



University Complaints Handling ("CHP") Procedure: adaptation of the Scottish Higher Education CHP

Part 2 of 4: when to use the CHP

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What is a complaint?

1. *The University's* definition of a complaint is: 'an expression of dissatisfaction by one or more members of the public about *the University's* action or lack of action, or about the standard of service provided by or on behalf of *University, which the University is constituted to deliver.*'
2. For clarity, where an employee also receives a service from *the University* as a member of the public, they may complain about that service. Employees should contact their line manager or Human Resource Services should they wish to complain about something relating to their employment; though where an employee also receives a service from us that they could receive as a member of the public, e.g. if they are a matriculated student, an applicant to a programme of study or a member of Saints Sport, they may complain about such using this procedure.
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;
 - the quality of facilities or learning resources;
 - dissatisfaction with one of our policies or its impact on the individual (although it is recognised that policy is set at the discretion of the institution);
 - 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. A complaint is **not**:
 - a request for information or an explanation of policy or practice;
 - a response to an invitation to provide feedback through a formal mechanism such as a questionnaire or committee membership;
 - a concern about student conduct (see **Complaints and student conduct procedures**);
 - a routine first-time request for a service (see **Complaints and service requests**);
 - a request for compensation only (see **Complaints and compensation claims**);
 - an insurance claim;
 - 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 an appeal about an academic decision on assessment or admission - see **Complaints and appeals**);
 - a request for information under the Data Protection or Freedom of Information (Scotland) Acts, or the Environmental Information Regulations;

- a grievance by a staff member or a grievance relating to employment or staff recruitment;
 - a concern raised internally by a member of staff or student (which was not about a service they received, such as a whistleblowing concern);
 - concerns about services outwith the institution's delegated responsibilities (e.g. conference and accommodation services to commercial clients);
 - 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 institution or staff where such actions would be covered by our *[Unacceptable Actions Policy or equivalent]*; 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**).
5. We will not treat these issues as complaints, and will instead direct people 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.
6. If a matter is not a complaint, or not suitable to be handled under the CHP, we will explain this to the complainant, and tell them what (if any) action we will take, and why. See **What if the CHP does not apply**.

The University will investigate concerns about staff behaviour, under Human Resources policies/regulations and not this procedure, where the claimed behaviour(s) if proven would amount to misconduct, gross misconduct or incompetence, as defined by in employment codes issued by the Advisory, Conciliation and Arbitration Service (ACAS).

Who can make a complaint?

7. Anyone who receives, requests, or is affected by our services can make a complaint.
8. *This includes, although is not limited to:*
 - *a student's experience during their time at the institution (where the issue of concern falls within the time limit for making a complaint, under this procedure) (all referred to as 'students' through the remainder of this document);*
 - *members of the public, where they have a complaint about matters which are (or which were at the time the issue arose) the responsibility of the institution; and*
 - *members of the public who are applying for admission to the institution and whose complaint does not relate to academic judgement.*
9. The basic processes for investigating complaints are the same for students, members of the public and applicants to the institution – however appeals/complaints regarding a decision not to admit an applicant will be dealt with through admissions procedures.
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 complainant

11. Everyone has the right to equal access to our complaints procedure. It is important to recognise the barriers that some people may face complaining. These may be physical, sensory, communication or language barriers, but can also include their anxieties and concerns. Complainants 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.*
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 people identify when they might wish to make a complaint (for example, by training frontline staff who provide services to vulnerable groups);*
 - *helping complainants 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*
 - *directing students to the University of St Andrews Students Association, who provide independent advocacy services, for students when using this procedure.*
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) or where a complaint has not been resolved at stage 1 (frontline), it may be helpful for the complainant to complete a complaint form (available [here](#)) or via email at complaints@st-andrews.ac.uk) with the complainant's input to ensure full details of the complaint are documented. However, there is no requirement for the person to complete a complaint form though the completion of the form may be mutually beneficial to both the complainant and the University.*
- *The expectation of the University is that completion of the complaint form will be undertaken by the complainant to allow them to articulate their complaint though we will offer assistance with the completion of the form and in some cases may complete the form on behalf of the complainant with full approval of the complainant sought before the completed form stands as a final record of the complaint.*

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 the University (for example an official Twitter address or Facebook page):*

- *we will normally respond by explaining that we do not normally take complaints on social media and telling the person how they can complain;*
- *in exceptional circumstances, we may respond to very simple complaints on social media. This will normally only be appropriate where an issue is likely to affect a large number of people, and we can provide a very simple response (for example, an apology for late cancellation of a class).*

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 public 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 complainant 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 complainant 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 complainant or useful learning for the institution.
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

25. Sometimes a complainant 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 complainant, we must ensure that the complainant has authorised the person to act on their behalf. It is good practice to ensure the complainant 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.

- *The provision of a signed mandate from the complainant will normally be sufficient for us to investigate a complaint, such as an email sent from a University student email account. If we consider it is appropriate we can take verbal consent direct from the complainant to deal with a third party and would normally follow up in writing to confirm this.*

26. 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.

27. See also [Part 1: Maintaining confidentiality and data protection](#).

Serious, high-risk or high-profile complaints

28. 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](#)).

29. 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 service provision or repeated failures to provide a service;*
- *generate significant and on-going press interest;*
- *pose a serious operational risk to the Institution; or*
- *present issues of a highly sensitive nature.*

Anonymous complaints

30. 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 Vice-Principal (Governance), or their nominee*.

31. 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.

32. 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 person does not want to complain?

33. If someone 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 them to submit their complaint and allow us to handle it through the CHP. This will ensure they are updated on the action taken and get a response to their complaint.
34. If the person 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).

Complaints involving more than one area or organisation

35. If a complaint relates to the actions of two or more departments / faculties / schools, we will tell the complainant who will take the lead in dealing with the complaint, and explain that they will get only one response covering all issues raised. The nature of the complaint may also require parallel procedures to be initiated (such as academic appeal or disciplinary procedures). See **Complaints and appeals**.
36. If we receive a complaint about the service of another organisation or public service provider, but we have no involvement in the issue, the complainant should be advised to contact the appropriate organisation directly.
37. 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 institution 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**.
38. Such complaints may include, for example:
- a complaint made in relation to provision of third-party services, for example IT systems
 - a complaint made about a service that is contracted out, such as catering services; or
 - a complaint made to the institution about a student loan where the dissatisfaction relates to the service we have provided and the service the Student Awards Agency for Scotland has provided.

Complaints about contracted services

39. 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 *[the institution'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 complainant is signposted to the SPSO.

40. 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.

41. The University has discretion to investigate complaints about organisations contracted to deliver services on its behalf even where the procedure has normally been delegated.

Complaints about senior staff

42. 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. For complaints against senior staff, the following procedures will normally apply:

- *If the complaint is against a Head of School, the matter will be overseen by the appropriate Dean of Faculty (or the Deans' Office in the case of the School of Medicine);*
- *If the complaint is against a Dean of Faculty, the matter will be overseen by the Vice-Principal Education (Proctor);*
- *If the complaint is against the Director of a University service unit, the matter will be overseen by the member of the Principal's Office who has line management responsibility for that service;*
- *If the complaint is against a member of the Principal's Office (acting in either an academic or non-academic capacity), the matter will be overseen by the Principal, or their nominee;*
- *If the complaint is against the Principal (acting in either an academic or non-academic capacity), the matter will be overseen by the Senior Lay Member of the University Court, or their nominee.*
- *Where necessary a complaint about a member of staff will be investigated under University Human Resources policies/regulations, where if proven the claim would amount to misconduct, gross misconduct or competence, as defined in employment codes issued by ACAS.*

Complaints and other processes

43. 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 appeals

44. In some cases, an issue may be raised as a complaint which should be considered under alternative arrangements (for example, an academic appeal or fitness to practise appeal), or vice versa. Complaints and appeals are handled under separate processes. It is not appropriate for the same issue to be considered under both procedures.

45. Where the complaint and appeal issues can be clearly distinguished, we will identify the points to be investigated as a complaint and progress those in line with this procedure. This will include

confirming the points of complaint and outcomes sought. We will also identify and set out the issues of appeal.

46. In determining which process applies, we may need to clarify our approach with the complainant (for example, where the complainant is focussed solely on the appeal outcome they may not wish to also pursue a complaint). However, we will not normally ask the complainant to resubmit issues they have already raised (for example, to reframe part of their appeal as a complaint).
47. We may also decide to complete consideration under one procedure before considering residual issues under another procedure (for example, we may delay consideration of any complaint until the academic appeal has been concluded, or vice versa). This would normally only be appropriate where it is difficult to distinguish which issues should be dealt with under which procedure.
48. In all cases, we will explain to the student which issues have been considered under which process, and signpost them to the appropriate independent review.

Complaints and student conduct procedures

49. A concern about the conduct of another student is not a complaint, and should be handled under the *relevant procedure for student conduct, which can include the University Non-Academic Misconduct Policy*. However, the person may wish to complain about how the University handled the situation (for example, where a lecturer allowed a student's behaviour to disrupt a class or exam). Where the complaint is about our service, we will consider it under the CHP.

Complaints and service requests

50. If someone asks the University to do something (for example, provide a service or deal with a problem), and this is the first time they have contacted us, this would normally be a routine service request and not a complaint.
51. Service requests can lead to complaints, if the request is not handled promptly or the person is then dissatisfied with how we provide the service.

Complaints and staff disciplinary or whistleblowing processes

52. If the issues raised in a complaint overlap with issues raised under a staff disciplinary or whistleblowing process, we still need to respond to the complaint.
53. 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 the University failed to meet our *[service standards, where relevant, or expected standards]* and what we have done to improve things, in general terms.
54. 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).

55. The SPSO's report [Making complaints work for everyone](#) has more information on supporting staff who are the subject of complaints.

Contact from MPs, MSPs or Councillors

Should the University receive a complaint from a MP, MSP, or Councillor, if it is established that they are representing a constituent, then the University will manage the issue of complaint under this procedure, with the exception that the University is not required to confirm consent with the individual who has asked an elected representative to take forward their complaint. If an elected official makes contact on behalf of an individual making inquiries of the University, then a response will be made in the normal way.

Complaints and compensation claims

56. Where someone is seeking financial compensation only, this is not a complaint. However, in some cases the person 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

57. Where a complainant says that legal action is being actively pursued, this is not a complaint.
58. Where a complainant 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 email complaints@st-andrews.ac.uk*, 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.
59. 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

60. 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 complainant 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.
61. Where a complainant 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 the [University Policy on Dealing with abusive, persistent or vexatious complaints and complainants](#).
62. The SPSO has issued a [template letter for explaining when the CHP does not apply](#).