



PROAR1 21.2 Complaints Handling Procedure Part 2: When to use this procedure

All College policies and procedures adhere to the guidelines and ethos of Equality and Diversity

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Contents

What is a complaint?	1
Who can make a complaint?	2
Supporting the customer	2
How complaint may be made	4
Time limit for making complaints	4
Particular circumstances	5
Complaints by (or about) a third party	5
Serious, high-risk or high-profile complaints	6
Anonymous complaints	6
What if the customer does not want to complain?	6
Complaints involving more than one area or organisation	7
Complaints about contracted services	7
Complaints about staff	8
Complaints and other processes	8
Complaints and appeals	8
Complaints and student conduct procedures	9
Complaints and service requests	9
Complaints and disciplinary or whistleblowing processes	9
Complaints and compensation claims	10
Complaints and legal action	10
What to do if the CHP does not apply	10
Appendix 1 – Complaints that may be handled at the frontline stage	11
Appendix 2 – What is not a complaint?	12

What is a complaint?

New College Lanarkshire's definition of a complaint is: 'an expression of dissatisfaction by one or more members of the public about the college's action or lack of action, or about the standard of service provided by or on behalf of the college'.

For clarity, where an employee receives a service from New College Lanarkshire as a member of the public, they may complain about that service.

A complaint may relate to the following, but is not restricted to this list:

- the admissions process
- the disciplinary process
- a request for a service or for information which has not been actioned or answered
- wrong information about academic programmes or college services
- the quality and availability of facilities and learning resources
- accessibility of our buildings or services
- failure or refusal to provide a service
- inadequate quality or standard of service, or an unreasonable delay in providing a service
- dissatisfaction with one of our policies or its impact on the individual
- failure to properly apply law, procedure or guidance when delivering services
- failure to follow the appropriate administrative process
- conduct, treatment by or attitude of a member of staff or contractor (except where there are arrangements in place for the contractor to handle the complaint themselves. See Complaints about contracted services; or
- disagreement with a decision, (except where there is a statutory procedure for challenging that decision, or an established appeals process followed throughout the sector).

Appendix 1 provides a range of examples of complaints we may receive, and how these may be handled.

A complaint is not:

- a request for information or an explanation of policy or practice
- a disagreement with academic judgment
- 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.
- 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. See complaints and appeals.

- a request for information under the Data Protection Act 2018 or Freedom of Information (Scotland) Act 2002
- a grievance by a staff member or a grievance relating to employment or staff recruitment
- a concern raised internally by a member of staff (which was not about a service they received, such as a whistleblowing concern)
- a concern about a child or an adult's safety
- an attempt to reopen a previously concluded complaint or to have a complaint reconsidered where we have already given our final decision
- abuse or unsubstantiated allegations about our organisation or staff where such actions would be covered by the SPSO Unacceptable Behaviours Policy; or
- a concern about the actions or service of a different organisation, where we have no involvement in the issue (except where the other organisation is delivering services on our behalf. See Complaints about contracted services).

Appendix 2 gives more examples of 'what is not a complaint' and how to direct customers appropriately.

We will not treat these issues as complaints, and will instead direct customers to use the appropriate procedures. Some situations can involve a combination of issues, where some are complaints and others are not, and each situation should be assessed on a case-by-case basis.

If a matter is not a complaint, or not suitable to be handled under the CHP, we will explain this to the customer, and tell them what (if any) action we will take, and why. See What if the CHP does not apply.

Who can make a complaint?

Anyone who receives, requests, or is affected by our services can make a complaint. In this procedure these people are termed 'customers', regardless of whether they are or were using a service.

We accept complaints from the representative of a person who is dissatisfied with our service. See complaints by (or about) a third party.

Supporting the customer

All members of the community have the right to equal access to our complaints procedure. It is important to recognise the barriers that some customers may face complaining. These may be physical, sensory, communication or language barriers, but can also include their anxieties and concerns. Customers may need support to overcome these barriers. Our Equality, Diversity and Inclusion information, including our Equality, Diversity and Inclusion

Policy can be found on our website here: [Equality & Diversity Policy - The Clan - NCL \(interactgo.com\)](https://www.interactgo.com)

We have legal duties to make our complaints service accessible under equalities and mental health legislation. For example:

- the Equality Act (UK) 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 requires us to make sure that no-one is treated less favourably than anyone else as a result of a protected characteristic, 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.

Examples of how we will meet our legal duties are:

- proactively checking whether members of the public who contact us require additional support to access our services;
- providing different ways to communicate with us;
- ensuring that staff receive appropriate training to support the complaint process, and in particular, how protected characteristics and other vulnerabilities can affect individuals when raising complaints;
- adapting our processes and arrangements to take account of individual need, where these adjustments are reasonable and permitted within legislation and good practice guidance;
- providing interpretation and/or translation services for British Sign Language users; and
- helping customers access independent advocacy (the Scottish Independent Advocacy Alliance website has information about local advocacy organisations throughout Scotland)

In addition to our legal duties, we will seek to ensure that we support vulnerable groups in accessing our complaints procedure. Actions that we may take include:

- helping vulnerable customers identify when they might wish to make a complaint (for example, by training frontline staff who provide services to vulnerable groups)
- helping customers access independent support or advocacy to help them understand their rights and communicate their complaints (for example, through the Scottish Independent Advocacy Alliance or Citizen’s Advice Scotland);
- engaging with a third party who is helping a customer to make a complaint. We would normally require written consent or confirmation that the third party has the authority to represent the customer, unless the third party is an elected official such as an MP, MSP or councillor acting on behalf of a constituent;
- Prioritising complaints where the customer is vulnerable as a result of personal circumstances, health or disability or where the issues contained within the complaint have the potential to create or increase their vulnerability;

- providing a neutral point of contact for complaints (where the relationship between customers and frontline staff is significant and ongoing).

These lists are not exhaustive, and we must always take into account our commitment and responsibilities to equality and accessibility.

How complaint may be made

Complaints may be made verbally or in writing, including face-to-face, by phone, letter or email.

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), it may be helpful to complete a complaint form with the customer's input to ensure full details of the complaint are documented. However, there is no requirement for the person to complete a complaint form, and it is important that the completion of a complaint form does not present a barrier to people complaining.

Complaint issues may also be raised on digital platforms (including social media). Where a complaint issue is raised via a digital channel managed and controlled by New College Lanarkshire (for example an official Twitter address or Facebook page), we will explain that we do not take complaints on social media, but we will tell the person how they can complain.

- 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 a cancelled bus service or late cancellation of a class).

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 private Facebook group). In such cases we may respond, where we consider it appropriate, by telling the person how they can complain.

We must always be mindful of our data protection obligations when responding to issues online or in a public forum. See [Maintaining confidentiality and data protection](#).

Time limit for making complaints

The customer must raise their complaint within six months of when they first knew of the problem, unless there are special circumstances for considering complaints beyond this time

(for example, where a person was not able to complain due to serious illness or recent bereavement).

Where a customer has received a stage 1 response, and wishes to escalate to stage 2, unless there are special circumstances they must request this either:

- within six months of when they first knew of the problem; or
- within two months of receiving their stage 1 response (if this is later)

We will apply these time limits with discretion, taking into account the seriousness of the issue, the availability of relevant records and staff involved, how long ago the events occurred, and the likelihood that an investigation will lead to a practical benefit for the customer or useful learning for the organisation.

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

Sometimes a customer may be unable or reluctant to make a complaint on their own. We will accept complaints from third parties, which may include relatives, friends, advocates and advisers. Where a complaint is made on behalf of a customer, we must ensure that the customer has authorised the person to act on their behalf. It is good practice to ensure the customer understands their personal information will be shared as part of the complaints handling process (particularly where this includes sensitive personal information). This can include complaints brought by parents on behalf of their child, if the child is considered to have capacity to make decisions for themselves.

The provision of a signed mandate from the customer will normally be sufficient for us to investigate a complaint. If we consider it is appropriate we can take verbal consent direct from the customer to deal with a third party and would normally follow up in writing to confirm this.

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.

See also [Maintaining confidentiality and data protection](#).

Serious, high-risk or high-profile complaints

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 **Stage 2: Investigation**).

We define potential high-risk or high-profile complaints as those that may involve:

- an allegation of corruption against a college employee
- a claim of dereliction of duty by a college employee
- a claim of personal injury that has incapacitated the customer
- a potentially significant risk to the college's operations
- a claim of discrimination, with due regard to protected characteristics as set out in section 149(7) of the Equality Act 2010
- an allegation of significant harm or abuse or where there is a suspicion that someone may suffer significant harm
- serious service failure, for example major delays in providing, or repeated failures to provide, a service; or
- significant and ongoing press interest.

Anonymous complaints

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 Assistant Principal responsible for complaints.

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.

If an anonymous complainant makes serious allegations, these should be dealt with in a timely manner under relevant procedures. This may not be the complaints procedure and could instead be relevant child protection, adult protection or disciplinary procedures.

What if the customer does not want to complain?

If a customer has expressed dissatisfaction in line with our definition of a complaint but does not want to complain, we will explain that complaints offer us the opportunity to improve services where things have gone wrong. We will encourage the customer to submit their complaint and allow us to handle it through the CHP. This will ensure that the customer is updated on the action taken and gets a response to their complaint.

If the customer insists they do not wish to complain, we are not required to progress the complaint under this procedure. However, we should record the complaint as an

anonymous complaint (including minimal information about the complaint, without any identifying information) to enable us to track trends and themes in complaints. Where the complaint is serious, or there is evidence of a problem with our services, we should also look into the matter to remedy this (and record any outcome).

Please refer to the example in Appendix 1 for further guidance.

Complaints involving more than one area or organisation

If a complaint relates to the actions of two or more areas within our organisation, we will tell the customer who will take the lead in dealing with the complaint, and explain that they will get only one response covering all issues raised.

If a customer complains to us about the service of another organisation or public service provider, but we have no involvement in the issue, the customer should be advised to contact the appropriate organisation directly.

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 New College Lanarkshire through the CHP. If we need to contact an outside body about the complaint, we will be mindful of data protection. See Maintaining confidentiality and data protection.

These 'joint-service' complaints may be about such things as:

- property maintenance, where the customer's dissatisfaction relates to our service and that of an external facilities body
- accommodation not directly under our ownership
- third-party services, for example IT systems; or
- a student loan, where the customer is dissatisfied with our service and that of the Student Awards Agency for Scotland.

Complaints about contracted services

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 New College Lanarkshire's standards (including in relation to complaints). We will either do so by:

- ensuring the contractor complies with this procedure;
- 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 customer is signposted to the SPSO.

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.

New College Lanarkshire has discretion to investigate complaints about organisations contracted to deliver services on its behalf even where the procedure has normally been delegated.

Complaints about staff

Complaints about staff can be difficult to handle, as there may be a conflict of interest for the staff investigating the complaint. When serious complaints are raised against senior staff, it is particularly important that the investigation is conducted by an individual who is independent of the situation. We must ensure we have strong governance arrangements in place that set out clear procedures for handling such complaints.

Complaints and other processes

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

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 study 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.

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.

In determining which process applies, we may need to clarify our approach with the customer (for example, where the customer is focussed solely on the appeal outcome they may not wish to also pursue a complaint). However, we will not normally ask the customer to resubmit issues they have already raised (for example, to reframe part of their appeal as a complaint).

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.

In all cases, we will explain to the customer which issues have been considered under which process, and signpost them to the appropriate independent review.

Complaints and student conduct procedures

A concern about the conduct of another student is not a complaint, and should be handled under the New College Lanarkshire Learner Behaviour Policy, and through classroom management. However, the customer may wish to complain about how New College Lanarkshire handled the situation (for example, where a staff member 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

If a customer asks New College Lanarkshire to do something (for example, provide a service or deal with a problem), and this is the first time the customer has contacted us, this would normally be a routine service request and not a complaint.

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

Complaints and disciplinary or whistleblowing processes

If the issues raised in a complaint overlap with issues raised under a disciplinary or whistleblowing process, we still need to respond to the complaint.

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 New College Lanarkshire failed to meet our expected standards and what we have done to improve things, in general terms.

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).

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

Complaints and compensation claims

Where a customer is seeking financial compensation only, this is not a complaint. However, in some cases the customer may want to complain about the matter leading to their financial claim, and they may seek additional outcomes, such as an apology or an explanation. Where appropriate, we may consider that matter as a complaint, but deal with the financial claim separately. It may be appropriate to extend the timeframes for responding to the complaint, to consider the financial claim first.

Complaints and legal action

Where a customer says that legal action is being actively pursued, this is not a complaint. Where a customer indicates that they are thinking about legal action, but have not yet commenced this, they should be informed that if they take such action, they should notify the complaints handler and Deputy Principal 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.

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

If the issue does not meet the definition of a complaint or if it is not appropriate to handle it under this procedure (for example, due to time limits), we will explain to the customer why we have made this decision. We will 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.

Where a customer continues to contact us about the same issue, we will explain that we have already given them our final response on the matter and signpost them to the SPSO. We may consider whether we need to take action using the SPSO Unacceptable Behaviour Policy.

The SPSO has issued a [template letter for explaining when the CHP does not apply](#).

Appendix 1 – Complaints that may be handled at the frontline stage

The following table gives examples of complaints that may be considered at the frontline stage, and suggests possible actions.

Example 1	
Complaint	Two related lectures have been cancelled due to bad weather. A student complains to the course leader that this will disadvantage them and their classmates in the forthcoming exam.
Possible action	The course leader contacts all affected students and apologises for the cancellation. The course leader tells the students that two extra lectures have been scheduled and gives details of times and locations. This action and the complaint's outcome are logged on the college complaints database.

Example 2	
Complaint	A visitor complains to college reception that they had been struck by food thrown by students from a window in the hall of residence. This had been very unpleasant and it had damaged the visitor's clothes.
Possible action	The receptionist apologises on the college's behalf and takes a note of the visitor's contact details. The receptionist passes them to the hall of residence manager, who writes the following day offering an apology and saying that the college expects its students to be positive members of the community. The residence manager offers to pay the cost of any dry-cleaning, and explains that the college will seek to identify the students to ensure that their behaviour does not recur. This action and the complaint's outcome are logged on the college complaints database.

Example 3	
Complaint	A student complains that their profile, which had been provided for use in the college prospectus, had been incorrectly reproduced, attributing information to them that belonged to someone else.
Possible action	The college writes to the student with an apology, an explanation of how the mistake happened, and details of how it will resolve the issue. This would include replacing the version on the college website, amending printed copies of the prospectus and making sure the correct text was included in future printed versions. These actions and the complaint's outcome are logged on the college complaints database.

Example 4

Complaint	A student complains that they have received a fine for the late return of library books when these had, in fact, been returned on time.
Possible action	A member of the library staff checks and confirms that the books had been returned on time, but the librarian had failed to update the computer system to reflect this. The student receives an explanation and an apology from the member of staff. This action and the complaint's outcome are logged on the college complaints database.

Appendix 2 – What is not a complaint?

A concern may not necessarily be a complaint. For example, a customer might make a routine first-time request for a service. This is not a complaint, but the issue may escalate into a complaint if it is not handled effectively and the customer has to keep on asking for the service.

A customer may also be concerned about college decisions, which may have their own specific review or appeal procedures. So, where appropriate, the college must direct customers to the relevant procedure. The following examples give details of the type of issues or concerns for which you should not use the CHP. This is not a full list, and you should decide the best route for each individual case.

Remember that although the customer may have another form of redress as detailed above, you must consider carefully whether or not you should manage a customer's comments within the CHP. Dissatisfaction with certain college decisions may simply require an explanation and direction to the correct route. If, however, a customer says they are dissatisfied with the administrative process we have followed in reaching a decision, you may consider that dissatisfaction through the CHP. An example may be a complaint from a customer who is dissatisfied with a decision and alleges that we failed to follow or apply the appropriate guidance in making it.

- **Example 1:** Appeal against an academic decision (separate appeals procedure)
- **Example 2:** Appeal against a student funding award/non-award
- **Example 3:** Claim for compensation against the college
- **Example 4:** Request under the Data Protection or Freedom of Information Acts
- **Example 5:** National qualification results
- **Example 6:** College exam results