a complainant within a defined time period;
- (b) The types of issues raised by the complainant;
- (c) The number of times complaints have been upheld;
- (d) The number of times the complainant has requested review and/or referral to the Complaints Review Committee and the findings of those reviews.

The Service Complaints Co-ordinator will submit a report to their Exec Director Perth and Kinross Council recommending either:

- (a) That the complainant is clearly not vexatious and no special measures should be employed;
- (b) That there is insufficient evidence of vexatious intent at this time but that the situation should be monitored;
- (c) That the complainant is not vexatious but is either abusive or persistent;
- (d) That there is sufficient evidence to suggest that the complainant is vexatious.

If recommendation (d) is made then the complainant will be notified that Perth and Kinross Council Housing and Community Care Services consider them to be a vexatious complainant and intend to present evidence to the Complaints Review Committee substantiating this claim.

If the Complaints Review Committee uphold the judgement of Perth and Kinross Council Housing and Community Care Services then the complainant will be advised that they are considered a vexatious complainant and may only have future complaints considered subject to the following conditions:

- (a) Complaints may only be submitted in writing to the Service Complaints Co-ordinator;
- (b) The Service Complaints Co-ordinator will make a determination, on a case by case basis, of whether new complaints raise issues that merit response;
- (c) If the Service Complaints Co-ordinator does not consider the complaints merit a response, then the complaint will be neither acknowledged nor responded to.

Alternatively, if the Complaints Review Committee do not uphold the judgement of Perth and Kinross Council Housing and Community Care Services then they will instruct Perth and Kinross Council Housing and Community Care Services on how future complaints from the complainant should be dealt with.

### **13 COMPLAINTS BY GROUPS/ORGANISED CAMPAIGNS**

Complaints can be made by, or on behalf of, a group of clients, but not if this is a campaign which places an unreasonable burden on the Complaints Procedure. Whenever a complaint is received on behalf of a group of clients, the matter should be referred to the Service Complaints Co-ordinator who will consult with senior managers and advise whether the complaints should be dealt with as a formal statutory complaint or by other means. If the same complaint is submitted by a number of individuals in circumstances which suggest that they are campaigning as an organised group, then advice should be sought as above.

In order for a group complaint to be dealt with under the formal statutory Complaints Procedure then it is necessary that the group should appoint a single point-of-contact to whom the response will be sent, and who will assume responsibility for distributing the response to the group. If a group is unable to nominate such a person then the complaint will not be dealt with as a formal statutory complaint.

If the Service Complaints Co-ordinator decides that the complaint should not be dealt with as a formal statutory complaint and complainants are dissatisfied with the alternative suggested, then they have a right to refer the matter to the Complaints Review Committee, who will uphold or overturn the decision based on considerations of written submissions from Perth and Kinross Council Housing and Community Care and the complainants.

Should complainants wish the matter be referred to the Complaints Review Committee then they must advise the Service Complaints Co-ordinator within 28 days of notification of this decision. The Service Complaints Co-ordinator should make any necessary arrangements but the Service Complaints Co-ordinator may not refuse to refer the matter to the Complaints Review Committee unless the request is received outwith the 28 day period.

## **14 SHARED INVESTIGATIONS**

Where NHS Tayside as a Perth and Kinross Council Housing and Community Care Partner has a legitimate interest in the subject matter of a complaint and commences, or proposes to commence, a concurrent investigation, the Service Complaints Co-ordinator (Perth and Kinross Council Housing and Community Care Services) will liaise with the Complaints Officer from NHS Tayside in order to agree how the matter should be handled and to ensure that respective timescales are adhered to. In such circumstances, it is anticipated that separate responses to the complaint from each of the Partners will be required.

## **15 CARERS**

The entitlement of persons to complain or make representations on behalf of others is intended to cover the position of carers, providing care to a person for whom Perth and Kinross Council Housing and Community Care Services has a power or duty to provide a Social Work service to.

## **16 COMPLAINTS ABOUT SERVICES PROVIDED BY THIRD PARTIES ON BEHALF OF THE LOCAL AUTHORITY**

Perth and Kinross Council Housing and Community Care secures assistance from third parties and agencies in respect of a number of its functions. The Complaints Procedure will therefore extend to those functions and services which voluntary organisations or other persons or bodies undertake to provide on Perth and Kinross Council Housing and Community Care Services behalf (in accordance with Section 4 of the Social Work (Scotland) Act 1968).

The **Service Complaints Co-ordinator** may delegate the handling of initial complaints including responsibility for investigating as well as receiving complaints to the service provider, along with the provision of the service itself. In all such cases external agencies' complaints procedure will be compatible with the arrangements.

There are certain specific requirements to ensure such compatibility. These are:-

- a That Perth and Kinross Council Housing and Community Care Services shall itself ensure that information on third party arrangements for the handling of complaints is made available to actual and prospective service users;
- b Where the Service Complaints Co-ordinator has given responsibility for investigating and considering complaints to a third party, the complaints made and the response to each case shall be reported to the Service Complaints Co-ordinator;
- c Where complaints are dealt with as in the preceding sub-paragraph, and irrespective of the precise responsibility of the third party for dealing with the complaint, arrangements shall be made for the receipt and onward transmission of the complaints to the Service Complaints Co-ordinator.

Third parties have no role in the referral of a complaint to a Review Committee.

The Monitoring Officer for such third party arrangements will be kept advised of all developments.

## **17 RESIDENTIAL ACCOMMODATION**

Specific arrangements apply in respect of complaints relating to services provided by, or on behalf of Perth and Kinross Council Housing and Community Care in all sectors of residential provision. In the case of voluntary or private establishments accommodating persons who have not been placed by Perth and Kinross Council Housing and Community Care Services this procedure encompasses the arrangements the owner of the establishment makes for his own purposes or as required by the Conditions of Registration.

Any such arrangements for handling complaints within establishments is without prejudice to the ability of residents placed by Perth and Kinross Council Housing and Community Care to complain direct to Perth and Kinross Council Housing and Community Care (or to the Agency providing the establishment in terms of Section 4 arrangement).

## **18 CARE HOMES**

Perth and Kinross Council Housing and Community Care Services has made arrangements for placing residents in Care Homes. The procedure with respect to third party requirements will apply in respect of persons placed by Perth and Kinross Council Housing and Community Care Services in private Care Homes under arrangements following Section 13(a) of the Social Work (Scotland) Act 1968. Perth and Kinross Council Housing and Community Care Services' staff arranging such placements should ensure that residents are made aware of the establishment's complaints procedure at the time of arranging placement.

## **19 ADULTS WITH INCAPACITY**

Perth and Kinross Council, Housing and Community Care Services has responsibility for receiving and investigating complaints relating to the personal welfare of an adult made in relation to welfare attorneys; and in relation to guardians or persons authorised under an Intervention Order. Complaints of this type should be dealt with in the same way as other complaints.

## **20 THE POSITION OF THE SCOTTISH PUBLIC SERVICES OMBUDSMAN**

The Scottish Public Services Ombudsman may investigate any complaint about Perth and Kinross Council Housing and Community Care Services' maladministration including where the complainant is not satisfied with the conduct or outcome of Perth and Kinross Council Housing and Community Care Services' own investigations. The Ombudsman is not, however, empowered to investigate the policy adopted by Perth and Kinross Council, Housing and Community Care Services or the merits of any decision taken by it without evidence of maladministration.

## **21 THE POSITION OF ELECTED MEMBERS**

This procedure does not affect in any way the right of an individual or organisations to approach their Local Councillor for advice or assistance with respect to making representations or complaints. Any enquiry or complaint made by a Councillor should be sent directly to the Service Complaints Co-ordinator who will respond directly to the relevant Councillors.

## **22 LEGAL ACTION**

In any case involving the possibility of legal action a decision will have to be made whether the complaint can properly be handled within these formal procedures. It would generally be inappropriate for a complaint to be handled, or continue to be handled, under the formal complaints procedure when it became clear that the subject of that complaint is being handled through legal action. This includes both at the investigation stage and in respect of any referral to the Complaints Review Committee. Should staff involved in the investigation or co-ordination of the complaint investigation become aware of any such possibility, they should consult with the Service Complaints Co-ordinator.



## APPENDIX 1

### Suggested Letter SL1

Contact  
Direct Dial (01738) 47  
E-Mail

Our ref

Your ref

Date

Dear

I am writing to formally acknowledge receipt of your complaint and to inform you that [ ], a senior officer of Perth and Kinross Council Housing and Community Care Services, has been appointed to investigate this matter.

[ ] will contact you in the next three days to arrange to meet with you. [He/She] will explain our Complaints Procedure and begin the investigation. When you meet with [He/She] you may choose to have a friend or representative with you. I have enclosed a leaflet for your information.

I hope this is satisfactory, but if you have any questions, please do not hesitate to contact me. My telephone number is [ ].

Yours sincerely

Enc





## APPENDIX 2

### Suggested Letter SL2

Contact  
Direct Dial (01738) 47  
E-Mail

Our ref

Your ref

Date

Dear

Following your complaint of [ ], I am writing to inform you of the outcome of the investigation.

I trust this is satisfactory, but please do not hesitate to contact me if you would like any of the above issues clarified.

The attached response slip below should be returned to myself in the stamped addressed envelope provided. This will confirm that Perth and Kinross Council, Housing and Community Care Services' response has been received, and whether you accept the response or wish the complaint to be subject to further formal review.

If I do not hear from you within 28 days, I will assume that you are satisfied with the response.

Yours sincerely

Enc

**TO: Complaints Officer, Perth and Kinross Council, Housing and Community Care Services,  
2 High Street, Perth PH1 5PH**

I HAVE READ THE RESPONSE TO MY COMPLAINT AND BEEN GIVEN OPPORTUNITY TO  
CLARIFY MATTERS ARISING

I ACCEPT/\*DO NOT ACCEPT THE PROPOSED/AGREED ACTION AS AN ACCEPTABLE  
RESPONSE TO MY COMPLAINT

I WISH/\*DO NOT WISH THIS MATTER TO BE SUBJECT TO FURTHER FORMAL REVIEW

*\*Delete as appropriate*

Name (Please print) \_\_\_\_\_

Signature \_\_\_\_\_  
(Complainant)

Date \_\_\_\_\_

TIMESCALES FOR DEALING WITH FORMAL COMPLAINTS



