

# **The Church of Scotland**

## **Unincorporated Councils and Committees**

### **Complaints Handling Procedure**

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## 1. Purpose and Scope

1.1. This procedure applies to the unincorporated Councils and Committees and other relevant constituent parts of the Church of Scotland, created by and responsible to the General Assembly. These are:

### Councils and Committees

- The Council of Assembly (and the Committees reporting to it: Assembly Arrangements Committee, Central Services Committee, Committee on Ecumenical Relations, Legal Questions Committee and Safeguarding Committee)
- The Church and Society Council
- The Ministries Council
- The Mission and Discipleship Council (and its Committee on Church Art & Architecture)
- The Social Care Council
- The World Mission Council

### Other bodies

- The Church of Scotland Housing & Loan Fund for Retired Ministers and Widows and Widowers of Ministers
- The Committee on Chaplains to HM Forces
- The Guild
- The Panel on Review & Reform
- The Nomination Committee
- The Theological Forum

1.2. Congregations and Presbyteries of the Church are separate legal entities and are not subject to the direction or control of the unincorporated Councils and Committees. This procedure accordingly does not apply to them.

1.3. If a complaint relates to the conduct of an individual employed by one of the unincorporated Councils and Committees, it should be dealt with in terms of the Church's employment policies and procedures.

1.4. For ease of reference the unincorporated Councils, Committees and other bodies as referred to at paragraph 1.1 above are hereafter collectively referred to as the **"the Church"** for the purposes of this policy. References to "our" in the policy are accordingly references to these bodies.

1.5. The Church is committed to respecting complaints and aims to ensure that there will be a fair and systematic approach to dealing with complaints against any individuals or any constituent part of the Church.

1.6. The Church endeavours to resolve issues of dissatisfaction as close to the initial point of contact as possible utilising, where appropriate, an informal process and, if required, a

thorough and fair investigation process so that evidence-based decisions on the facts of each individual case can be made.

- 1.7.** Resolving complaints early saves time and resources and contributes to the overall efficiency of the Church. Concentrating on achieving an early resolution of a complaint as close to the point of contact as possible will free up staff time and contribute to the goodwill of the Church.
- 1.8** Anyone who receives, requests or is directly affected by the services the Church provides has the right to access this Complaints Handling Procedure (“**CHP**”). The Church will seek to make reasonable adjustments to enable complainants with specific needs to access the CHP easily.
- 1.9** As detailed in this procedure, complaints should be submitted to the Solicitor of the Church (whom failing the Depute Solicitor), at 121 George Street, Edinburgh EH2 4YN. The Solicitor may appoint an investigating officer and/or liaise with the affected parties in order to engage the complaints handling procedure outlined at part 3 of this procedure.
- 1.10** If a complaint which falls within the scope of this procedure arises out of any act or omission of the Solicitor of the Church or any member of the Law Department staff, it should be submitted to the Secretary of the Council of Assembly at 121 George Street, Edinburgh EH2 4YN, who may appoint an investigating officer and/or liaise with the affected parties as set out in paragraph 1.9 above. In relation to all complaints dealt with in terms of this paragraph, reference to the Secretary of the Council of Assembly shall be substituted for references to the Solicitor of the Church where they appear in the following paragraphs.
- 1.11** This procedure was formally approved by the Council of Assembly on 10 April 2017.

## **2. Complaints**

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

For the purpose of this policy, a complaint is an expression of dissatisfaction by one or more individuals relating to what is perceived to be the unsatisfactory or unacceptable behaviour, or lack of action, of an individual, Committee, Department, Council or other body referred to in paragraph 1.1.

A complaint may include, but is not restricted to:

- Quality and standard of service provided
- treatment or inappropriate behaviour by or attitude of a staff member, contractor, Department or representative of the Church;
- failure to follow an appropriate administrative process;

The definition of a complaint is very broad and the list above is not exhaustive. However, it should be noted that not every concern is a complaint. For example, the following **are not complaints**:

- a grievance by a member of staff that is being handled in accordance with the grievance procedure set out in their contract of employment;
- a request under the Data Protection Act 2018;
- 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;
- an insurance claim;
- an issue which is being, or has been, considered by a court or tribunal;
- an informal service issue (e.g routine IT or maintenance work);
- an appeal or complaint for which an alternative method of review or resolution exists within the Acts and Regulations of the General Assembly;
- a request to have a complaint reconsidered where the Church's procedures have been completed and a final decision has been issued.

It is recognised that some situations can involve a combination of issues, some of which are complaints and others are not. Each situation should be assessed on a case by case basis.

## **2.2 Who can make a complaint?**

This CHP covers complaints from anyone who receives, requests or is affected by our services. Complaints may be submitted by 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 Church.

Sometimes individuals may be unable or reluctant to make a complaint on their own. Complaints will be accepted from third parties, as long as the individual affected has given their personal consent under the requirements of the Data Protection Act 2018. This usually means that the complainant must give clear written authority for the third party to act on their behalf.

## **2.3 Anonymous complaints**

Complaints submitted anonymously will be considered if there is enough information in the complaint to enable the Solicitor of the Church or the investigating officer to make further enquiries. If an anonymous complaint does not provide enough information to enable further action to be taken, it is unlikely to be pursued further. However, consideration will be given to the issues raised and the complaint will be recorded so that corrective action can be taken as appropriate.

Any decision not to pursue an anonymous complaint must be authorised by the Solicitor of the Church.

#### **2.4 Complaints involving organisations/ contractors who provide a service on behalf of the Church**

Complaints about the service of another organisation should be made to the appropriate organisation direct.

#### **2.5 Time limit for making complaints**

Complaints should be raised as soon as problems arise to enable prompt investigation and swift resolution. This CHP sets a time limit of three months, starting from when the complainant first became aware of the problem, to raise a complaint. Unless there are special circumstances which would justify an extension of time being granted, complaints received outwith this timeframe will not be actioned under the CHP.

### **3. The Complaint Handling Procedure**

#### **3.1 Overview**

The CHP is intended to provide a streamlined procedure with a focus on early resolution. When the Solicitor of the Church is made aware of a complaint, the complaint will be recorded and the complaint procedure followed. The procedure involves two stages, details of which are explained below.

Stage 1 - Direct Resolution seeks to resolve straightforward complaints swiftly and effectively at the point at which the complaint is made, or as close to that point as possible.

Stage 2 - Complaint Investigation is appropriate where a complainant is dissatisfied with the outcome of direct resolution, or where direct resolution is not possible or appropriate due to the complexity or seriousness of the complaint.

#### **3.2 Mediation and other dispute resolution options**

Some complex complaints (where, for example, the complainant and/or other involved parties have become entrenched in their positions) may benefit from a different approach to resolving the complaint. Using mediation can help both parties to understand what is driving the complaint, and may be more likely to result in a mutually satisfactory conclusion being reached. Parties wishing to consider alternatives to complaint investigation should enquire about this with the Solicitor of the Church.

Where other means of dispute resolution are attempted the complaint investigation will be suspended pending the outcome. If the complaint is not resolved by alternative resolution techniques the complaint investigation will be resumed.

### **3.3 Stage 1: Direct Resolution Procedure**

The purpose of direct resolution is to endeavour to respond to straightforward complaints as swiftly and comprehensively as possible. Ideally the direct resolution complaint procedure should be completed within seven working days although it is recognised that it may not always be possible to complete the procedure within that time. The complainant should be updated in the event that the complaint takes longer than seven working days to resolve.

Individuals who have a complaint are encouraged to raise it initially at the point of, or as close as possible to the point of, becoming aware of it and to raise it with the Department or service area in which the issue arose. Should that not be possible or appropriate, or should this not result in an outcome satisfactory to the complainant, the complaint should be referred to the Solicitor of the Church. When a complaint is received the Solicitor of the Church should be informed promptly, even where the complaint has been resolved, in order to ensure that all complaints are appropriately recorded. Complaints may be made face-to-face, by telephone, in writing or by email.

In the event that a complaint cannot be summarily addressed or is of a serious nature it should be referred to the Solicitor of the Church, who will respond to the complaint in accordance with Stage 2 of this CHP.

### **3.4 Closing the complaint at the direct resolution stage**

The outcome will be communicated to the complainant by the relevant member of Church staff who dealt with the complaint. This may be face-to-face, by telephone, in writing or by email. There is no requirement to send out a written communication to the complainant, although a written response may be issued where it seems helpful to do so.

Once a resolution has been reached the record of the complaint held by the Solicitor of the Church should be updated including details of this resolution. A straightforward complaint should be closed at this stage.

### **3.5 Stage 2: Complaint Investigation**

Complaints may already have been considered at the direct resolution stage or they may be complaints identified upon receipt as appropriate for immediate investigation. Where a complaint is handled under Stage 2 the Solicitor of the Church will appoint an investigating officer. The identity of the investigating officer will be made known to the complainant. Should the complainant object to a particular investigating officer then if it is deemed appropriate to do so a different investigating officer will be appointed.

A complaint will be assigned to Stage 2 investigation when:

- direct resolution has been attempted, but the complainant intimates within one month after the case has been closed following the direct resolution stage that they remain dissatisfied;
- the complainant refuses to recognise or engage with the direct resolution process and is insistent that the issue be addressed by a more senior member of staff;
- the issues raised involve a Committee, Council or Department, or a combination of any of those;
- the issues raised are complex and will require detailed investigation;
- the complaint relates to issues that have been identified as high risk or high profile.

A complaint can be made in writing, in person, by telephone, or by email. Where it is clear that Stage 2 investigation is appropriate, the complainant will be asked to provide full details of the complaint and any relevant documentation. If a complainant would prefer to complain in person, a letter to confirm the scope of the complaint will subsequently be issued to them for agreement.

### **3.6 Stage 2: Complaint Investigation Initial Procedure**

The purpose of conducting an investigation is to establish all of the facts relevant to the points made in the complaint and to provide a full, objective and proportionate response to the complainant.

On receipt of a complaint within the parameters set out in paragraph 3.5 above, the Solicitor of the Church will allocate the complaint to an investigating officer (see paragraph 3.8 of this CHP). It is important to be clear from the start of the investigation stage exactly what is being investigated and to ensure that both the complainant and the investigator understand the scope of the investigation. If the investigating officer does not have full details of the complaint they should be obtained from the complainant. In discussion with the complainant, three key questions should be considered:

1. What specifically is the complaint (or complaints)?
2. What does the complainant hope to achieve by complaining?
3. Do the complainant's expectations appear to be reasonable and achievable?

If the complainant's expectations appear to exceed what can reasonably be provided or are not within the Church's power to provide, the complainant will be advised of this as soon as possible in order to manage expectations about possible outcomes.

### **3.7 Timelines for Stage 2 Complaint Investigation**

Every effort should be taken to expedite the resolution of Stage 2 complaints. However, it must be recognised that such investigations will take time to complete and rushing the complaints procedure may disadvantage the complainant. The Church is committed to taking as much time as is required in order to investigate complaints properly.

### **3.8 The Investigating Officer**

Without unreasonable delay, the investigating officer will investigate the circumstances of the complaint including discussing the complaint with the complainant and with any relevant members of Church staff. Depending on the nature and complexity of the investigation they may be assisted by a member of the Human Resources team. The investigating officer will normally be accompanied by a note taker at meetings.

The investigating officer will report their findings back to the Solicitor of the Church, who will (a) make a determination on those findings and will communicate that determination to the complainant in writing; (b) record the outcome of the complaint investigation; and (c) arrange for any additional steps, including disciplinary proceedings where appropriate, to be taken.

## **4 Governance of the Complaint Handling Procedure**

### **4.1 Staff roles and responsibilities**

All staff will be made aware of this CHP. All senior staff will know how to handle complaints at the direct resolution stage and ensure they are recorded appropriately.

The Church will ensure that:

- it maintains overall responsibility and accountability for the management and governance of complaints handling;
- it has an active role in, and understanding of, the CHP;
- mechanisms are in place to ensure a consistent approach to the way complaints handling information is managed, monitored, reviewed and reported at all levels; and
- complaints information is used to improve services and communication both internally and externally.

This will be done through oversight by the Governance Group of the Council of Assembly, which will be responsible for monitoring the operation of this CHP.

## **5. Recording and learning**

Valuable feedback is obtained through complaints. One of the objectives of the CHP is to identify opportunities to improve provision of services and to improve communication across the Church.

Complaints data will be used for analysis and management reporting. By recording and using complaints information in this way the causes of complaints can be identified and addressed and, where appropriate, training opportunities can be identified and improvements introduced.

### **5.1 Recording complaints**

To collect suitable data, it is essential that all complaints are recorded in sufficient detail. The minimum requirements are as follows:

- name and contact details of the complainant;
- date of receipt of the complaint;
- how the complaint was received;
- category of complaint;
- staff member responsible for handling the complaint;
- Department to which the complaint relates;
- (if applicable) date of suspension of the complaint investigation in order to attempt alternative dispute resolution;
- action taken and outcome at direct resolution stage (if applicable);
- date the complaint was closed at the direct resolution stage;
- date the investigation stage was initiated (if applicable);
- action taken and outcome at investigation stage (if applicable);
- date the complaint was closed at the investigation stage (if applicable); and
- underlying cause and remedial action taken (if applicable).
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## **6 Maintaining confidentiality**

### **6.1 Confidentiality and data protection**

Complaints will be handled with discretion and access to information about individual investigations will only be given to those who have a legitimate access requirement. In determining access requirements the Church will have regard to legislative requirements such as data protection legislation and also internal policies on confidentiality and the use of complainant information.

Individuals have the right to access information concerning them, except in limited circumstances. For example, complainants and other parties to the complaint are entitled to access the information about them gathered by complaint investigators. Exceptions to this right include occasions where disclosure would have an adverse impact on health and wellbeing, management planning, negotiations or the prevention or detection of crime.

Promises of confidentiality will only be given when absolutely necessary to obtain the co-operation of a witness. Any such promises will be carefully considered and specific in each case.

## **6.2 Reporting outcomes**

Where a complaint has been upheld or partially upheld the complainant will be advised of this. However, information about specific staff members will not normally be shared, particularly where disciplinary action is taken.

## **7 Managing unreasonable complaints and/or unacceptable behaviour**

### **7.1 Basic principles and expectations**

The Church values complaints as an important tool in enabling individuals to raise matters of concern. However, on occasion complaints may be received which are in a form which cannot sensibly be responded to; are frivolous or vexatious; or where the complaint has no reasonable prospect of being upheld. In such cases, the Solicitor of the Church will report accordingly to the Governance Group of the Council of Assembly, which will determine whether or not the complaint will be taken further.

Where a complainant behaves in an unacceptable way (for example exhibiting aggressive or abusive behaviour, or making unreasonable demands) the complaint procedure may be restricted or brought to an end.

If action to restrict or deny access to the CHP is deemed necessary, the complainant will be advised of this and of the reasons for this decision.