

Moray Council Complaints Handling Procedure

Implementation Guide

Contents

Background	2
About the MCHP	3
Services delivered by HSCPs	3
Local authorities providing further education services	3
Services contracted or commissioned by the local authority	3
Adopting the CHP	4
Publication and accessibility	4
Monitoring, compliance and performance	6
Compliance	6
Future revisions of the MCHP	6
SPSO advice and support	7
Training	7
SPSO website	7
Local authority network of complaints handlers	7

Background

The Scottish Public Services Ombudsman Act 2002 (as amended) provides the legislative basis for SPSO to publish the Model Complaints Handling Procedures (MCHP) for bodies under the SPSO's jurisdiction. The Local Authority MCHP was first developed by SPSO in partnership with a working group of local authority complaints experts.

It was produced taking account of the Crerar and Sinclair Reports and within the framework of the SPSO's Guidance on a Model Complaints Handling Procedure, published in February 2011. It also reflects the SPSO Statement of Complaints Handling Principles approved by the Scottish Parliament and published in January 2011. These two documents took account of stakeholder views expressed through our public consultation at the end of 2010. Following recommendations from the Scottish Government's social work complaints working group in 2013, a separate MCHP for social work was developed. The 'Public Services Reform (Social Work Complaints Procedure) (Scotland) Order 2016' (the Order) brought social work complaint handling under the remit of the SPSO Act.

SPSO revised and reissued all the MCHPs (except the NHS) in 2020, following consultation with all sectors. The new version includes a core text (which is consistent across all public services in Scotland) with some additional guidance and examples specific to each sector. The separate MCHPs for local authorities and social work have also been merged into a single MCHP, taking into account stakeholder views expressed through our public consultation in early 2019.

The purpose of the Local Authority MCHP is to provide a standardised approach to dealing with customer complaints across the local authority sector in Scotland. The procedural elements tie in very closely with those of the NHS complaints handling procedure (CHP), so where social work or care complaints cut across services, they can still be handled in (much) the same way as other complaints. In particular, the aim is to implement a standardised and consistent process for customers to follow which makes it simpler to complain, ensures staff and customer confidence in complaints handling and encourages local authorities to make best use of lessons from complaints.

About the MCHP

The MCHP applies to all local authorities and all local authority services. It also applies to all services provided by a health and social care partnership (HSCP) on behalf of an LA.

The MCHP is intended to be adopted as an internal procedural document of the local authority.

A 'customer-facing' CHP is included as a separate but integral section of the CHP. This provides standardised information on the complaints procedure to customers of the organisation, ensuring that they receive the same information on complaints regardless of where they live or the organisation they deal with.

To be compliant with the MCHP, local authorities must adopt both the CHP and the customer-facing CHP.

Services delivered by HSCPs

Where social work (or other) services are being delivered under integrated arrangements through a HSCP, the partnership will need to adapt and adopt this MCHP. This will sit alongside the NHS CHP. Complaints investigation staff will need to be familiar with both CHPs. However, the actual procedure is largely the same across both. The additional information and guidance in this MCHP should be helpful in handling issues specific to social work services, which are more likely to arise in relation to these complaints.

Local authorities providing further education services

In some cases, local authorities provide further education services (such as delivering or assessing vocational qualifications). If complaints are received in relation to these services, organisations should also have regard to the further education MCHP, in particular the section on the **independent external review**.

Services contracted or commissioned by the local authority

Organisations often contract or commission other service providers to deliver services on their behalf for example, arms length external organisations (ALEO)s or Trusts used to deliver council services).

While these organisations are separate, they are subject to oversight by the local authority, which is still responsible and accountable for ensuring the services provided meet the required standard. This includes the need to comply with the MCHP. It is for each organisation to ensure that contracted or commissioned services meet the requirements of the MCHP. They must have mechanisms in place to identify and act on any complaints handling performance issues with their providers.

Adopting the CHP

The MCHP is provided as a template for local authorities to adopt. Adopting the MCHP in its entirety will ensure that the local authority meets the SPSO's test of compliance.

We recognise the importance of providing scope to adapt the MCHP to reflect, for example, the local authority's organisational structure, operational processes and corporate style. The MCHP outlines areas where the local authority may adapt the CHP to provide additional guidance or reference to local processes.

Scope is also given to local authorities to amend the language of the MCHP to comply with corporate writing conventions or style guides. A local authority's corporate identity puts its stamp on the services it delivers and we understand the importance of presenting one single corporate brand for all products and services. For this reason there is flexibility for local authorities to adapt the MCHP to ensure that, together with any supporting documentation developed by the local authority (for example staff guidance and complaints forms), their CHP reflects the local authority's corporate identity and language.

However, it is of equal importance that the MCHP is not amended to the extent that its purpose or substance is changed in a way which does not reflect the MCHP or its key aims. In particular, the following are elements of the MCHP which should not be amended, given the importance of ensuring a standardised approach across all local authorities:

- the definition of a complaint (although further guidance or examples may be included as indicated in the CHP)
- the number of stages
- timescales at each stage
- the requirements to record, report and publicise complaints information.

It is also important that the information contained in the customer-facing CHP is adopted in full by the local authority. The information presented may be included in a form appropriate to the local authority (for example, through leaflets or the organisation's website) or as part of wider information on how a customer can provide feedback. There may also be further information providing context but the information for customers should remain consistent with the published customer-facing CHP.

Publication and accessibility

It is important to make customers aware of their right to complain. Information about the procedure should be easily accessible at all times, not just made available when a customer wishes to complain. Arrangements about how to make a complaint must be widely publicised, simple and clear, and made available in all areas of service provision. Local authorities should, therefore, consider the most effective ways to ensure maximum accessibility, such as online information about how to access the procedure which should be clearly visible on the front page of the local authority's website. Traditional methods such as leaflets can also be helpful and local authorities should consider where these can most effectively be displayed.

Customers must, where appropriate, have the support they need to articulate their concerns and successfully navigate the complaints procedure. A range of methods for complaining by whatever means is easiest for the customer should be provided and accepted to ensure accessibility to the procedure. This may include frontline staff assisting the customer by writing the complaint for them.

Local authorities should take into account individual requirements, for example disabled people, people with learning difficulties, people who are deaf or hard of hearing (including British Sign Language users), people with a visual impairment and people whose first language is not English. Where appropriate, suitable arrangements should be made for the specific needs of those who wish to complain, including provision of interpreting services, access to support or advocacy, and information in a variety of formats and languages, at suitable venues, and at suitable times.

Monitoring, compliance and performance

Compliance

All local authorities are required to comply with the MCHP under the SPSO Act 2002 (as amended). Public bodies are required to implement the revised version of the CHP by 1 April 2021.

We expect each organisation to have appropriate self-assessment arrangements in place to assure itself that its CHP is operating in accordance with the MCHP, and to track performance as set out in the CHP. Any significant changes to the CHP would require to be notified to SPSO for prior approval.

The SPSO will monitor compliance with the MCHP both through the complaints it investigates and through our standards function, including quality checks of published and available complaints procedures. Any feedback on issues which could affect compliance will be provided directly to the body in the first instance, in line with SPSO's **Support and Intervention Policy**.

Under the terms of the Act, the Ombudsman may also declare that a public body is non-compliant. They intend to use this option as a means of last resort in the event that attempts to work with Moray Council to facilitate implementation have failed. If the Ombudsman does declare a CHP to be non-compliant with the MCHP they will, in line with the Act, give reasons in writing and specify any modifications to the CHP which would result in the declaration being withdrawn.

Complaints performance is also monitored by Audit Scotland and (for social work complaints) Healthcare Improvement Scotland, in line with existing reporting and monitoring arrangements.

Future revisions of the MCHP

The MCHP will be reviewed and revised periodically. Revisions to the MCHP will be managed by SPSO. Where a local authority considers that an amendment to the MCHP or customer-facing CHP is required, they should prepare and submit a request for change to SPSO. This should briefly describe the change requested, explain why the change is proposed and highlight any associated issues in relation to costs, time, quality or risks.

SPSO will consider and decide upon the request, in consultation with local authority sector and other relevant stakeholders. This will help to ensure consistency of approach across the sector by ensuring that only the current agreed version of the MCHP is available to the sector at any given time. Importantly it will also allow for an accurate evaluation of the complaints procedure when appropriate.

While local authorities may use the MCHP as a template to develop their own CHP, it is important to remember that the MCHP itself may only be altered, amended or changed by SPSO.

SPSO advice and support

Training

The MCHP places a strong emphasis on early management of complaints, effective recording of complaints and staff being properly trained and empowered to deal with complaints. All staff need to have an understanding of how to deal with complaints and the appropriate knowledge and skills to do so effectively. This includes being aware of how to identify complaints and when they are authorised to use a range of measures to respond to a complaint such as a simple apology where appropriate.

It is for each local authority to identify the training needs of appropriate staff to ensure they have the skills and confidence to use the authority delegated to them. SPSO training unit provides training on several aspects of complaints handling. Further details may be obtained from www.spsso.org.uk.

SPSO website

The SPSO website provides a centre for best practice in complaints handling. It contains information to help support improvement in public sector complaints handling, including: MCHPs for Scotland, implementation and compliance guidance, and best practice and training resources.

Local authority network of complaints handlers

SPSO supports a local authority complaints handling network. The remit of this group includes identifying, developing and evaluating best practice, supporting complaints handling practitioners and providing a forum for benchmarking complaints performance. The network is used to help take forward the ongoing standards work of SPSO in areas such as developing standardised complaints recording categories and performance indicators.

Moray Council participates in the local authority complaints handling network.