POLICY TITLE:	**Complaints - Scotland**
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Applies to:	All Aspris Homes and Schools within Scotland
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Policy Owner:	John Limer, Group Claims and Complaints Co Ordinator Keira Lynn, Lawyer
Ratified by:	John Limer, Group Claims and Complaints Co Ordinator
Responsible Signatory:	Katie Dorrian, Director of Governance and Quality
Outcome:	This policy aims to ensure: • That all Young Persons and other key stakeholders have access to an effective complaints process. • Gives details on how to deal with a complaint. • Sets out our responsibilities on dealing with complaints and provides information on the third-party organisations which Young Persons can contact to pursue complaints further.
Cross Reference:	AHR04.3 Grievance ALE03 Data Protection ALE03.1 Document and Data Retention ALE06 Confidentiality AOP04 Incident Management, Reporting and Investigation AOP06A Safeguarding Children in Residential Care AOP06B Safeguarding Children in Scotland AOP06.1 Child Protection (Scotland) AOP08 Safeguarding Adults AOP08.3 Adult Support and Protection (Scotland) ACS36 Home, School or College Partnership Agreement ACS45 Advocacy and Independent Visitors (Not Regulation 44 Related) AOP21 Whistleblowing (Protected Disclosure) Aspris Colleague Handbook

EQUALITY AND DIVERSITY STATEMENT

Aspris is committed to the fair treatment of all in line with the Equality Act 2010. An equality impact assessment has been completed on this policy to ensure that it can be implemented consistently regardless of any protected characteristics and all will be treated with dignity and respect

In order to ensure that this policy is relevant and up to date, comments and suggestions for additions or amendments are sought from users of this document. To contribute towards the process of review, email AsprisGovernanceHelpdesk@Aspris.com.

COMPLAINTS - Scotland

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1 INTRODUCTION

1.1 This policy applies to all complaints received by any Home/ school/ college or department within Aspris and establishes a clear procedure for effective complaint management.

N.B. No statement accepting responsibility or admitting liability should be made by any colleague without prior consultation with the General Counsel or Divisional Chief Operating Officer (COO.)

1.3 Complaint ownership remains with the Registered Manager/Head Teacher/ PrincipalHead Teacher/ Principal/ Principal throughout the process, unless implicated in the complaint, by which it passes to their line manager. Complaints should be addressed and resolved at Home/ school/ college level whenever possible.

1.4 A local resolution to complaints is always the preference of Aspris.

1.5 Colleagues will be provided with the necessary basic training and updates in communications and complaints handling to ensure that complaints are communicated and dealt with sensitively and courteously at all levels via the Aspris Learning Lounge; with Registered Manager/Head Teacher/ Principal/ Principal and senior managers also invited to attend internally provided Complaints Prevention and Management webinar training.

1.6 There may be rare occasions when a complainant is considered to be vexatious. When that is the case, this will be considered by the Aspris General Counsel, the Divisional Chief Operating Officer and the Aspris Director of Governance and Quality. The outcome of that consideration will be documented and retained in the complaints files, with a written confirmation to the complainant to summarise this outcome.

2 OBJECTIVES

2.1 The objectives of this policy, processes and forms are:

(a) To provide ease of access for young persons and key stakeholders to the complaints process;
(b) To instil Young Person and key stakeholder confidence and goodwill in the way in which complaints are managed;
(c) To provide all potential complainants with transparent information on how to make a complaint and what to expect from the process;
(d) To have an honest, open and thorough approach to all investigations;

(e) To set clear expectations regarding the behaviour of both complainants and colleagues responding to complaints, and the tone of both written and verbal communications between both parties;

(f) To address all legitimate concerns raised by the complainant or the authorised representative;
(g) To adopt a fair and consistent approach to the investigation of all complainants with clear guidance on how and when a complaint will move from one stage of the process to the next;;
(h) To separate complaints from disciplinary/grievance procedures, where appropriate;
(i) To effectively record, audit and cross-reference complaint data to other quality and risk management processes;
(j) To extract lessons learned from complaints so as to continually improve the quality of services provided and reduce incidents and risk to the business;
(k) To identify any shortfalls and/or failings in personal or professional conduct;
(l) To initiate a corporate drive towards excellence in complaint management;
(m) To signpost complainants, wherever appropriate, to other organisations that may provide assistance and support in their pursuance of a complaint.

3 DEFINITIONS

3.1 A complaint is defined as 'an expression of dissatisfaction about a Home/ school/ college that requires a response'. Any complaint, whether it is of minor concern to the Young Person or stakeholder and can be dealt with immediately, or it is of more major concern to several parties, is an expression of dissatisfaction that requires a satisfactory and efficient resolution.

3.2 A young person, relative, visitor, funder, social worker, local authority regulatory body or any other interested party or stakeholder acting with the authority of a young person may raise a complaint.

3.3 Complaints may relate to any aspect of care, educational intervention, professional competencies or to any of the administrative or support services and may be made by telephone, in person, in writing or by email to any member of Aspris personnel.

3.4 A complaint by a representative of a young person will only be accepted in the following circumstances:

a) Where the Young Person is able to consent to the complaint being accepted: a record is made of this either verbally or in writing within the young person's records and/or the electronic reporting system.

OR

b) Where the Young Person is unable to consent to the complaint being accepted: an acknowledgement is made of this within the young person's records and/or the electronic reporting system.

AND

c) The representative is acting in the young person's best interests i.e. where the matter complained about, if found to be true, would be detrimental to the young person. This may also require the young person's legal representative being informed and asked to approve the proposed further action.

4 KEY PRINCIPLES

4.1 **Accessibility and Simplicity -** The complaints process is well publicised, easily accessible and clearly understood by Young Persons, colleagues and the public. Complaint Notices, explaining how a Young Person is able to access the complaints process and register comments and compliments are prominently displayed in the reception area of all Homes/ schools/ colleges. Young Persons should also be directed to this notice board for details about local advocacy services. (See AOP17 Advocacy).

4.1.1 The Complaints Policy is available on the Aspris website – www.Aspris.com. The Aspris website provides an online email link for registering comments, compliments and complaints regarding services provided – Complaints@Aspris.com together with contact telephone numbers should

Young Persons wish to discuss their concerns directly with a member of the Legal and Compliance (Complaint) Team.

4.1.2 Supplementary and Young Person friendly complaint literature will also be made available within Homes/ schools/ colleges (e.g. **AOP Form: 18** (Easy Read) complaint literature).

4.1.3 Information on how to make a complaint can be made available upon request in other languages and in other formats e.g. braille transcriptions, large print and voice recordings by Complaints@Aspris.com.

4.1.4 A copy of AOP03/ 03B Complaints, and an accompanying ACS36 Home, School or College Partnership Agreement will be distributed to the parents or guardian of a Young Person at the commencement of a Young Person's education placement.

4.1.5 A copy of AOP03 Complaints is distributed to Commissioners with all contracts for Aspris Homes/ schools/ colleges.

4.1.6 Aspris provides a separate process to enable colleagues to communicate any concerns that they may have about any practice or procedure. See AHR04.3 Grievance Policy and AOP21 Whistleblowing (Protected Disclosure).

4.2 **Communication** - early direct contact will be made with the complainant and this continues throughout the complaints process. Effective communication is required within the organisation and with the complainant and all other interested parties, recognising and addressing, as a priority, any perceived difficulty that may be posed by barriers such as language, culture or disability. To assist the complainant, a complaint form is located on the last page of this policy (Appendix 2), this form is also available to download from the Aspris Hub, under the Operational Forms section.

4.3 **Record Keeping** - There is an effective complaint recording and feedback system that will enable continual Home/ school/ college improvements to be made. All complaints will be recorded on the Management Information system (Electronic Reporting System) feedback module within 48 hours of receipt. Any action taken in dealing with a Young Person's complaint must be recorded in the appropriate complaint records (but this must **not** form part of a Young Person's personal Health, Care or Education record).

4.3.1 It is the responsibility of each Registered Manager/Head Teacher/ Principal/ Principal to have a clear oversight of all complaints received by a Home/ school/ college at any given time, as well as knowing the stage at which a complaint investigation sits within the complaint process. Whilst the Electronic Reporting System feedback module provides the primary complaint reporting functionality (with all complaints to be recorded on the Electronic Reporting System within 48 hours of receipt), it is recommended that each Home/ school/ college maintain a separate complaint log summary that will be completed on a day-to-day basis by the assigned Home/ school/ college Complaint Administrator (the person delegated to undertake this role within the Home/ school/ college).

4.4 **Credibility** - The complaint process is closely managed and regularly reviewed by the Aspris Group Claims & Complaints Coordinator and Executive Committee in order to ensure that improvements and changes are identified and implemented for the benefit of all Young Persons and there is an effective quality assurance system in place to ensure that the complaints system and continual learning from it have a high profile across the Group.

4.5 **Accountability** - Complaint information is provided in a clear, concise and open way and is properly managed with regular follow-up to complaint investigation and resolution in order to ensure decisions are properly and promptly implemented. There is regular monitoring of the complaint process to ensure that timescales and the complainant's expectations are met. The complaint process is periodically reviewed, updated and any changes communicated to Young Persons, Aspris colleagues and all interested parties

4.6 **Timeliness** - Clear timeframes are set and effectively communicated to all interested parties in relation to all aspects of the complaint investigation process.

4.7 **Fairness and Impartiality** - Roles and responsibilities are clearly defined. All complaints are dealt with in an open-minded and impartial way, with responses being proportionate to the concerns because 'one size' does not fit all. To ensure a fair and objective process, any colleague, Registered Manager/Head Teacher/ PrincipalHead Teacher/ Principal/ Principal, or colleague connected to the subject matter of a complaint, or who was involved in the events leading up to the complaint, will not be involved in the investigation, decision-making, or hearing of any element of that complaint. If a conflict of interest is identified, the complaint will be assigned to an independent person with no prior involvement in the matter. The individual(s) under investigation will be invited to provide evidence as part of the investigation process; however, will not participate in any decision-making or determining the outcome.

4.8 **Outcomes -** The various stages within this complaints policy and the complaints process are designed to ensure concerns are addressed promptly, fairly, and transparently, with a focus on effective resolution and continuous Home/ school/ college improvement. This procedure is intended to enhance quality, preserve impartiality and maintain high standards; therefore, it does not provide for any form of financial compensation, regardless of the outcome of any investigation or whether a complaint is upheld.

4.9 **Confidentiality** - Young Person confidentiality will be maintained at all times in line with Aspris' statutory obligations. See ALE06 Confidentiality.

4.10 **Improvement in quality** – Complaints provide an opportunity to closely review our Homes/ schools/ colleges, care and practices and to ensure promotion of a culture of continual quality improvement and risk reduction. The outcome of complaint investigations enables improvement opportunities to be identified and changes implemented across the service line or group through lessons learnt. Though not used to apportion blame, investigations may uncover information about serious matters that may indicate a need for disciplinary action.

4.10.1 **Consent to disclose personal information** – Across Aspris, Young Persons' personal information is protected in line with the requirements of the EU General Data Protection Regulation and Caldicott principles. The Young Person to whom a complaint relates must give their consent before any information relating to their own care and/or education and/or treatment is shared with a third party and whilst this should be in a written form (by completion of **AOP Form: 18D** Statement of Authority to Access Young Person Records), verbal consent is permitted so long as it is recorded and logged. The complainant and/or Young Person are entitled to a full explanation as to why consent is being sought. If the complaint is not being made by the Young Person, **AOP Form: 18C** Statement of Authority to take up a Complaint on behalf of a Young Person must be completed by the Young Person prior to the disclosure of any Young Person confidential information.

4.11 Consent may not be needed in situations where the Young Person is unable to consent, for example if they are too young (assuming the complainant has parental responsibility), too ill or have died. In the case of any Young Person who has capacity at times and not at others (fluctuating capacity), no confidential information will be given to a third party unless deemed to be in the 'best interest' of the Young Person at the time and fully documented using **AOP Form: 65** Mental Capacity Assessment and **AOP Form: 65A** Best Interests Decision.

4.12 In addition, refer to AOP03.1 Duty of Candour.

5 COMPLAINT PROCESS

5.1 Local resolution within the Home/ school/ college

Some complaints represent a minor concern, which may include general comments, suggestions or criticisms about a Home/ school/ college. Complaints falling into this category will normally be

made verbally by the complainant to 'front line colleagues' and will be seen as issues that can be 'fixed' either immediately or relatively quickly. Colleagues receiving such complaints should note the details on **AOP Form: 18G** Complaint Record.

5.1.1 If the colleague to whom the complaint is made is unable to resolve the problem immediately or feels unable to give the assurances that the complainant is looking for, then the Registered Manager/Head Teacher/ PrincipalHead Teacher/ Principal/ Principal (or their deputy) will take responsibility to resolve the complaint, by the next working day, in an informal and conciliatory manner ('next working day' excludes weekends and bank holidays).

5.1.2 Should a Registered Manager/Head Teacher/ Principal/ Principal (or their deputy) be unable to resolve the matter quickly and to the complainants' satisfaction, they must advise the complainant that their concerns will require further time to investigate prior to responding to the issues raised

5.1.3 In cases where colleagues are able to satisfactorily address and resolve a minor concern by the next working day, the complainant should receive a full and positive response with the aim of assuring them that their concerns have been addressed. This should include an expression of regret and/or explanation to the complainants' concerns. The Registered Manager/ Head Teacher/ PrincipalHead Teacher/ Principal/ Principal will then 'sign off' the complaint, record brief details on the Electronic Reporting System feedback module (including details of resolution and any lessons learnt). If an **AOP Form: 18G** Complaint Record was completed, this should be signed by the complainant and retained as part of the complaint record to confirm that they are satisfied with the way in which the complaint was addressed and resolved.

5.1.4 Some concerns will be viewed as more serious or complex and it will not be possible to address and resolve these by local resolution. If possible, the complaint should be made in writing and escalated to Stage 1 of the Aspris complaint process as detailed below.

5.2 The Aspris process for resolution of all complaints consists of four stages:
(a) **Stage 1** – Local Resolution
(b) **Stage 2** – Internal Review via the Aspris Group Complaints Co-Ordinator

N.B. As Care Inspectorate Scotland (CIS) may be contacted at any time in the complaint process and review the complaint investigation and response, should the CIS outcome not be considered satisfactory, an external review could still be sought via the Scottish Public Services Ombudsman.

(c) **Stage 3** – Independent Complaints Panel
(d) **Stage 4** – Ombudsmen

5.3 The four stages of resolution are summarised in the flowchart at Appendix 1, with more detailed information set out at Sections 6 – 9 below.

5.4 Aspris reserves the right to determine whether a complaint may proceed to the next stage of the procedure. Progression will depend on factors including:
(a) whether earlier stages have been properly exhausted;
(b) the reasonableness of the complaint: Aspris may refuse to progress a complaint if it is deemed vexatious, serial or unreasonable; and
(c) compliance with time limits set out in this policy: late requests may be refused.

5.4.1 In the event Aspris refuses a request to proceed to either Stage 2 or 3 of the process, Aspris will issue a final written response to the complainant informing them of this decision. The complainant may refer their complaint to the Ombudsman within 6 months of Aspris' final written response (Stage 4).

6 STAGE 1 – LOCAL RESOLUTION

6.1 Colleagues receiving a complaint either verbally or in writing (including email) must ensure that the date of receipt by the Home/ school/ college is recorded and that it is passed **immediately**

to the Registered Manager/Head Teacher/ PrincipalHead Teacher/ Principal/ Principal for recording and investigation purposes.

6.2 Once the Registered Manager/Head Teacher/ PrincipalHead Teacher/ Principal/ Principal is assured that the complaint can be investigated i.e. matters of consent and representation have been considered and the complaint is not 'out of time' (refer to Section 6.14), full details of the complaint must be recorded on the Electronic Reporting System feedback module and a note made of the unique system generated Complaint Reference Number. An investigating officer must also be assigned.

6.3 Any complaints from MP's and Officers of the Crown, complaints that may result in litigation, involve accidents and injury or that may involve a gesture of goodwill payment being made must be **immediately** emailed to the Aspris Group Claims & Complaints Coordinator and Aspris Director of Governance and Quality and General Counsel.

6.4 Letters from solicitors should be sent to the Aspris Legal Team to legalmailbox@aspris.com, on the day of receipt, who may then liaise with the company loss adjusters regarding the response, if required.

6.5 A case file should be created in which copies of all complaint investigation related documentation will be held throughout the investigation. **AOP Form: 18A –** Complaints Process Checklist is designed to assist in this matter.

6.6 A letter of acknowledgment **MUST** be sent to the complainant, by the Registered Manager/Head Teacher/ PrincipalHead Teacher/ Principal/ Principal or delegated colleague **within two working days** of the date on which the complaint was received. The only exception to the **two working day deadline** is for Aspris Education Schools/ Colleges. When a complaint is received **outside** of term time, it will be considered to have been received the **first** day back after term A copy of the **signed** letter must be kept in the case file. **AOP Letter: 18A** – Complaint Acknowledgement Letter Template, published on the Hub, is to be completed and used for this purpose. This letter **MUST** offer the complainant the opportunity to 'meet' with the Investigating Officer to clarify their specific concerns and will state that we aim to respond fully to all complaints within 20 working days of the date of receipt.

6.7 Any meeting or discussion (if preferred) with the complainant should clarify the purpose and the desired outcome, be fully documented/minuted and a copy of the record/minutes provided to the complainant as an accurate record of the discussions and making clear the agreed areas for investigation.

6.8 Should a complainant make subsequent contact (including via email or by telephone) following receipt of their original complaint, the Registered Manager/Head Teacher/ Principal or delegated colleague **MUST** acknowledge this contact in writing **within two working days** of receipt. This will provide an assurance that we have received and noted any additional comments made or the issues raised and that these will be fully taken into account as part of the ongoing investigation.

6.9 If at working day 15, it is clear that the investigation and response will not be complete within the agreed 20 working day timeframe a further letter will be issued informing the complainant of the reason for the delay and advising on a revised timeframe. **AOP Letter: 18B** Holding Letter Template, published on the Hub, is completed and used for this purpose.

6.10 The complaint investigation should be assigned to the investigating officer for their action, which requires production of terms of reference and an investigation report **(AOP Form: 18P)** and subsequent preparation of a draft response to the complainant. As part of the investigation, a decision must be made as to whether each head of complaint is (i) upheld; (ii) partially upheld or (iii) not upheld. In instances where the complaint is being upheld or partially upheld and there is reasonable prospect of legal action from the complainant, please liaise with the Legal Team prior to issuing the **AOP Letter: 18C Complaint Final Response/Decision Letter** in a timely

manner. **AOP Form: 18B** Complaint Investigation Log is also available to assist in recording details of the investigation.

6.11 All investigation documentation should be placed in the complaint case file and copies uploaded to the Electronic Reporting System feedback module or equivalent in those Homes/ schools/ colleges that do not currently use Electronic Reporting System when updating the case record.

6.12 A formal and detailed response should be sent to the complainant within the agreed timescale. **AOP Letter: 18CS** Complaint Final Response/Decision Letter Template and Guidance - Scotland, published on the Hub, is to be completed and used for this purpose. This letter **must be** issued from the Registered Manager, Head Teacher/ Principal or Regional/Area Director (but may be signed in their absence) and signpost the complainant as to the course of action available to them should they remain dissatisfied with the outcome of the Stage 1 investigation.

6.13 Aspris takes all complaints seriously and will always thoroughly investigate any Young Persons' concerns in those circumstances in which it remains right and possible to do so despite the lapse of a period of time. However, it is generally felt that a complaint should be made as soon as possible after the matter that a Young Person is complaining about happened; with the time limit usually being:

(a) Six months from the date something happened, or
(b) Six months from the date that a Young Person or their Representative first becomes aware of it.

6.13.1 Aspris will extend the time limit in circumstances where it would be unreasonable to expect a Young Person to have complained within time so long as it remains possible for to the matter(s) to be investigated. **AOP Letter: 18** Out of Time Complaint Template, published on the Hub, is to be completed and used for the purpose of responding to those concerns deemed out of time.

6.13.2 Aspris do not automatically refuse to consider 'out of time' concerns and each must be considered on a case-by-case basis.

6.13.3 Aspris will, where necessary, offer reassurance/support to former Young Persons whom, for one reason or another, may be experiencing a mental health crisis at the present time which it would be unprofessional and uncaring to simply ignore.

6.13.4 In all such cases and **WITHOUT** accepting into complaint process (which is vitally important), Aspris will do done one or more of the following (as a minimum):

(a) Access care records pertaining to their historic education/care/treatment
(b) Consider whether there are any safeguarding issues that may require consideration/action
(c) Decide whether there is a case for alerting the Young Person's GP and/or Community Mental Health Team as to their presentation and any immediate safety/wellbeing concerns that may be present
(d) In responding (using **AOP Letter: 18**), whilst explaining that Aspris is unable to fully investigate the case due to the period of time since care/treatment was provided, nonetheless offer some reassurance/support and where possible clarification on the issues raised (based upon consultant comments and/or evidence provided through historic care records).

6.13.5 Whilst the Home/ school/ college will be best placed to determine the approach to be adopted in each case, advice/guidance is available from the Aspris Group Complaints Co-Ordinator if required.

7 STAGE 2 – INTERNAL REVIEW

7.1 If a complainant remains dissatisfied after **all** attempts to resolve a complaint locally have failed, then they may, within six months of the date of the Stage 1 formal response, request that their case be reviewed at Stage 2 of the Aspris process. The request must be in writing and forwarded to:

Aspris Director of Governance and Quality

2 Barton Close
Grove Park
Enderby
Leicester
LE19 1SJ

7.2 Upon receipt of a Stage 2 request, the Aspris Group Claims & Complaints Coordinator shall, taking into account the factors set out at paragraph 5.4 above review the Stage 1 response and investigation to determine whether progression to Stage 2 of the process is The complainant shall receive written notice of the decision to progress to Stage 2 or not within 10 working day. **N.B. See Section 7.8 for special arrangements in relation to Stage 2 requests that involve the Aspris Children's Services.**

7.3 If a Stage 2 review is deemed appropriate, the Aspris Group Claims & Complaints Coordinator will arrange for an Independent Review Manager to be appointed and tasked to undertake the review of the earlier complaint. The Independent Review Manager will be a Regional/Area Director who has had no direct involvement in the handling of the complaint at Stage 1 of the complaint investigation process. The Regional/Area Director will liaise with the Aspris Group Claims & Complaints Coordinator to review findings and both will jointly agree the terms of response; this process fulfilling the requirements of The Education (Independent School Standards) Regulations 2014 (S.I. 2014/3283) or equivalent regulations applicable to colleges of further education – with regards to the manner in which complaints are handled.

7.4 Based upon the outcome of the review or following advice from the Independent Review Manager, the Aspris Group Claims & Complaints Coordinator will formally respond to the complainant, within **20 working days** of the original receipt of the Stage 2 request (or further extended periods if agreed), by either confirming the findings and actions as taken by the Registered Manager/Head Teacher/ Principal at Stage 1 or, alternatively, by advising on a revised outcome.

8 STAGE 3 – INDEPENDENT COMPLAINT PANEL (EDUCATION & CHILDREN'S HOMES)

8.1 If a complainant is not satisfied with the Stage 2 decision the complainant can make a written request within 15 working days of receipt of the Stage 2 decision for the complaint to be heard by a panel; thereby fulfilling the requirements of section 70 of the Education (Scotland) Act 1980. The decision to proceed to Stage 3 of the complaints process will be made taking into account the factors listed at paragraph 5.4 above.

8.2 The Panel membership will comprise the following independent experts, all of whom are wholly independent of the management of the school:

(a) Aspris Director of Governance and Quality for Aspris
(b) Regional/Area Director/ Registered Manager/ Head Teacher/ Principa / Principal Out of Area
(c) Head of Safeguarding for Aspris
(d) A suitably qualified and experienced Independent Person – not employed by Aspris, with a skill set commensurate with the nature of the complaint and associated issues
(e) The panel administrator will be identified from the Executive assistant colleagues within the organisation.

8.3 Arrangements will be made for the Panel to meet at a place, time and date that is mutually convenient to both the complainant and Panel members, with details being communicated in writing and with the parents/carers being invited to attend with a representative should they wish.

8.4 The Panel will make findings and recommendations, with copies of the findings being sent or given to the complainant and, where relevant, the person complained about and will also be made available for inspection at the home/college/school premises by a representative of Aspris as Proprietor.

9 STAGE 4 - OMBUDSMAN

9.1 If a complainant remains dissatisfied with the outcome following the complaint investigation, they may refer their complaint to the Scottish Public Services Ombudsman (schools, colleges and care homes) or Care Inspectorate Scotland (registered care home) and request that their case be reviewed. The complainant must send their dissatisfaction to the Stage 3 decision to the ombudsman within 6 months of Aspris' final written response. Aspris decision to issue a final written response is subject to the considerations set out at paragraph 5.4 and may be issued following a Stage 1, 2 or 3 review.

9.2 The Ombudsman provides a free and independent service, available to those people who self-fund their care, have arranged it themselves with a personalised budget, as well as to those funded through a local authority.

9.3 Before investigating any complaint, the Ombudsman will ensure that the care provider knows about the complaint and has had a reasonable opportunity to investigate and respond to it. If the Ombudsman's investigator believes that this has not happened, they will refer the complaint back to Aspris to complete our own investigation.

9.4 If the complainant still remains dissatisfied after all avenues of complaint resolution have been followed and exhausted, the Ombudsman may undertake their own independent review of the case and may request copies of all Aspris investigation documentation and may also visit the Home/ school/ college to interview colleagues involved in the case before reaching a decision as to whether or not there are grounds for further action

9.5 Aspris Homes/ schools/ colleges will afford the Ombudsman full and courteous co-operation with any investigation. Home/ school/ college leaders will immediately inform the Aspris Group Claims & Complaints Coordinator when any correspondence is received from the Ombudsman.

10 CLAIMS ARISING FROM COMPLAINTS

10.1 Any claim arising from a complaint will be coordinated by the General Counsel and Aspris Group Claims & Complaints Coordinator in consultation with Aspris's loss adjustors and Insurers. The Group Risk Manager will be responsible for collating information already available, coordinating further investigation, if required, and for liaising with the company lawyer

11 COMPLAINTS RECEIVED OTHER THAN BY HOME/ SCHOOL/ COLLEGE

11.1 Complaints are occasionally sent directly to the complaints mailbox at Complaints@aspris.com; once received the Aspris Group Claims & Complaints Coordinator will add the details of the complaint to the central complaint register and forward the complaint to the relevant Home/ school/ college to commence the complaints process locally.

11.2 If it is clear that the complaint requires investigation at Stage 1, the correspondence will be immediately passed to the relevant Registered Manager/ Head Teacher/ PrincipalHead Teacher/ Principal/ Principal (or in complex or more serious cases, to the Regional/ Area Director) requesting that:

(a) Details to be added to the Electronic Reporting System feedback module;
(b) An acknowledgement letter be issued within two working days of receipt;
(c) A meeting/discussion be offered with the complainant;
(d) A full investigation be undertaken;
(e) A formal response be issued.

11.3 The Registered Manager/Head Teacher/ PrincipalHead Teacher/ Principal/ Principal may be asked to seek the approval of the Regional/Area Director prior to issuing a response and may also, if required, forward the investigation findings report and draft response to the Aspris Group Claims & Complaints Coordinator for final consideration prior to issue. If doing so, they must allow **AT LEAST five working days** for consideration and a holding letter (**AOP Letter: 18B**) must be issued if the timeframe for response is in any danger of being missed due to referral.

11.3.1 The Registered Manager/Head Teacher/ Principal/ Principal should also consider whether the case might benefit from discussion with the Aspris Group Claims & Complaints Coordinator.

11.3.2 Upon completion of the investigation (**all cases**), a scanned copy of the signed letter of response must be forwarded to the Aspris Group Claims & Complaints Coordinator for recording purposes.

12 DEALING WITH UNACCEPTABLE BEHAVIOUR BY COMPLAINANTS

12.1 RESPECTFUL COMMUNICATION

12.1.1 Aspris expects that all interactions between complainants and colleagues will be conducted in a courteous and professional manner. Aspris is committed to resolving complaints in a climate of mutual respect. So that concerns can be addressed effectively and collaboratively.

12.1.2 **Obligations of Complainants –** Whether raised in person or in writing complaints must be raised calmly and respectfully, without the use of abusive, threatening or discriminatory language or behaviour. Physical intimidation, shouting, personal insults or harassment of any kind towards Aspris colleagues will not be tolerated.

12.1.3 **Obligations of Aspris colleagues** – All Aspris colleagues are expected to always treat complainants with courtesy and professionalism. While responding to complaints colleagues will avoid any behaviour that could be reasonably perceived as dismissive, retaliatory or hostile.

12.2 Homes/ schools/ colleges will, occasionally, come into contact with complainants who absorb a disproportionate amount of resource in dealing with their complaints. It is important to identify those situations in which a complainant's behaviour might be considered to be unacceptable and to suggest ways of responding to those situations which are fair to both colleagues and complainant..

12.3 Dealing with unacceptable complainant behaviour places a great strain on time and resources and causes undue stress for the Young Person and colleagues who may need extra support. Such a complainant should be provided with a response to all their genuine grievances and be given details of independent advocacy.

12.4 Although colleagues are trained to respond with patience and empathy to the needs of all complainants, there can be times when there is nothing further which can reasonably be done to assist them or to resolve a real or perceived problem.

12.5 In determining arrangements for handling such complainants, colleagues are presented with the following key considerations:

(a) To ensure that the complaints process has been correctly implemented as far as possible and that no material element of a complaint is overlooked or inadequately addressed;
(b) To appreciate that complainants believe they have grievances which contain some genuine substance;
(c) To ensure a fair, reasonable and unbiased approach;
(d) To be able to identify the stage at which a complainant's behaviour has become unacceptable;
(e) To give very early consideration to implementing a management care plan for the handling of the Young Persons' concerns thereby affording the Young Person the opportunity to discuss their concerns in an agreed forum and at predetermined times; with colleagues better able to manage and address/resolve the issues without the associated problems posed by, for example, numerous emails/letters and with the Young Person being suitably and further reassured that we are taking their concerns seriously.

12.6 Complainant's behaviour (or anyone acting on their behalf) may be deemed to be unacceptable where previous or current contact with them shows that they meet at least **TWO** of the following criteria. Where complainants:

(a) Persist in pursuing a complaint where the complaints process has been fully and properly implemented and exhausted;

(b) Seek to prolong contact by changing the substance of a complaint or continually raising new issues and questions whilst the complaint is being addressed. In such instances care must be taken not to overlook new issues which are significantly different to the original complaint. These may need to be addressed as separate complaints;
(c) Are unwilling to accept documented evidence of treatment given as being factual e.g. drug records, medical records or nursing notes;
(d) Deny being given an adequate response despite evidence of correspondence specifically answering their questions;
(e) Do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed;
(f) Do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts by colleagues or independent advocacy, to help them specify their concerns, or where the concerns identified are not within the remit of the Home/ school/ college to investigate;
(g) Focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. Note that determining what a 'trivial' matter is can be subjective and careful judgement must be used in applying this criteria;
(h) Have, in the course of addressing a registered complaint, had an excessive number of contacts with the Home/ school/ college placing unreasonable demands on colleagues. Note that a contact may be in person or by telephone, letter or e-mail. Discretion must be used in determining the precise number of 'excessive contacts' applicable under this section using judgement based on the specific circumstances of each individual case;
(i) Are known to have recorded meetings or face to face/telephone conversations without the prior knowledge and consent of the other parties involved;
(j) Display unreasonable demands or expectations and fail to accept that these may be unreasonable e.g. insist on responses to complaints or enquiries being provided more urgently than is reasonable or normal recognised practice;

12.7 Irrespective of whether or not a complainant (or anyone acting on their behalf) has displayed any of the behaviours listed in 12.6, behaviour will be deemed to be unacceptable where the complainant:
(a) Has threatened or used actual physical violence towards colleagues or their families or associates at any time - this will in itself cause personal contact with the complainant or their representatives to be discontinued and the complaint will, thereafter, only be pursued through written communication;
(b) Has harassed or been personally abusive or verbally aggressive on more than one occasion towards colleagues dealing with their complaint or their families or associates. (Colleagues must recognise that complainants may sometimes act out of character at times of stress, anxiety or distress and should make reasonable allowances for this).

12.8 **Where a complaint investigation is ongoing -** The nominated Registered Manager, Head Teacher/ PrincipalHead Teacher/ Principal/ Principal or Regional/Area Director should firstly consider writing to the complainant setting parameters for a code of behaviour and the lines of communication. If these terms are contravened, consideration may then be given to implementing other action.

12.9 **Where a complaint investigation is complete -** At an appropriate stage, the Registered Manager/ Head Teacher/ Principal or Regional/Area Director should write a letter informing the complainant that:
(a) They have responded fully to the points raised;
(b) Have tried to resolve the complaint;
(c) There is nothing more that can be added and therefore, the correspondence is now at an end;
(d) (optional) state that future letters will be acknowledged but not answered.

12.10 In extreme cases, the Registered Manager/Head Teacher/ Principal or Regional/Area Director should reserve the right to take legal action against the complainant; liaising in the first instance with the Aspris Group Claims & Complaints Coordinator and Director of Governance and Quality for advice and guidance.

12.11 **Withdrawing 'Unacceptable Behaviour' Status -** Once complainants have been viewed as behaving in an unacceptable manner, there needs to be a mechanism for withdrawing this status at a later date if, for example, a complainant subsequently demonstrates a more reasonable approach or if they submit a further complaint for which the normal complaints process would appear appropriate.

12.12 As colleagues used discretion in recommending that a complainant's unacceptable behaviour be treated in a particular way, discretion should similarly be used when recommending that this status be withdrawn.

12.13 Specifically in respect of repeated threatening behaviour and language or physical intimidation of colleagues by complainants on school premises; Aspris may seek exclusion of the complainant from the school site to be issued under Section 547 of the Education Act 1996.

13 ADDITIONAL INFORMATION

13.1 All young people will receive information advising them how to raise a concern in a format that they can easily understand.

13.2 If a young person feels unable to speak to any colleague, due perhaps to the nature of the complaint etc., he/she has the opportunity to register the complaint with parents/carers, the funding authority or an independent visitor, either by telephone or by requesting a visit.

13.3 Throughout the complaint process, the complainant (i.e. child/ young person and/or parent/carer) has the right to be accompanied by a supporter.

13.4 A register of complaints will be kept readily available for inspection as required. The Aspris Complaints Log can be printed from our internal electronic complaint record, the Electronic Reporting System feedback module or equivalent system for those Homes/ schools/ colleges not yet migrated to Electronic Reporting System.

13.5 This record will include all complaints made including those where parents are not satisfied with the outcome. The record will also detail whether they are resolved following a formal procedure or proceed to a panel hearing; and action taken by the school as a result of those complaints (regardless of whether they are upheld). Statements and records relating to individual complaints will be kept confidential except where the Secretary of State or a body conducting an inspection under section 109 of the Education and Skills Act 2008 requests access to them.

13.6 The Registered manager/Head Teacher/ Principal will review the register on a quarterly basis and sign and date the register to confirm that this has been done.

13.7 The Registered Manager/Head Teacher/ Principal/ Principal will immediately notify the appropriate registration and inspection authority of any allegations or complaints involving police investigations or any allegations of Young Person abuse.

13.8 If the complainant continues to hold the view that Aspris Children's Services has not satisfactorily resolved the problem, the option is for the complainant to contact the registration and inspection authority.

14 REFERENCES AND USEFUL GUIDANCE DOCUMENTS

14.1 **Legislation**

National Health Service Act 2006
Education (Scotland) Act 1980
Education (Scotland) Act 2016
The Children (Scotland) Act 1995
Children and Young People(Scotland) Act 2014

Scottish Public Ombudsman Act 2002
Regulation of care (Scotland) Act 2001
Equality Act 2010
UN Convention on the Rights of the Child
Education and Inspections Act (2006)
Standards in Scotland's Schools Act 2000
Data Protection Act 2018
Freedom of Information Act 2000
Freedom of Information (Scotland) Act 2002
Healthcare Improvement Scotland (Requirements as to Independent Health Care Services) Regulations 2011

14.2 **Guidance**

Getting It Right for Every Child (GIFEC)
www.thepromise.scot
www.everychildmatters.gov.uk/resources
Health and Social Care Standards: My support, my life (2017)
Care Inspectorate Scotland – A quality Framework for care homes for children and young people and school care accommodation
National Guidance for the external management of residential child care establishments in Scotland (Scottish Government)
Scottish Independent Advocacy Alliance (www.siaa.org.uk)

Associated Forms:

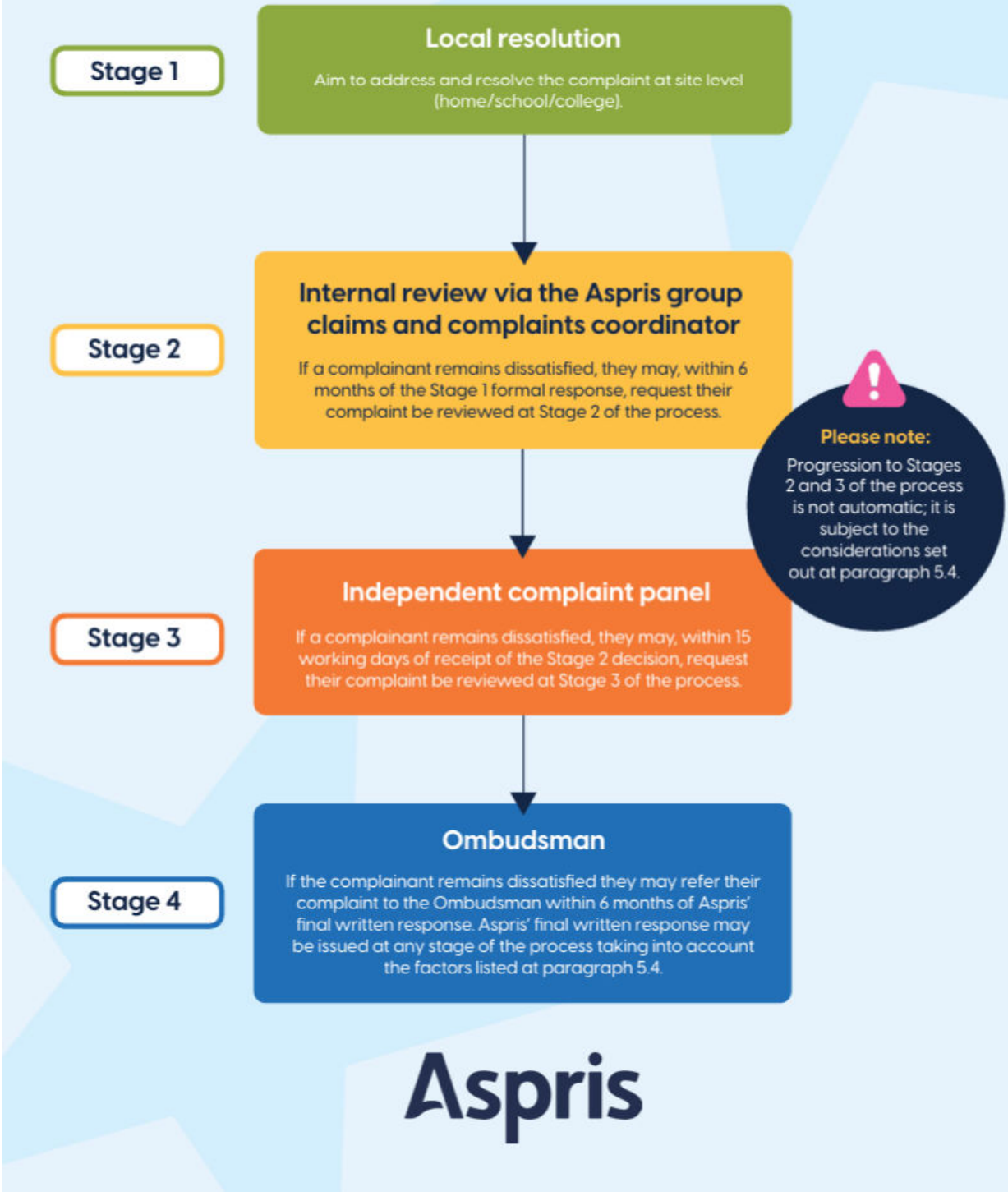
PRINTED DOCUMENTS: (available from the On-line Print Shop)
Complaints Log (PG04006)

FORMS: (Printable from the Hub)
AOP Form: 18A - Complaint Process Checklist: Stage 1
AOP Form: 18B - Complaint Investigation Log
AOP Form: 18C - Statement of Authority - Taking Up Complaint on behalf of a Complainant
AOP Form: 18D - Statement of Authority to Access Young Person Records
AOP Form: 18G - Complaint Record
AOP Form: 18J (Easy Read) - Making a Complaint (Scotland)
AOP Form: 18L - Colleague Information Flashcards - Complaints
AOP Form: 18M - Complaint Procedure Notice – Scotland
AOP Form: 18P - Complaint Investigation Report
AOP Form: 18R - Aspris Complaint Form
AOP Letter: 18 - Out of Time Complaint Letter Template
AOP Letter 18A - Complaint Acknowledgement Letter Template
AOP Letter 18B - Complaint Holding Letter Template
AOP Letter 18CS - Complaint Final Response/Decision Letter Template and Guidance - Scotland
AOP Letter 18D - Gesture of Goodwill Offer - Letter Template and Guidance
AOP Letter 18E (Easy Read) - Complaint Acknowledgement Letter Template
AOP Letter 18FS (Easy Read) - Complaint Holding Letter Template - Scotland

Appendix 1

Complaint process flowchart

This is a brief overview of the various stages of the complaints policy.



Appendix 2 – AOP Form 18R Aspris Compliant form

Aspris

Operational

Complaint form

Service(s) this relates to:

Your name
Young person's name (if relevant)
Your relationship to the young person (if relevant)
Address (if applicable)
Email address:
Telephone number
Please list your complaint(s) and who you have spoken to at the service. (Please can you specify if you would prefer to send your complaint via email or written letter).
If possible, please provide what outcome or action are you seeking from your complaint.
Signed:
Dated:

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