



Jersey Care  
Commission

# **Complaints Policy**

**Concerns and complaints about the  
provision of care**

**September 2022**

## Version Control

March 2020	Policy ratified
March 2021	Policy reviewed. No changes made. Accompanying complaints leaflet ratified.
March 2022	Escalation and Enforcement Policy reviewed. Addition of the need to signpost complainants when complaints received pertaining to non-regulated activities.
July 2022	Policy reviewed and revised.

## **1. Policy Statement**

The Jersey Care Commission ('the Commission') is the independent regulator of health and social care services throughout Jersey.

The Commission was established under the provisions of the Regulation of Care (Jersey Law) 2014 ('the Law'). Its role is to regulate, inspect and support the improvement of care services in meeting the needs of people who use and rely upon these services. Its ambition is to ensure that people receive care, which is of a high quality, safe and person-centred; where the rights, needs and choices of individuals are at the heart of service delivery.

The purpose of this policy is to provide the framework for responding to complaints or concerns made to, or raised with, the Commission about registered services (also referred to as regulated activities).

The Commission has a duty to ensure that complaints about registered services are dealt with appropriately.

The Commission can undertake investigations or ask for an investigation to be undertaken by another party; this can include the care provider.

This policy and procedure should be read alongside the following policies:

- The Commission's Inspection Policy
- The Commission's Escalation, Enforcement and Review policy (which describes the action which the Commission may take when it becomes aware of failings relating to standards of care)

This policy includes reference to the law underpinning the delivery of services and the roles and responsibilities of Commission staff. There is a separate policy which relates to complaints made about the Commission itself.

The Commission will ensure that complaints about services are managed in accordance with this policy and associated procedures, guidance and protocols.

## **2. Legislative Context**

The Law requires the Commission to ensure that complaints concerning the carrying on of a regulated activity are dealt with and, if appropriate, investigated, whether by the Commission itself or by another person.

Regulated activities currently include care homes, home care services, children's residential homes and adult day care services. This policy does not extend to areas of other health and care provision.

The Law is supported by the Regulation of Care (Standards and Requirements) (Jersey) Regulations 2018 ('the Regulations').

The Regulations are interpreted in the form of a series of Standards ('the Standards'). It is in respect of these Standards that regulated services are inspected.

The Regulations require service providers to have robust arrangements in place for managing complaints.

The Commission is required by the Law to decide upon and publish its procedures for dealing with and investigating complaints.

## **3. Scope**

This policy applies to all staff involved in the regulation, inspection and monitoring of regulated services in Jersey, including staff members working in the Commission and the Board of Commissioners.

## **4. Definitions**

### **4:1. Complaint**

The Commission defines a complaint as an expressed concern about any aspect of the quality of care being delivered by a regulated activity. A complaint can be made by one person, or more than one person. It may be verbal or communicated by email, or by letter.

A complaint may relate to:

- Alleged breaches of Regulations or Standards
- Care being delivered in a way which is not safe for the person in receipt of the service
- Evidence that the rights of a person receiving a service are not being upheld
- Behaviour, practice or conduct of staff
- Evidence that quality of staff training is not of a good enough standard
- Concerns relating to the numbers of staff being inadequate to meet the needs of residents/those in receipt of services
- Concerns relating to the environment; use of equipment and concerns relating to moving and handling safety

Although these examples are likely to correlate to most categories of complaints, it is important to note that this is not an exhaustive list.

#### **4:2. Complainant**

A person making a complaint will be referred to as a complainant.

A person making a complaint may include residents/care receivers, family members, members of staff and other members of the public. (Whistleblowing concerns are not within the scope of this policy and will be dealt with through an alternative process).

The Commission will consider all complaints, including any that are made anonymously.

#### **5. Complaints on behalf of another person**

It is acceptable for someone to make a complaint on behalf of another person. This is sometimes appropriate, particularly when a person is either reluctant, or is incapable of making a complaint themselves.

If a person has capacity to consent to a complaint being made on their behalf but does not consent, the Commission will be unable to consider the complaint.

Notable exceptions are in respect of concerns relating to child protection, adult safeguarding, or allegations of criminal behaviour. In these cases, the Commission will act, irrespective of matters relating to consent.

## **6. Access to personal information**

In situations where it is not clear that a complainant has the relevant person's consent, or where it appears that the complainant is not legally entitled to having access to personal information, the Commission will not share such personal information, irrespective of whether the complaint is progressed by the Commission.

## **7. Anonymous Complaints**

The Commission regards all complaints seriously, including any that are made anonymously.

It is not necessary for a complainant to provide their name or contact details. However, if a complainant wishes to remain anonymous, it will not be possible for the Commission to seek further information regarding the nature of the complaint, or to correspond with the complainant about the progress of the investigation, or to provide information about the outcome.

The Commission will consider anonymous complaints only when there is enough information to enable further enquiries. In situations where there is insufficient information to facilitate further action, the Commission reserves the right to take no further action.

The Commission may discuss an anonymous complaint with other agencies to determine whether there is additional information held elsewhere which may help to verify the complaint or assist any investigation.

In all cases, regulation officers will retain a record of the complaint to inform any subsequent inspections of regulated activities.

## **8. Complaints about more than one service**

If a complaint is received relating to two or more registered care services, the Commission will address these separately and may provide separate responses following any investigation which may be undertaken.

## **9. Complaints about unregulated services**

If a complaint is received which concerns a provider of a service which is not registered with the Commission, the complainant will be advised of this and invited either to contact the relevant service directly or to contact the body responsible for managing complaints about this service.

## **10. Information sharing and confidentiality**

Provided that the complainant agrees, the Commission may share the complainant's details with the service provider. This will enable the service provider to communicate directly with the complainant about the nature of the complaint, to initiate an internal investigation as necessary and to provide a response stating whether the complaint is upheld and how any remedy will be provided.

If the complainant does not wish their identity or contact details to be shared with the care service, this request will normally be respected. However, this will limit the extent to which the Commission can undertake an investigation. The Commission should consider whether the identity of the complainant is likely to become known to the service provider during an investigation. In such circumstances, the Commission will endeavour to contact the complainant to discuss with them how best the complaint should or could be progressed.

When a complainant provides their identity and contact details but asks for their details to remain confidential, the Commission will maintain contact with them to clarify information, provide updates and to advise of the outcome of the investigation.

## **11. Responsibilities**

The process of managing and responding to complaints will be overseen by the Chief Inspector who is accountable to the Commission's Board.

The Board has corporate responsibility for ensuring that the aims and objectives of the Commission are fulfilled. It will monitor the number and nature of complaints received and the responses provided by the Commission.

A senior officer will ensure that information in relation to complaints is managed and retained in accordance with relevant legislation and locally agreed protocols.

Regulation officers are required to gather information pertaining to complaints to ensure that the responses provided by the Commission are consistently evidence-based. They have a responsibility for ensuring that the rights, needs and well-being of care receivers remain central throughout any complaint investigation.

Regulation officers will ensure that the values and principles embedded within the Commission's constitution are properly upheld throughout the process of investigating complaints.

## **12. Extent of the policy**

The Commission can only respond to complaints which relate to regulated activities.

Complaints which relate to any of the following are outside of the extent of this policy:

- Matters which are before a court or which have already concluded a process relating to a court or a tribunal
- Any complaint which has previously been upheld by a regulated service and where corrective action has already been taken by the service
- Complaints relating to internal staff employment matters, such as those pertaining to contracts, pay and conditions and grievances
- Complaints relating to any matters which are beyond the remit of the care service in question



- Complaints relating to Government of Jersey’s contracting arrangements with individual services
- Any attempt by a complainant to reopen a complaint which has already been concluded, or to require the Commission to reconsider its decision when a final decision has already been made
- Child protection and adult safeguarding concerns. Whilst these concerns are within the scope of the Commission, such concerns/complaints will be referred to the relevant authority (including social services departments or the police), prior to the Commission undertaking investigatory work itself
- Allegations or evidence of a criminal offence. The Commission will refer any such intelligence to the relevant authority i.e., States of Jersey Police

If a complaint is received which is outside the remit of the Commission, or which would be better dealt with by a different agency, the Commission will advise the complainant accordingly.

The Commission will not consider complaints relating to the treatment of a relative/visitor by a registered provider. However, any such concerns should be raised by the complainant directly with the manager or provider of the service, as appropriate.

### **13. Public protection and criminal acts**

The Commission has a duty and a responsibility to protect people from harm, abuse and neglect. All complaints which are considered to have an aspect which relates to either child protection or adult safeguarding will be referred to the relevant social work agencies, the Jersey Safeguarding Partnership Board and, where appropriate, the States of Jersey Police.

All complaints relating to a criminal matter will be referred directly to the police.

The Commission has several memoranda of understanding with other regulators and professional bodies. If a matter is raised which relates to the regulatory functions of another body, the Commission may share information in line with its obligations set out in the relevant memoranda of understanding. The Commission will endeavour to inform the complainant if this needs to happen.

Where concerns are raised about professional conduct of a staff member who holds a professional registration, such as a doctor, nurse, social worker or allied health professional, the Commission may redirect the complainant to the relevant professional regulatory authority or may make a referral directly.

Although the Commission will endeavour to inform the complainant that a complaint has been referred to one or more of the organisations above, it will not seek permission from the complainant to do this. (The Commission is obliged to share such information in the interests of either public protection, or the need to report criminal offences).

Unless otherwise stated, the Commission will not consider these matters to have been resolved until the relevant processes have been concluded by the appropriate organisations. The Commission will determine whether it has any role in either inspecting or investigating any service, or in taking any further action.

In some instances, the Commission may undertake an investigation or inspection in advance of any another regulatory body reaching a final decision.

## **14. Making a complaint**

### **14.1. Guidance**

As a point of principle, the Commission will always endeavour to contact the complainant at the earliest opportunity to establish the scope of the complaint and ascertain what the complainant is hoping to achieve.

Complaints may be made via email, telephone, in writing, or in person at the office of the Commission. Verbal complaints will be acknowledged by the person receiving the complaint immediately and, if desired, will be followed through with a record of the detail of the complaint. Other complaints, for example those received via email or in writing will receive an acknowledgement within three working days.

It is essential that any information pertaining to a complaint includes facts such as dates, times, places, and names of people.

## **14.2. Making a complaint: Time Limits**

The Commission recognises the importance of being able to investigate complaints at or close to the time the issue arose. It is more likely that evidence will be of sufficient value to enable a fair and impartial assessment of the complaint to be made and to enable the complaint to be investigated properly.

The Commission will usually consider complaints which are reported within six months of the issue having arisen. It is acknowledged that there may be good reason for a complaint not having been made earlier. However, the Commission will always deal with complaints in a manner which is thorough and fair. The Commission will need to consider whether the passage of time might preclude a successful investigation being undertaken.

The Commission will need to consider whether investigations which would involve gathering information of an historical nature, could realistically result in an outcome which is meaningful. If the Commission determines that this would not be achievable, it may decide not to accept or progress a complaint.

Information relating to historical concerns can still be of value in informing the annual inspections of regulated services. Therefore, the Commission may decide to retain any such information with a view towards enhancing the quality of future regulatory activity.

Where a complaint is made outside of the six-month timescale, the Commission will ask the complainant why the complaint was not made earlier. This is not to infer any criticism, but to better understand the rationale associated with any delay.

The Commission will not normally investigate historical complaints relating to concerns arising prior to the establishment of the Commission on 1 January 2019.

If there are exceptional circumstances, the Commission may decide to investigate an historical complaint: for example, where the complainant can show that they had good reason to delay because of health or personal difficulties, or where there is evidence of an ongoing risk of harm to one or more service users.

The Commission will not investigate an historical complaint that has already been investigated by the service provider or by any other body, such as Health and Community Services, unless there is evidence of on-going risk or harm.

### **14.3. Making a Complaint: complaining directly to a service provider**

The Commission will always encourage a complainant to raise any concerns directly with the service provider, in the first instance.

The Regulations require that all regulated services have in place effective procedures for identifying, receiving, handling and responding appropriately to complaints and comments. These procedures must include the keeping of adequate records about the nature of any complaint, the investigation and the outcome.

The service provider must inform the complainant of the outcome of any complaint investigation and, where appropriate, any action taken to remedy the complaint. This outcome should be provided within 15 working days, or, in more complex cases, the complainant will be contacted and advised of the reason for the delay. This information must also be made available to the Commission on request.

In meeting the requirements set out within the Regulations, the service provider is expected to ensure that their complaints process is clearly identified to anyone using the service. This will include ensuring that, for example, a care home's admissions pack includes reference to the complaints policy or includes a copy of the policy; that the process for making a complaint is displayed in a communal area within a residential setting or day service and that the complaints policy is available on the provider's website. (These are examples, and this list is not exhaustive).

Service providers will need to determine how best to publicise information pertaining to complaints. Ultimately the service provider must make it as simple as possible for someone to make a complaint and must be fully receptive to receiving any complaint/s.

The service provider should ensure that information relating to making complaints is made available in a range of accessible formats including languages other than

English. The service providers' complaints information should include guidance for a complainant who is dissatisfied with the outcome.

If the complainant is prepared to make a complaint directly to the service provider, the Commission will not usually undertake a parallel investigation. However, it will keep a record of the contact.

If the complainant does not wish to raise the complaint directly with the service provider or has already done so but is dissatisfied with the service's response, the Commission will ask the complainant to explain why this is the case or what the response was. The reason for this is to encourage the use of a service provider's complaints process to its conclusion and to ascertain whether any previous attempts have been made by the complainant to resolve the matter directly with the service in question. In such cases, the Commission may consider undertaking an investigation.

The Commission expects and requires that care receivers and their representatives be treated with courtesy and respect by service providers and that concerns and complaints are listened to and appropriately managed.

Irrespective of whether a person wishes to make a complaint directly to the service provider, the Commission will consider whether the complaint is appropriate for the service provider to investigate themselves. If the Commission determines that this is an appropriate response, it will refer the matter back to the service provider, will inform the complainant accordingly and will explain why it has reached this conclusion.

## **15. Investigations**

In some cases, it will be appropriate for the Commission to undertake a complaint investigation and the Law empowers the Commission to undertake such investigations.

It is often not practicable to provide specific timescales as to when a complaint investigation will be completed. However, the complainant can expect regular updates and, where possible, timescales should be provided.

### **15.1. Investigations: Objectives**

When the Commission undertakes a complaint investigation it will ensure that all relevant facts are obtained and considered thoroughly.

Once the investigation is complete the complainant will be provided with a written response which is proportionate, thorough and objective.

The Commission will also ensure that the outcome includes a clear indication as to whether the complaint, or any part of it, is upheld, partially upheld, or not upheld.

### **15.2. Investigations: Outcomes**

In investigating a complaint there are three outcomes, i.e., the complaint is upheld, partially upheld, or not upheld.

If a complaint is upheld, or partially upheld, this means that the Commission has found evidence to substantiate the complaint, wholly or in part. If this is the case, the Commission will inform the complainant in writing of any requirements which have been made in respect of the service in question.

The Commission may also determine that a complaint is not upheld. This means that an investigation has been concluded and the Commission has not found enough evidence to substantiate the complaint (this does not imply that the information provided by the complainant is inaccurate, invalid, or untrue).

### **15.3. Investigations: Further submissions**

If the complainant is dissatisfied with any aspect of the complaint investigation, or the outcome, they may write to the Chief Inspector expressing the reasons for their dissatisfaction. Any submissions to the Chief Inspector should normally be made within 15 working days from the date the outcome of the investigation is notified to the complainant.

The Chief Inspector may determine what further action, if any, should be taken in respect of any representation received from the complainant and will notify the

complainant in writing, normally within 15 working days of receipt of their letter. Any decision by the Chief Inspector will be considered final.

## **16. Complaint Reports**

As part of an investigation undertaken by the Commission, the Commission will prepare a Complaints Report. The report will detail the concerns relating to the complaint; the action which was taken to investigate the complaint; the evidence which was sourced as part of the investigation and the outcome. It will also outline any recommendations relating to areas of improvement, as well as any action which the service provider must take to meet the care Standards or to comply with the Regulations.

A service which is the subject of a Commission led complaints investigation will have an opportunity to see the investigation report in draft form and to correct any factual inaccuracies.

A copy of the final report will be sent to both the provider of the service named in the complaint and to the complainant. The Commission reserves the right to redact aspects of a report where there is, for example, a concern relating to confidentiality, data protection or privacy.

## **17. Training and information**

All Commission staff will receive appropriate training relating to the complaints process. Staff will be kept informed of any changes to the policy.

In addition, stakeholders (such as care receivers, their relatives, or representatives) will receive information in a range of formats which ensures that they are supported to understand the process and to ask any questions, or to raise any concerns.

## **18. Monitoring/Evaluation**

The effectiveness of this policy will be monitored by the Commission during scheduled Board meetings. Evidence relating to effectiveness may include feedback

from regulation officers, regulated service providers and managers, service users, families and members of the public.

### **19. Review of the Policy**

This policy will be reviewed at least annually or at any time in response to any need for review borne out of regular inspections or feedback from stakeholders.

### **20. Development and Stakeholder Consultation**

This policy has been developed by the Commission in consultation and engagement with all members of staff, the Commission, and a range of stakeholders.