



Scottish Funding Council

Promoting further and higher education

## **Complaints against the SFC: how to make a complaint**



## **Complaints against the Council: how to make a complaint**

1. This document explains how you can make a complaint about the Scottish Funding Council or its staff.
2. For the purposes of this document, 'Council' means the Council Board and also the Executive body.

### **Introduction**

3. The Council is committed to being an open and transparent organisation that operates to the highest standards of public sector administration and management. Despite this, we recognise that occasionally things may go wrong. If you are dissatisfied with our performance, we want to give you the opportunity to raise the matter with us. We will do our best to respond to your concern and – if we have made a mistake – to put things right and learn any lessons.

### **What is a complaint?**

4. A complaint is an expression of dissatisfaction by one or more members of the public or a stakeholder about the Council's actions, or a claim that it has failed to deal with a matter which falls within its jurisdiction properly and fairly.
5. The procedure does not cover complaints about the merits of a decision or action taken by the Council, its committees or its staff, but rather the way in which the decision or action has been taken. There are separate procedures for appeals against decisions taken by the Council on funding matters and on the release of information. Further information can be found here: [http://www.sfc.ac.uk/about/about\\_conduct\\_funding.htm](http://www.sfc.ac.uk/about/about_conduct_funding.htm)
6. The procedure does not cover:
  - Matters which are, or have already been, the subject of litigation, legal proceedings or other forms of regulatory investigation
  - Attempts to reopen a previously concluded complaint or to have a complaint reconsidered where we have already given our final decision.
7. With the exceptions of circumstances set out in the paragraph below, complaints about Scottish universities and colleges should be addressed to the college or university in the first instance and not the Council.

8. The Council has a responsibility to consider alleged serious weaknesses in the governance, management and conduct of a college or university including, for example, an alleged breach of the Financial Memorandum – the document that governs the relationship between the Council and individual colleges or universities – between the Council and the institution. Complaints of this nature should be directed to the Head of Corporate Governance (HCG) at the address below.
9. We will consider complaints within a time limit of six months from when an individual became aware of the problem, unless there are special circumstances for considering complaints beyond this time.

### **How to complain**

10. If you are dissatisfied with the Council or its staff and wish to complain then please write to the HCG at the following address:

Head of Corporate Governance  
The Scottish Further and Higher Education Funding Council  
Apex 2  
97, Haymarket Terrace  
Edinburgh EH12 5HD

Telephone: 0131 313 6500

Email: [info@sfc.ac.uk](mailto:info@sfc.ac.uk)

11. To help us deal fairly with your complaint, your letter should state clearly the details of your complaint, focusing only on the essential issues.
12. We will acknowledge your complaint within three working days and will send you a summary of the issues which you have raised. This will give you an opportunity to challenge any details we may have misinterpreted. Once we have agreed on the detail we will carry out an initial investigation.

### **Our complaints handling procedure**

13. Our complaints procedure has three stages which we describe below.

#### ***Frontline resolution***

14. Good practice in any complaint resolution strategy is an informal approach which avoids the sometimes lengthy formal complaint stages. This phase covers the time from when you first raised a complaint with the Council, be

it a member of staff you have been in contact with already or where the complaint has reached the desk of the Head of Corporate Governance.

15. Once agreement has been reached on the detail of your complaint, our Head of Corporate Governance will endeavour to facilitate an informal resolution within five working days. The HCG will consider whether it is possible to rectify the situation to your satisfaction without the need to make a formal complaint. In exceptional circumstances, we may agree an extension of no more than five working days with you.
16. If we have made a mistake, we will apologise and explain how we will rectify the situation. If we are unable to agree an informal resolution of the complaint, we will carry out a formal investigation.

### ***Investigation***

17. If you are dissatisfied with the initial investigation, or a mutually agreed resolution is not possible, then the Head of Corporate Governance will notify you in writing that a formal investigation has now begun.
18. The formal investigation will be carried out by the Head of Corporate Governance or the Senior Director for Institutions and Corporate Services with assistance from the Council's Corporate Governance team. The purposes of the investigation will be to establish the facts; decide whether the complaint should be upheld or rejected; and consider what action, if any, should be taken.
19. If either the Head of Corporate Governance or the Senior Director for Institutions and Corporate Services has had any material involvement in the matter under investigation, then the investigation will be conducted by one of the Council's other Directors or by the Chief Executive. The investigation will always be carried out objectively and impartially and, wherever possible, by someone who has not had any material involvement previously.
20. We will seek to notify you of the outcome of the formal investigation within 20 working days. In some circumstances, the nature of the complaint may be sufficiently complex to require a longer period of investigation in the interests of fairness to both the complainant and the Council. In such a case, we will notify you of our proposed timetable for the investigation and keep you informed of progress.
21. You may appeal against the outcome of the formal investigation by asking for your complaint to be considered by the Council's Complaints Panel.

### ***The Complaints Panel***

22. The Council's Complaints Panel provides a mechanism for considering complaints that have been through the first two stages of the Council's complaints procedure and includes independent scrutiny of the case.
23. Details of the composition of the Panel and how the Panel will consider your complaint are set out in Annex 2 at the end of this document.
24. Consideration by the Panel is the final Council process for dealing with complaints. If you are dissatisfied with the Panel's decision or recommendations, you may take your complaint to the Scottish Public Services Ombudsman.

### **The Scottish Public Services Ombudsman**

25. The Scottish Public Services Ombudsman (SPSO) is the final stage for complaints about public services in Scotland. This includes complaints about the Scottish Government, NDPBs, agencies and other government sponsored organisations. If you remain dissatisfied with an organisation after its complaints process, you can ask the SPSO to look at your complaint. The SPSO cannot normally look at complaints:
  - where you have not gone all the way through the organisation's complaints handling procedure
  - more than 12 months after you became aware of the matter you want to complain about, or
  - that have been or are being considered in court.
26. The SPSO's contact details are:

SPSO  
4 Melville Street  
Edinburgh  
EH3 7NS

Freephone: 0800 377 7330

Online contact [www.spsso.org.uk/contact-us](http://www.spsso.org.uk/contact-us)

Website: [www.spsso.org.uk](http://www.spsso.org.uk)

Mobile site: <http://m.spsso.org.uk>

## **Freedom of Information and Data Protection**

27. As the Council is a public body we are subject to the access provisions of the Freedom of Information (Scotland) Act 2002. This means if we receive information requests about your case we have a duty to consider disclosure.
28. Where any freedom of information request is received, the Council will release details of the complaint, except where your personal data would be disclosed. Where specifically requested we may seek consent from you to release any personal data.
29. Other exemptions to disclosure may also apply, such as legal advice or commercially sensitive information. However, any non-disclosure exemptions can in turn be overruled by the Scottish Information Commissioner on appeal and all or part the information about your complaint may ultimately be released.
30. For the purposes of handling and resolving the complaint the Council may need to share your personal data with a third party, for example a Scottish university, college or the Scottish Public Services Ombudsman. In these instances the Council will ask for your consent before sharing any personal data. You must be aware however, that a refusal to share your data may potentially hinder a satisfactory resolution to the complaint.
31. If a complaint is made on someone else's behalf, the Council will require explicit written consent and proof of identity from both parties.

## **Getting help to make your complaint**

32. We understand that you may be unable, or reluctant, to make a complaint yourself. We accept complaints from the representative of a person who is dissatisfied with our service. We can take complaints from a friend, relative, or an advocate, if you have given them your consent to complain for you.
33. You can find out about advocates in your area by contacting the Scottish Independent Advocacy Alliance.

**Scottish Independent Advocacy Alliance**

Tel: 0131 260 5380 Fax: 0131 260 5381 Website: [www.siaa.org.uk](http://www.siaa.org.uk)

34. We are committed to making our service easy to use for all members of the community. In line with our statutory equalities duties, we will always ensure that reasonable adjustments are made to help customers access and use our services. If you have trouble putting your complaint in writing, or want this information in another language or format, such as large font, or Braille, please tell us in person.
35. We can also give you this leaflet in other languages and formats (such as large print, audio and Braille).

**Vexatious requests**

36. We will not respond to vexatious or unreasonably persistent complainants. We have a policy for managing a vexatious or persistent complainant which is set out in Annex 1 at the end of this document.

## **Vexatious and unreasonably persistent complainants**

1. This Annex describes the Council's policy towards vexatious and unreasonably persistent complainants.

### **Introduction**

2. We do not view a complainant as being vexatious or unreasonably persistent simply because he or she pursues a complaint in a forceful or determined manner. However, complainants who make unreasonable, frequent or trivial complaints to the Council and its staff may be regarded as vexatious or persistent.

### **What are vexatious or unreasonably persistent complainants?**

3. A vexatious or unreasonably persistent complainant is a person who: makes a complaint which, in the Council's reasonable opinion, is
  - unfounded, unreasonable or trivial and is made with the intention of wasting the Council's time and resources, preventing the Council from carrying out its business, or harassing the Council and its staff, or is otherwise made in bad faith;
  - has been advised of the terms of the complaints procedure as outlined in this document but repeatedly and, in the Council's reasonable opinion, unreasonably fails to follow that procedure;
  - repeatedly demands that the Council reconsider a decision which has been reached in accordance with this complaints procedure;
  - repeatedly contacts the Council in relation to a complaint which has been dealt with fully in terms of this complaints procedure, unless the complainant wishes to bring to the Council's attention new facts that were not previously available;
  - repeatedly seeks to raise issues or present information in relation to an existing complaint which, in the Council's reasonable opinion, are not relevant to the complaint; or
  - behaves in an abusive or threatening way towards any member of the Council's staff, including during any telephone calls or in any written correspondence.

### **How we will manage vexatious and unreasonably persistent complaints**

4. The Council receives a relatively small number of complaints, and vexatious and unreasonably persistent complainants are rare. However, when they do occur,

they can take up a disproportionate amount of time and resources. If the complainant's behaviour adversely affects our ability to carry out our business, then a meeting of the Council will consider whether to restrict or discontinue contact with the complainant. We may restrict contact in person, by telephone, fax, letter or electronically or by any combination of these. We will try to maintain at least one form of contact, unless our complaints procedures have been exhausted.

5. Complainants will be advised in writing why a decision has been made to restrict contact with them, they will be given details of the restricted contact arrangements and, if relevant, the length of time that these restrictions will be in place. For example, a complainant may be advised that, pending a decision being taken under a particular stage of the procedure, contact will be made only by letter.
6. If we have already carried out an investigation into a complaint and the Council's complaints procedure has been exhausted, we may refuse to enter into any further correspondence or discussion about the matter with the complainant. We will however ensure that the complainant is given information about his or her right to contact the Scottish Public Services Ombudsman.

## **The complaints panel**

### **Introduction**

1. This Annex explains the role of the Council's Complaints Panel and how it operates.
2. The Council's Complaints Panel provides a mechanism for considering complaints that have been through the first two stages of the Council's complaints procedure and includes independent scrutiny of the case. The role of the Panel will be to:
3. review whether the complaint has been investigated properly in the formal investigation stage of the process;
  - establish the facts of the case;
  - decide whether the complaint should be upheld or rejected; and
  - advise the Council on what action, if any, should be taken.
4. If you wish your complaint to be considered by the Panel, you should write to the Council's Customer Service Officer within one month of receiving notification of the outcome of the formal investigation. You should provide a statement setting out your reasons for appealing against the decision of the formal investigation by the Council.
5. We will seek to establish the Panel within a month of receiving your request and statement.

### **Membership of the Panel**

6. The Panel will consist of three members: two external members independent of the Council, and one Council member who will chair the Panel. You will be informed of the membership of the Panel. You will have the right to challenge the membership of the Panel, but you will need to show that there is good cause for the membership to be changed.

### **Operation of the Panel**

7. The Panel will be serviced by a senior member of the Council's Corporate Governance team who will act as clerk to the Panel. The clerk will forward papers relating to your complaint to members of the Panel at least two weeks before your complaint is considered. You will receive a copy of the papers at the same time. These papers will include your own submission of complaint.

The Panel will meet in private to discuss your complaint and may ask to meet you if there are issues of fact to be resolved.

8. The Panel may also approach you or members of Council staff if it requires further information. You will receive a copy of any further information received by the Panel.

### **The Panel's decision and reasons**

9. Once the Panel has considered your complaint and reached a decision, the decision and reasons will be given to you in writing within 10 working days of the meeting. The Panel may make recommendations to the Council. The Panel may also suggest the basis of a settlement between you and the Council.
10. Consideration by the Panel is the final Council process for dealing with complaints and no appeal can be made to the Council about the Panel's decision. However, if you provide additional, new information to the clerk to the Panel, this will be put to the Panel and they will review their decision if appropriate. Normally, additional information will only be accepted on one occasion after a decision has been taken and then only if it was not available to you at the time of the original hearing. Unless there are exceptional circumstances, additional information will only be considered if it is received within 12 months of the Panel concluding its original investigation.