



# **The Judicial Appointments Board for Scotland Complaints Handling Procedure**

Issued: November 2016

## **The Judicial Appointments Board for Scotland Complaints Handling Procedure (CHP)**

### **Foreword**

The Judicial Appointments Board for Scotland (JABS) has been operating as a statutory body since 2009. Its role is to recommend to the Scottish Ministers individuals for appointment to judicial offices. Since 2009, the Board has worked hard - and is continuing to work hard - to bring transparency to the selection process and to build a system in which the public, Parliament, Government and the legal profession can have trust and confidence.

The JABS complaints handling procedure reflects its commitment to welcoming constructive feedback, whether positive or critical. It seeks to resolve issues at the point of delivery and, if appropriate, to conduct thorough, impartial and fair investigations of complaints.

The procedure introduces a standardised approach to handling complaints, which complies with the Scottish Public Services Ombudsman's 2014 guidance on a model complaints handling procedure. In the Ombudsman's words this procedure aims to help JABS to 'get it right first time'.

Complaints give JABS valuable information to help improve its processes. The complaints handling procedure will enable the Board to address any legitimate dissatisfaction and should also help prevent the same problems that led to a complaint from happening again. For the Board, complaints provide a first-hand account of the applicant's views and experience, and can highlight problems the Board may otherwise miss. Handled well, complaints can give applicant applicants for judicial office a form of redress if they have evidence that the selection process has not been handled consistently, fairly and impartially, and can also help JABS continuously improve its services.

The operation of this revised complaints handling procedure will help to maintain the good relations and trust the Board enjoys with the overwhelming majority of applicants for judicial office. It will enhance public confidence in the integrity of the Board's selection processes and crucially by extension in the Board's recommendations for the next generation of judicial office holders.

Michael Garden  
Chief Executive  
November 2016

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<b>How to use this Complaints Handling Procedure (CHP)</b> .....	<b>1</b>
<b>What is a complaint?</b> .....	<b>2</b>
<b>Handling anonymous complaints</b> .....	<b>2</b>
<b>What if the applicant does not want to complain?</b> .....	<b>3</b>
<b>Who can make a complaint?</b> .....	<b>3</b>
<b>Complaints involving more than one service or organisation</b> .....	<b>3</b>
<b>The complaints handling process</b> .....	<b>4</b>
<b>Stage one: frontline resolution</b> .....	<b>4</b>
<i>What to do when you receive a complaint</i> .....	<i>5</i>
<i>Timelines</i> .....	<i>6</i>
<i>Extension to the timeline</i> .....	<i>7</i>
<i>Closing the complaint at the frontline resolution stage</i> .....	<i>7</i>
<i>When to escalate to the investigation stage</i> .....	<i>7</i>
<b>Stage two: investigation</b> .....	<b>9</b>
<i>What to do when you receive a complaint for investigation</i> .....	<i>9</i>
<b>Timelines</b> .....	<b>9</b>
<b>Extension to the timeline</b> .....	<b>10</b>
<i>Mediation</i> .....	<i>10</i>
<i>Closing the complaint at the investigation stage</i> .....	<i>11</i>
<i>Independent external review</i> .....	<i>11</i>
<b>Governance of the Complaints Handling Procedure</b> .....	<b>13</b>
<b>Roles and responsibilities</b> .....	<b>13</b>
<b>Complaints about senior staff/Board Member</b> .....	<b>14</b>
<b>Recording, reporting, learning and publicising</b> .....	<b>14</b>
<i>Recording complaints</i> .....	<i>14</i>
<i>Reporting of complaints</i> .....	<i>14</i>
<i>Learning from complaints</i> .....	<i>15</i>
<i>Publicising complaints performance information</i> .....	<i>15</i>
<b>Maintaining confidentiality</b> .....	<b>16</b>
<b>Managing unacceptable behaviour</b> .....	<b>16</b>
<b>Supporting the applicant</b> .....	<b>16</b>
<b>Time limit for making complaints</b> .....	<b>16</b>
<b>Appendix 1 - Complaints</b> .....	<b>18</b>
<b>Appendix 2 - What is not a complaint</b> .....	<b>19</b>
<b>Appendix 3 - Timelines</b> .....	<b>20</b>
<b>Appendix 4 - The complaints handling procedure</b> .....	<b>24</b>

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## **How to use this Complaints Handling Procedure (CHP)**

This document explains to Secretariat staff of the Board how to handle complaints. The [guide for applicants](#) provides information for applicants on the CHP. Together, these form JABS complaints handling procedure (CHP).

It is designed to be adopted as an internal document. It contains references and links to more details on parts of the procedure, such as how to record complaints, and the criteria for signing off and agreeing time extensions. These explain how to process, manage and reach decisions on different types of complaints.

When using this document, please also refer to the 'SPSO Statement of Complaints Handling Principles' and best practice guidance on complaints handling from the Complaints Standards Authority at the SPSO.

<http://www.valuingcomplaints.org.uk>

## **What is a complaint?**

The Scottish Public Sector Ombudsman's definition of a complaint is:

'An expression of dissatisfaction by one or more members of the public about the organisation's action or lack of action, or about the standard of service provided by or on behalf of the organisation.'

A complaint may relate to:

- inadequate standard of service;
- dissatisfaction with the policies of the Judicial Appointments Board for Scotland;
- treatment by, or attitude of, a Board member or member of the Secretariat;
- disagreement with a decision where the applicant cannot use another procedure (for example an appeal) to resolve the matter
- the Judicial Appointments Board for Scotland's failure to follow the appropriate administrative process.

This above list is primarily illustrative and does not cover everything that may be an admissible complaint.

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

A complaint is **not**:

- a request for compensation only
- issues that are in court or have already been heard by a court or a tribunal
- disagreement with a decision where a statutory right of appeal exists
- an attempt to reopen a previously concluded complaint or to have a complaint reconsidered where the Board has already given its final decision.

You must not treat these issues as complaints, and should instead direct applicants to use the appropriate procedures.

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

## **Handling anonymous complaints**

JABS value all complaints. This means JABS treat all complaints including anonymous complaints seriously and will take action to consider them further, wherever this is appropriate. Generally, JABS will consider anonymous complaints if there is enough information in the complaint to enable it to make further enquiries. If, however, an anonymous complaint does not provide enough information to enable JABS to take further action, it may decide not to pursue it further. Any decision not to pursue an anonymous complaint must be authorised by the Chief Executive/Chairing Member.

If an anonymous complaint makes serious allegations, it should be brought to the Chief Executive's attention immediately.

If JABS pursue an anonymous complaint further, it will record the issues as an anonymous complaint on the complaints system. This will help to ensure the completeness of the complaints data it records and allow it to take corrective action where appropriate.

### **What if the applicant does not want to complain?**

If an applicant has expressed dissatisfaction in line with the definition of a complaint but does not want to complain, tell them that the Board does consider all expressions of dissatisfaction, and that complaints offer JABS the opportunity to improve services where things have gone wrong. Encourage the applicant to submit their complaint and allow JABS to deal with it through the complaints handling procedure. This will ensure that the applicant is updated on the action taken and gets a response to their complaint.

If, however, the applicant insists they do not wish to complain, record the issue as an anonymous complaint. This will ensure that the applicant's details are not recorded on the complaints database and that they receive no further contact about the matter. It will also help to ensure the completeness of the complaints data recorded and will still allow JABS to fully consider the matter and take corrective action where appropriate.

Please refer to the example in [Appendix 1](#) for further guidance.

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

Anyone who receives, requests or is affected by JABS services can make a complaint. Sometimes an applicant may be unable or reluctant to make a complaint on their own. JABS may accept complaints brought by third parties as long as there is clear evidence that the applicant has given their personal consent.

### **Complaints involving more than one service or organisation**

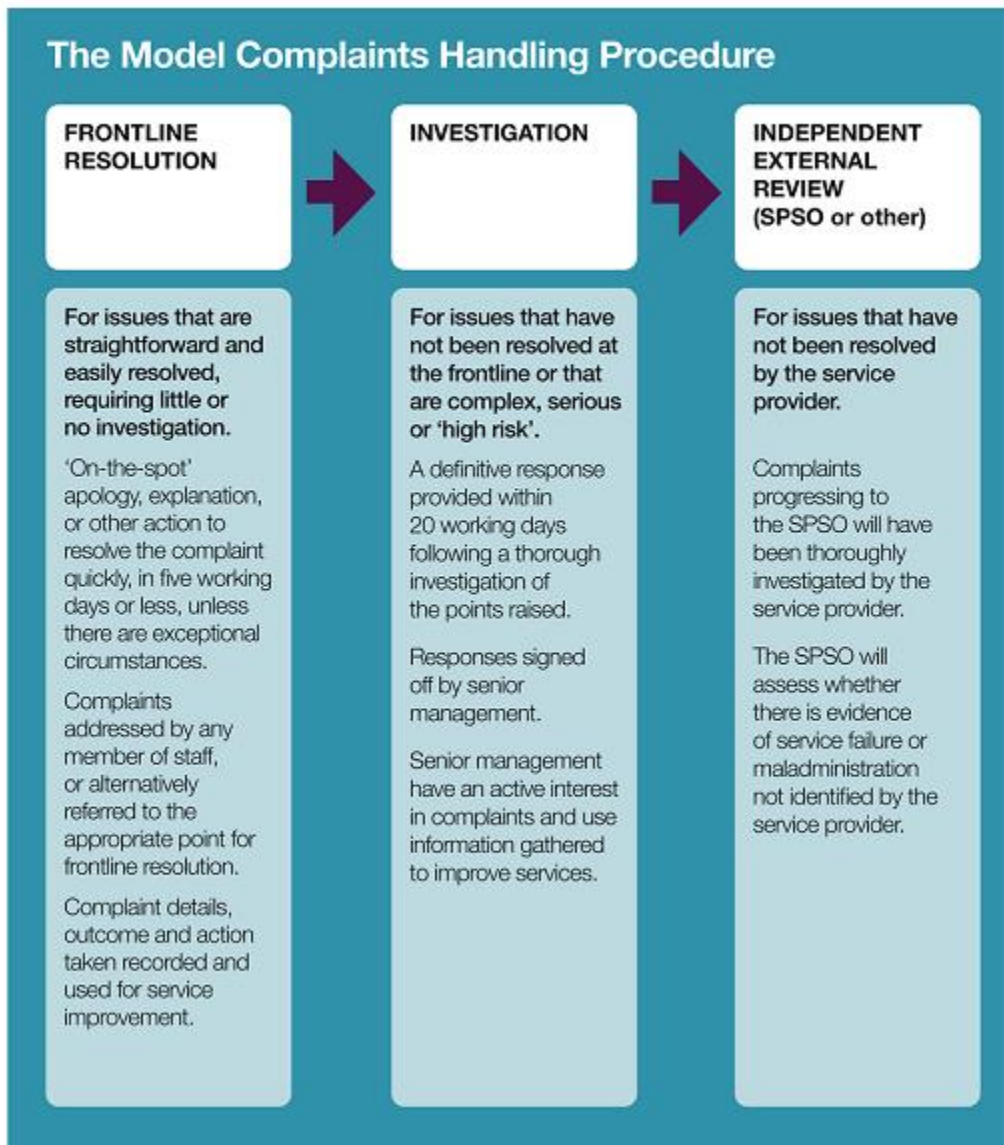
If an applicant complains to JABS about the service of another agency or public service provider, but JABS has no involvement in the issue, the applicant should be advised to contact the appropriate organisation directly. However, where, a complaint relates to a service provided by JABS and the service of another agency or public service provider, (for example a regulator, commissioner or a government department), and JABS has a direct interest in the issue, you must handle the complaint about JABS through the CHP. If you need to make enquiries to an outside agency in relation to the complaint always take account of data protection legislation and JABS guidance on handling an applicant's personal information. The Information Commissioner has detailed guidance on data sharing and has issued a data sharing code of practice .

## The complaints handling process

The JABS complaints handling procedure aims to provide a quick, simple and streamlined process for resolving complaints early and locally by capable, well-trained staff.

Our complaints process provides two opportunities to resolve complaints internally:

- **frontline resolution**, and
- **investigation**.



For clarity, the term 'frontline resolution' refers to the first stage of the complaints process. It does not reflect any job description within JABS but means seeking to resolve complaints at the initial point of contact where possible.

### Stage one: frontline resolution

Frontline resolution aims to quickly resolve straightforward applicant complaints that require little or no investigation. Any member of the Secretariat may deal with complaints at this stage.

The main principle is to seek early resolution, dealing with complaints at the earliest opportunity and as close to the point of service delivery as possible. This may mean a face-to-face discussion with the applicant, or asking another member of Secretariat to deal directly with the complaint.

**Appendix 1** gives examples of the types of complaint JABS may consider at this stage, with suggestions on how to resolve them.

In practice, frontline resolution means resolving the complaint at the first point of contact with the applicant, either by the member of secretariat receiving the complaint or other identified member of the secretariat.

In either case, you may settle the complaint by providing an on-the-spot apology where appropriate, or explaining why the issue occurred and, where possible, what will be done to stop this happening again. You may also explain that, as an organisation that values complaints, JABS may use the information given when it reviews its processes and procedures whilst of course preserving the anonymity of the applicant making the complaint.

An applicant can make a complaint in writing or by email, or in exceptional circumstances by having someone complain on their behalf. You must always consider frontline resolution, regardless of how you have received the applicant's complaint.

### ***What to do when you receive a complaint***

- 1 On receiving a complaint, you must first decide whether the issue can indeed be defined as a complaint. The applicant may express dissatisfaction about more than one issue. This may mean you treat one element as a complaint, while directing the applicant to pursue another element through an alternative route (see **Appendix 2**).
- 2 If you have received and identified a complaint, record the details on JABS complaints system.
- 3 Next, decide whether or not the complaint is suitable for frontline resolution. Some complaints will need to be fully investigated before you can give the applicant a suitable response. You must escalate these complaints immediately to the investigation stage.
- 4 Where you think frontline resolution is appropriate, you must consider four key questions:
  - What exactly is the applicant's complaint (or complaints)?
  - What does the applicant want to achieve by complaining?
  - Can I achieve this, or explain why not?
  - If I cannot resolve this, who can help with frontline resolution?



**What exactly is the applicant's complaint (or complaints)?**

It is important to be clear about exactly what the applicant is complaining. You may need to ask the applicant supplementary questions to get a full picture.

**What does the applicant want to achieve by complaining?**

At the outset, clarify the outcome the applicant wants. Of course, the applicant may not be clear about this, so you may need to probe further to find out what they expect and whether they can be satisfied.

**Can I achieve this, or explain why not?**

If you can achieve the expected outcome by providing an on-the-spot apology or explain why you cannot achieve it, you should do so. If you consider an apology is suitable, you may wish to follow the SPSO's guidance on the subject:

**[SPSO guidance on apology](#)**

The applicant may expect more than we can provide. If the applicant's expectations appear to exceed what JABS can reasonably provide, you must tell them as soon as possible in order to manage expectations about possible outcomes.

You may have to convey the decision face to face or on the telephone. If you do so face to face, by telephone or by email, you are not required to write to the applicant as well, although you may choose to do so. It is important, however, to keep a full and accurate record of the decision reached and how it was conveyed to the applicant.

**If I can't resolve this, who can help with frontline resolution?**

If you or other colleagues in the Secretariat cannot deal with the complaint because, for example, you are unfamiliar with the issues involved, pass details of the complaint to the Chief Executive to try to resolve it.

**Timelines**

Frontline resolution must be completed within **five working days of receipt of the complaint**, although in practice JABS should try to resolve the complaint much sooner subject to the availability of the applicant.

You may need to get more information from other services/members to resolve the complaint at this stage. However, it is important to respond to the applicant within five working days, either resolving the matter or explaining what will happen next.

### **Extension to the timeline**

In exceptional circumstances, where there are clear and justifiable reasons for doing so, you may agree **an extension of no more than five working days with the applicant**. This must only happen when an extension will make it more likely that the complaint will be resolved at the frontline resolution stage.

When you ask for an extension, you must get authorisation from the Chief Executive, who will decide whether you need an extension to effectively resolve the complaint. Examples of when this may be appropriate may include when Secretariat, Board members are temporarily unavailable. If, however, the issues are so complex that they cannot be resolved in five days, it may be more appropriate to escalate the complaint straight to the investigation stage. You must tell the applicant about the reasons for the delay, and when they can expect your response.

If the applicant does not agree to an extension but a delay is unavoidable and reasonable, the Chief Executive must decide on the extension. You must then tell the applicant about the delay and explain the reason for the decision to grant the extension.

It is important that such extensions do not become the norm. Rather, the timeline at the frontline resolution stage should be extended only rarely. All attempts to resolve the complaint at this stage must take no longer than **ten working days** from the date you receive the complaint.

The proportion of complaints that exceed the five-day limit will be evident from reported statistics. These statistics must go to the Board on a quarterly basis, if there any complaints to report that quarter.

[Appendix 3](#) provides further information on timelines.

### **Closing the complaint at the frontline resolution stage**

It is recommended that you inform the applicant of the outcome in writing. You must ensure that the Board's response to the complaint addresses all areas that it is responsible for and explains the reasons for its decision. It is also important to keep a full and accurate record of the decision reached and given to the applicant. The complaint should then be closed and the complaints system updated accordingly.

### **When to escalate to the investigation stage**

A complaint must be escalated to the investigation stage when:

- frontline resolution was tried but the applicant remains dissatisfied and requests an investigation into the complaint. This may happen immediately on communicating the decision at the frontline stage or up to two weeks later
- the applicant refuses to take part in the frontline resolution process
- the issues raised are complex and require detailed investigation
- the complaint relates to serious, high-risk or high-profile issues.

When a previously closed complaint is escalated from the frontline resolution stage, the complaint should be reopened on the complaints system.

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 Board input. The SPSO defines 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 providing, or repeated failures to provide, a service
- generate significant and on-going press interest
- pose a serious risk to the operations of the Board
- present issues of a highly sensitive nature.

## **Stage two: investigation**

Not all complaints are suitable for frontline resolution and not all complaints will be satisfactorily resolved at that stage. Complaints handled at the investigation stage of the complaints handling procedure are typically complex or require a detailed examination before the Board can state its position. These complaints may already have been considered at the frontline resolution stage, or they may have been identified from the start as needing immediate investigation.

An investigation aims to establish all the facts relevant to the points made in the complaint and to give the applicant a full, objective and proportionate response that represents the Board's final position.

### **What to do when you receive a complaint for investigation**

It is important to be clear from the start of the investigation stage exactly what you are investigating, and to ensure that both the applicant and the Board understand the investigation's scope.

It may be helpful to discuss and confirm these points with the applicant at the outset, to establish why they are dissatisfied and whether the outcome they are looking for sounds realistic. In discussing the complaint with the applicant, consider three key questions:

1. What specifically is the applicant's complaint or complaints?
2. What does the applicant want to achieve by complaining?
3. Are the applicant's expectations realistic and achievable?

It may be that the applicant expects more than JABS can provide. If so, you must make this clear to them as soon as possible.

Where possible you should also clarify what additional information you will need to investigate the complaint. The applicant may need to provide more evidence to help JABS reach a decision.

Details of the complaint must be recorded on the system for recording complaints. Where appropriate, this will be done as a continuation of frontline resolution. The details must be updated when the investigation ends.

If the investigation stage follows attempted frontline resolution, you must hand over all case notes and associated information to the Complaints Committee responsible for the investigation, and record that you have done so.

### **Timelines**

The following deadlines are appropriate to cases at the investigation stage:

- complaints must be acknowledged within **three working days**
- you should provide a full response to the complaint as soon as possible but in all but exceptional circumstances not later than **20 working days** from the time you received the complaint for investigation.

### **Extension to the timeline**

Not all investigations will be able to meet this deadline. For example, some complaints are so complex that they require careful consideration and detailed investigation beyond the 20-day limit. However, these would be the exception and you must always try to deliver a final response to a complaint within 20 working days.

If there are clear and justifiable reasons for extending the timescale, the Board will set time limits on any extended investigation, as long as the applicant agrees. You must keep the applicant updated on the reason for the delay and give them a revised timescale for completion. If the applicant does not agree to an extension but it is unavoidable and reasonable, then the Board must consider and confirm the extension. The reasons for an extension might include the following:

- Essential accounts or statements, crucial to establishing the circumstances of the case, are needed from Secretariat/Board Members, or others but they cannot help because of long-term sickness or leave.
- You cannot obtain further essential information within normal timescales.
- Operations are disrupted by unforeseen or unavoidable operational circumstances, for example industrial action or severe weather conditions.
- The applicant has agreed to mediation as a potential route for resolution.

These are only a few examples, and you must judge the matter in relation to each complaint. However, an extension would be the exception and you must always try to deliver a final response to the complaint **within 20 working days**.

As with complaints considered at the frontline stage, the proportion of complaints that exceed the 20-day limit will be evident from reported statistics. Where appropriate these statistics must go to the Board on a quarterly basis.

**Appendix 3** provides further information on timelines.

### **Mediation**

Some complex complaints, or complaints where applicants and other interested parties have become entrenched in their position, may require a different approach to resolving the complaint. Where appropriate, you may consider using services such as mediation or conciliation using suitably trained and qualified mediators to try to resolve the matter and to reduce the risk of the complaint escalating further.

Mediation will help both parties to understand what has caused the complaint, and so is more likely to lead to mutually satisfactory solutions.

If you and the applicant agree to mediation, revised timescales will need to be agreed.

The Board would be happy to pursue mediation where appropriate but recognises that most applicants are unlikely to wish to pursue this avenue of resolution in order to preserve the confidentiality of their candidacy.

### **Closing the complaint at the investigation stage**

You must let the applicant know the outcome of the investigation, in writing or by their preferred method of contact. The Board's response to the complaint must address all areas that it is responsible for and explain the reasons for its decision. You must record the decision, and details of how it was communicated to the applicant, on the system for recording complaints. You must also make clear to the applicant:

- their right to ask SPSO to consider the complaint
- the time limit for doing so, and
- how to contact the SPSO.

### ***Independent external review***

Once the investigation stage has been completed, the applicant has the right to approach the SPSO if they remain dissatisfied.

The SPSO considers complaints from people who remain dissatisfied at the conclusion of JABS complaints handling procedure. The SPSO looks at issues such as service failures and maladministration (administrative fault), as well as the way JABS has handled the complaint.

The SPSO recommends that you use the wording below to inform applicants of their right to ask SPSO to consider the complaint. The SPSO also provides a leaflet, [The Ombudsman and your organisation](#), which you may find helpful in deciding how and when to refer someone to the SPSO.

#### **Information about the SPSO**

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.

The SPSO's contact details are:

SPSO  
4 Melville Street

Edinburgh  
EH3 7NS

SPSO  
Freepost EH641  
Edinburgh  
EH3 0BR

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>

## **Governance of the Complaints Handling Procedure**

### **Roles and responsibilities**

Overall responsibility and accountability for the management of complaints lies with the Chief Executive.

JABS final position on the complaint must be signed off by the Board and it will confirm that this is its final response. This ensures that JABS own and are accountable for the decision. It also reassures the applicant that their concerns have been taken seriously.

**The Chief Executive** provides leadership and direction in ways that guide and enable us to perform effectively across all services. This includes ensuring that there is an effective complaints handling procedure, with a robust investigation process that demonstrates how we learn from the complaints we receive. The Chief Executive may take a personal interest in all or some complaints, or may delegate responsibility for the complaint handling procedure to secretariat staff. Regular management reports assure the Chief Executive of the quality of complaints performance.

**The Chairing Member of the Board and at his or her discretion the Chief Executive** are responsible for overseeing the Complaints Handling Procedure (CHP). This includes:

- managing complaints and the way we learn from them;
- overseeing the implementation of actions required as a result of a complaint ; and
- supporting the Complaints Committee and ensuring that adequate resource is available.

### **Complaints Committee:**

The Complaints Committee is responsible and accountable for the management of the investigation. The Chairing Member in consultation with the Chief Executive will establish a Complaints Committee. Due to the unique statutory balance between legally qualified and lay members of the Board, the Chairing Member will wish to ensure that both are represented on the Complaints Committee where appropriate. Depending on the nature of the complaint it may be appropriate for a member, or members, of the Secretariat to be on the Committee. The Committee will prepare a comprehensive written report, including details of any procedural changes that could result in wider opportunities for learning within JABS.

### **Secretariat:**

A complaint may be made to any member of the Secretariat in JABS. So all staff must be aware of the complaints handling procedure (CHP) and how to handle and record complaints at the frontline stage. They should also be aware of who to refer a complaint to, in case they are not able to personally handle the matter. JABS encourage all staff to try to resolve complaints early, as close to the point of service delivery as possible, and quickly to prevent escalation.

### **SPSO liaison:**

The Secretariat will act as the JABS SPSO liaison, the role may include providing complaints information in an orderly, structured way within requested timescales, providing comments on



factual accuracy on JABS behalf in response to SPSO reports, and confirming and verifying that recommendations have been implemented.

### **Complaints about senior staff/Board Member**

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

### **Recording, reporting, learning and publicising**

Complaints provide valuable applicant feedback. One of the aims of the complaints handling procedure is to identify opportunities to improve services within JABS. JABS must record all complaints in a systematic way so that it can use the complaints data for analysis and management reporting. By recording and using complaints information in this way, JABS can identify and address the causes of complaints and, where appropriate, identify training opportunities and introduce service improvements.

### **Recording complaints**

The *Complaints Tracker* will take the form of a template held in the G Drive, accessible to the JABS Secretariat. All updating will be carried out by the Board Policy Officer. To collect suitable data it is essential to record all complaints in line with SPSO minimum requirements, as follows:

- the applicant's name and address
- the date the complaint was received
- the nature of the complaint
- how the complaint was received
- the service the complaint refers to
- the date the complaint was closed at the frontline resolution stage (where appropriate)
- the date the complaint was escalated to the investigation stage (where appropriate)
- action taken at the investigation stage (where appropriate)
- the date the complaint was closed at the investigation stage (where appropriate)
- the outcome of the complaint at each stage
- the underlying cause of the complaint and any remedial action taken.

JABS has a structured system for recording complaints, their outcomes and any resulting action see [template](#).

### **Reporting of complaints**

Complaints details are analysed for trend information to ensure the Board identifies any problems with the selection processes and takes appropriate action. Regularly reporting the analysis of complaints information helps to inform the Board of where processes/procedures need to improve.

Where applicant confidentiality would not be at risk, JABS should publish on a quarterly basis the outcome of complaints and the actions it has taken in response. This demonstrates the improvements resulting from complaints and shows that complaints can influence JABS processes

and procedures. It also helps ensure transparency in JABS complaints handling service and will help JABS applicants see that it values their complaints.

Where appropriate the Board may:

- publicise on a quarterly basis complaints outcomes, trends and actions taken
- use case studies and examples to demonstrate how complaints have helped improve services.

This information should be reported regularly (as appropriate) to the Board.

### **Learning from complaints**

At the earliest opportunity after the closure of the complaint, the complaint handler should always make sure that the applicant and Secretariat understand the findings of the investigation and any recommendations made.

The Board will review the information gathered from complaints regularly and consider whether its processes could be improved or internal policies and procedures updated.

As a minimum, JABS must:

- use complaints data to identify the root cause of complaints
- take action to reduce the risk of recurrence
- record the details of corrective action in the complaints file, and
- systematically review complaints performance reports to improve selection processes.

Where JABS have identified the need for service improvement:

- the action needed to improve selection processes must be authorised
- a member of the Secretariat should be designated the 'owner' of the issue, with responsibility for ensuring the action is taken
- a target date must be set for the action to be taken
- the designated individual must follow up to ensure that the action is taken within the agreed timescale
- where appropriate, performance should be monitored to ensure that the issue has been resolved
- JABS must ensure that staff/board members learn from complaints.

### **Publicising complaints performance information**

JABS should also report on its performance in handling complaints annually in line with SPSO requirements. This includes performance statistics showing the volumes and types of complaints and key performance details, for example on the time taken and the stage at which complaints were resolved.

### **Maintaining confidentiality**

Confidentiality is important in complaints handling. It includes maintaining the applicant's confidentiality and explaining to them the importance of confidentiality generally. JABS must always bear in mind legal requirements, for example, data protection legislation, as well as internal policies on confidentiality and the use of applicants' information.

### **Managing unacceptable behaviour**

People may act out of character in times of trouble or distress. The circumstances leading to a complaint may result in the applicant acting in an unacceptable way. Applicants who have a history of challenging or inappropriate behaviour, or have difficulty expressing themselves, may still have a legitimate grievance.

An applicant's reasons for complaining may contribute to the way in which they present their complaint. Regardless of this, JABS must treat all complaints seriously and properly assess them. However, JABS also recognise that the actions of applicants who are angry, demanding or persistent may result in unreasonable demands on time and resources or unacceptable behaviour towards its staff/members. JABS will, therefore, apply its policies and procedures to protect staff/members from unacceptable behaviour such as unreasonable persistence, threats or offensive behaviour from applicants. Where the Board decides to restrict access to an applicant under the terms of an unacceptable actions policy, it has a procedure in place to communicate that decision, notify the applicant of a right of appeal, and review any decision to restrict contact with JABS. This will allow the applicant to demonstrate a more reasonable approach later.

### **Supporting the applicant**

All members of the community have the right to equal access to JABS complaints handling procedure. Applicants who do not have English as a first language may need help with interpretation and translation services, and other applicants may have specific needs that JABS will seek to address in a proportionate way to ensure easy access to the complaints handling procedure.

JABS must always take into account its commitment and responsibilities to equality. This includes making reasonable adjustments to the application process to help the applicant where appropriate.

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

This complaints handling procedure sets a time limit of 20 working days from when the applicant first knew of the problem, within which time they may ask us to consider the complaint, unless there are special circumstances for considering complaints beyond this time.

We will apply this time limit with discretion. In decision making we will take account of the Scottish Public Services Ombudsman Act 2002 (Section 10(1)), which sets out the time limit within which a member of the public can normally ask the SPSO to consider complaints. The limit is one year from when the person first knew of the problem they are complaining about, unless there are special circumstances for considering complaints beyond this time.

If it is clear that a decision not to investigate an applicant's complaint will lead to a request for external review of the matter, JABS may decide that this satisfies the special circumstances criteria. This will enable the Board to consider the complaint and try to resolve it.

## Appendix 1 - Complaints

The following table organisations provides specific examples of the type of complaints that may be considered and resolved at the frontline stage..

<b>Complaint</b>	<b>Possible actions to achieve resolution</b>
Unable to access online application form	Issue an apology and advise of remedial steps which can be implemented
Missed closing date	Consider the circumstances and attempt to resolve
A candidate expresses dissatisfaction in line with the definition of a complaint, but says he/she does not want to complain – just wants to tell us about the matter.	<ul style="list-style-type: none"><li data-bbox="890 689 1449 853">• Tell the candidate that JABS value complaints because they help to improve services. Encourage them to submit the complaint.</li><li data-bbox="890 860 1449 1397">• In terms of improving selection processes and learning from mistakes, it is important that candidate feedback, such as this, is recorded, evaluated and acted upon. Therefore, if the candidate still insists that they do not want to complain, record the matter as an anonymous complaint. This will avoid breaching the complaints handling procedure. Reassure the candidate that they will not be contacted again about the matter.</li></ul>

## **Appendix 2 - What is not a complaint**

**Example 1:** appeals from applicants against the decisions of the Board not to recommend them for judicial office.

**Example 2:** requests for compensation.

**Example 3:** Freedom of Information or Environmental Information request decisions.

**Example 4:** Legal proceedings or judgements.

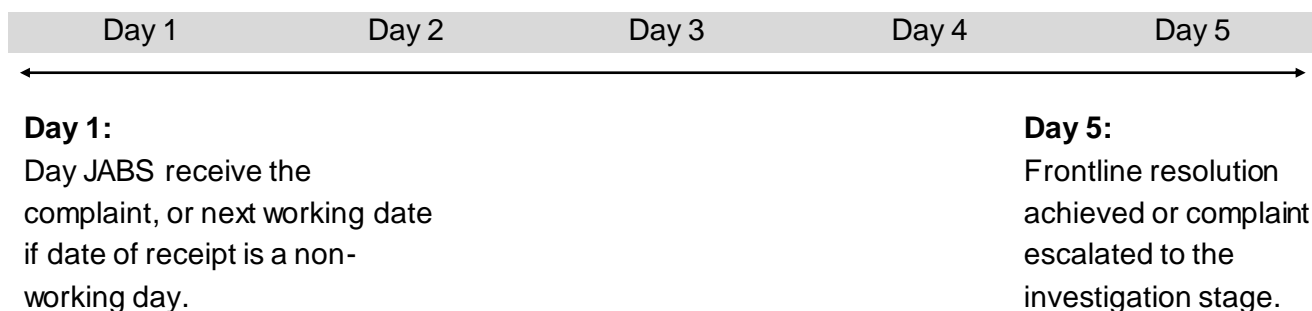
## Appendix 3 - Timelines

### General

References to timelines throughout the complaints handling procedure relate to working days. When measuring performance against the required timelines, JABS does not count non-working days, for example weekends, public holidays and days of industrial action where our service has been interrupted.

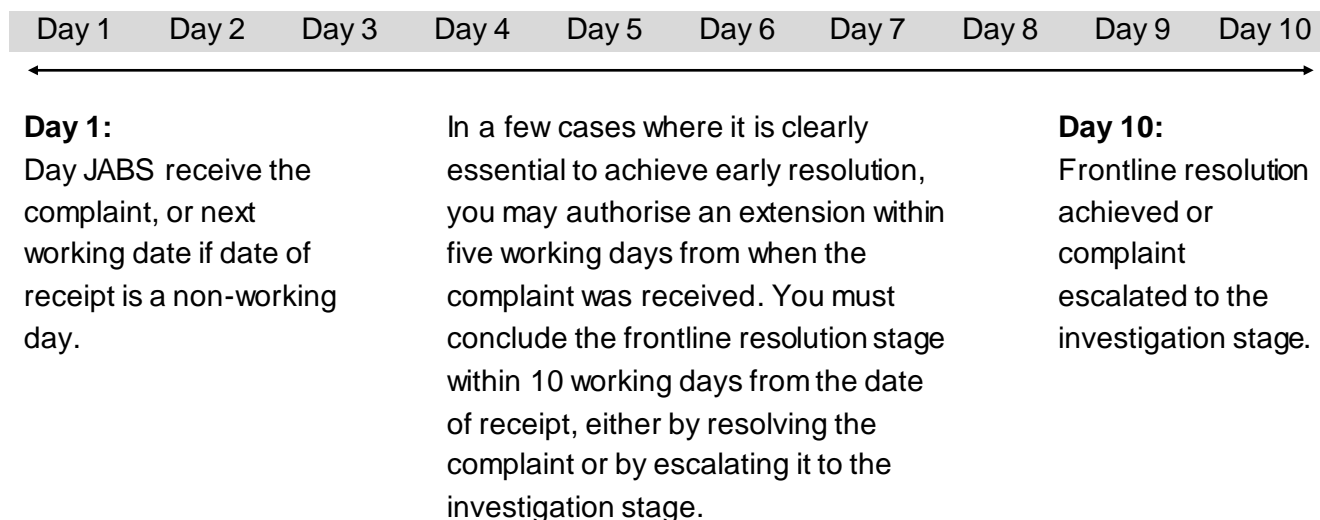
### Timelines at frontline resolution

You must aim to achieve frontline resolution within five working days. The day you receive the complaint is day 1. Where you receive it on a non-working day, for example at the weekend or on a public holiday, day 1 will be the next working day.



### Extension to the five-day timeline

If you have extended the timeline at the frontline resolution stage in line with the procedure, the revised timetable for the response must take no longer than 10 working days from the date of receiving the complaint.



### Transferring cases from frontline resolution to investigation

If it is clear that frontline resolution has not resolved the matter, and the applicant wants to escalate the complaint to the investigation stage, the case must be passed for investigation without delay. In practice this will mean on the same day that the applicant is told this will happen.

### Timelines at investigation

You may consider a complaint at the investigation stage either:

- after attempted frontline resolution, or
- immediately on receipt if you believe the matter to be sufficiently complex, serious or appropriate to merit a full investigation from the outset.

### Acknowledgement

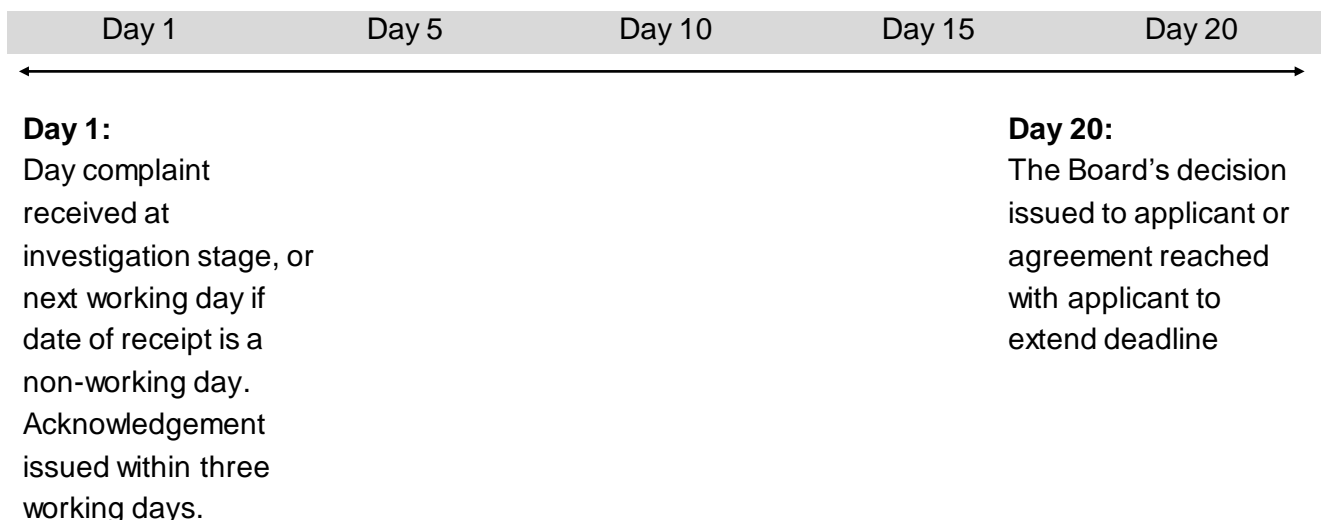
All complaints considered at the investigation stage must be acknowledged within **three working days** of receipt. The date of receipt is:

- the day the case is transferred from the frontline stage to the investigation stage, where it is clear that the case requires investigation, or
- the day the applicant asks for an investigation after a decision at the frontline resolution stage. You should note that an applicant may not ask for an investigation immediately after attempts at frontline resolution, or
- the date you receive the complaint, if you think it sufficiently complex, serious or appropriate to merit a full investigation from the outset.

### Investigation

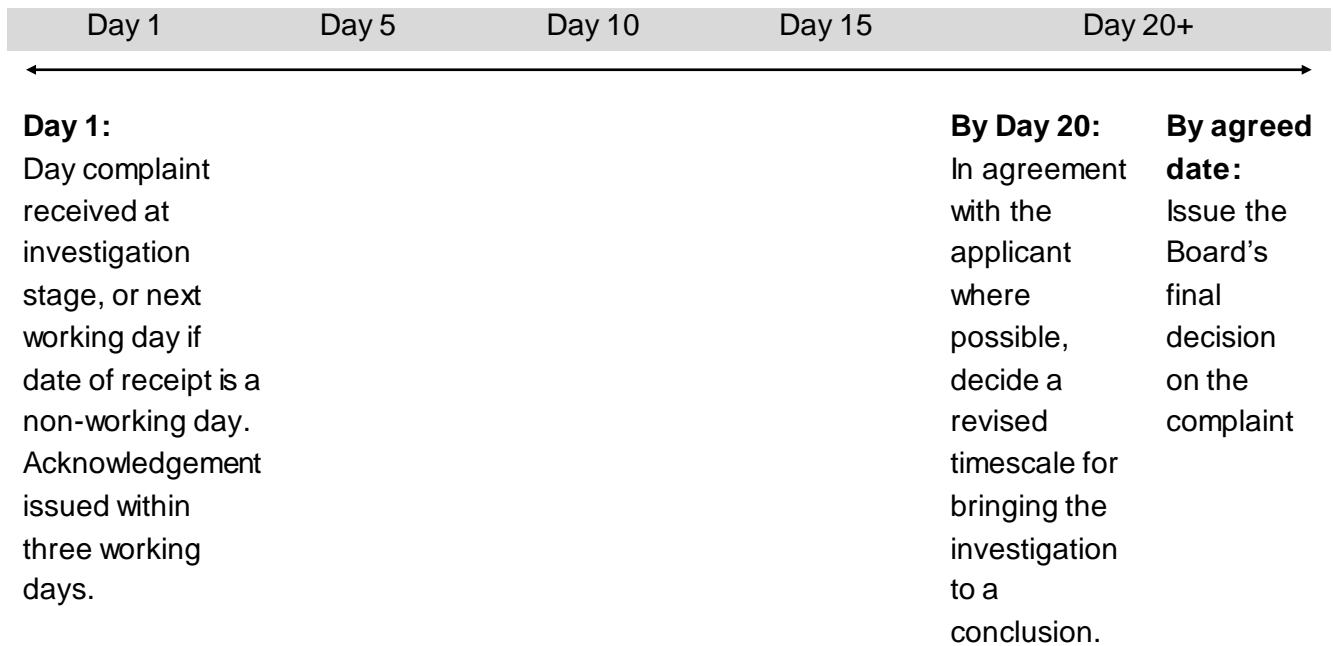
You should respond in full to the complaint within **20 working days** of receiving it at the investigation stage.

The 20-working day limit allows time for a thorough, proportionate and consistent investigation to arrive at a decision that is objective, evidence-based and fair. This means you have 20 working days to investigate the complaint, regardless of any time taken to consider it at the frontline resolution stage.



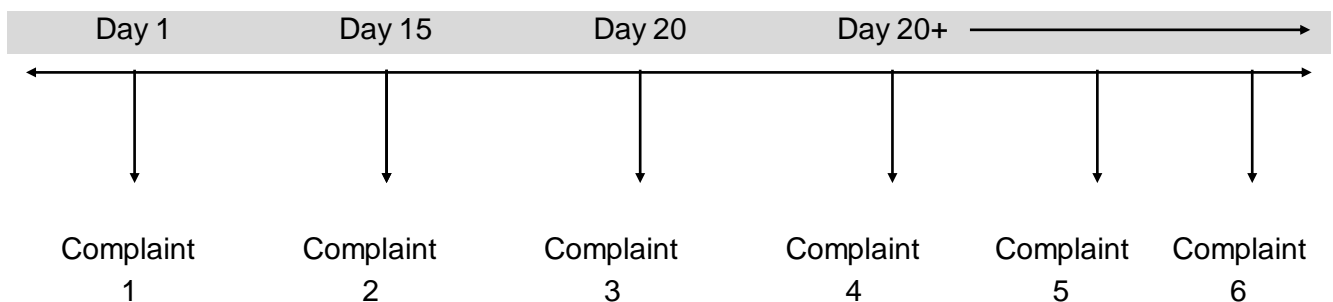


Exceptionally you may need longer than the 20-day limit for a full response. If so, you must explain the reasons to the applicant, and agree with them a revised timescale.



### Timeline examples

The following illustration provides examples of the point at which the Board conclude its consideration of a complaint. It is intended to show the different stages and times at which a complaint may be resolved.



The circumstances of each complaint are explained below:

### Complaint 1

Complaint 1 is a straightforward issue that may be resolved by an on-the-spot explanation and, where appropriate, an apology. Such a complaint can be resolved on day 1.

### Complaint 2

Complaint 2 is also a straightforward matter requiring little or no investigation. In this example, resolution is reached at day three of the frontline resolution stage.

### **Complaint 3**

Complaint 3 refers to a complaint that JABS considered appropriate for frontline resolution. JABS did not resolve it in the required timeline of five working days. However, the Board authorised an extension on a clear and demonstrable expectation that the complaint would be satisfactorily resolved within a further five days. JABS resolved the complaint at the frontline resolution stage in a total of eight days.

### **Complaint 4**

Complaint 4 was suitably complex or serious enough to pass to the investigation stage from the outset. The Board did not try frontline resolution; rather it investigated the case immediately. The Board issued a final decision to the applicant within the 20-day limit.

### **Complaint 5**

The Board considered complaint 5 at the frontline resolution stage, where an extension of five days was authorised. At the end of the frontline stage the applicant was still dissatisfied. At their request, the Board conducted an investigation and issued its final response within 20 working days. Although the end-to-end timeline was 30 working days the Board still met the combined time targets for frontline resolution and investigation.

### **Complaint 6**

Complaint 6 was considered at both the frontline resolution stage and the investigation stage. The Board did not complete the investigation within the 20-day limit, so it agreed a revised timescale with the applicant for concluding the investigation beyond the 20-day limit.

## Appendix 4 - The complaints handling procedure

The Chairing Member of the Board will establish a Complaint Committee of three Board members who, where possible, have had no previous direct involvement in the matter complained of to consider and reach a determination on the complaint.

