

## Complaints Policy

### Policy Statement

The Trust views complaints as an opportunity to learn and improve for the future, as well as a chance to put things right. Complaints made to the Trust about its operations and activities are dealt with in a systematic way which is detailed below.

The policy:

- Provides a fair complaints procedure which is clear and easy to use;
- Publicises the existence of the complaints procedure;
- Ensures everyone knows what to do if a complaint is received;
- Ensures all complaints are investigated fairly and in a timely way;
- Ensures that complaints are, wherever possible, resolved within 20 days and that relationships are repaired; and
- Gathers information which helps to improve performance.

**Policy headline: The Trust operates a transparent complaints process. This policy applies to non-lottery related based complaints. A separate process exists for Lottery related complaints managed by our External Lottery Manager.**

### Complaints definition

- Disputes and disagreements between trustees
- Disputes between the Trust's members and trustees
- Matters relating to the Trust's charitable activities.

A complaint is an expression of dissatisfaction, whether justified or not, about any aspect of the Trust's work. Complaints may come from any person or organisation that has a legitimate interest in the Trust.

This policy does not cover complaints made by staff as the Trust has no employees.

### Regulatory involvement

#### OSCR

OSCR will only become involved in a complaint when:

Charities that are being used for private gain

- Where a charity's independence is being called into question. We expect charity trustees to act independently of any private, government or political interest
- When it is not clear who is in charge of the charity. For example:
  - one charity trustee seems to be in overall control of the charity
  - an employee seems to be in overall control of the charity, or
  - none of the charity trustees is taking responsibility - this can result in serious governance problems, which could harm the charity
- When it appears that the charity's assets are at risk or not being used for charitable purposes
- The charity is not carrying out the charitable purposes defined in its governing document

OSCR will only usually become involved in a *fundraising* complaint where there are concerns about:

- a breach of charity trustee duties, including potential mismanagement or misconduct by the charity's trustees.
- a risk to public trust and confidence in the charity or the wider sector.

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- a risk to charitable assets.

### **Police Scotland**

- Police Scotland should be notified when:
  - Serious harm or danger of harm to the people that the charity helps;
  - Criminal or illegal activity within or involving a charity (this includes charities that are set up for an illegal or improper use); and,
  - Serious financial loss to a charity - this could include theft or embezzlement.

### **Gambling Commission**

This Policy applies to the Trust's specific complaints only. Complaints relating to the Trust's society lottery are directed to the Trust's ELM which operates its own process.

### **Receiving Complaints**

All complaints that reach stage 2 and beyond are recorded together with the complainant's; name, contact details and their relationship to the Trust. The complainant is informed that there is a procedure, what will happen next. For further guidelines about handling complaints.

### **Confidentiality and Data Protection**

All complaint information will be handled sensitively, telling only those who need to know and following any relevant data protection requirements. Complaints will be retained by the Trust as outlined in the Trust's Data Retention Policy. Personal data relating to the complaint will not be shared with any third party other than those parties already identified within the complaints policy.

The following details will be recorded for the purposes of managing the complaint:

- a) name of the complainer;
- b) contact details of the complainer;
- c) relationship of the complainer to the Trust; and,
- d) Details of the complaint

Complaints will be retained for a minimum of three years and this will be communicated at the first stage.

### **Responsibility**

Overall responsibility for this policy and its implementation lies with the Board of Trustees in conjunction with the Head of Charities.

### **The Complaints Procedure**

The procedure consists of four stages which are as follows:

- **Stage 1 – First Point of Contact Resolution**

The recipient deals with the complaint immediately and is able to resolve the complaint at the first point of contact without escalation.

- **Stage 2 – Full Investigation & Outcome**

Complaint is escalated from the recipient to a Trustee and formally recorded. An Investigation takes place and the Trustee may consult the Management Team, including the Head of Charities or the Deputy Head of

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Charities, as needed. If the investigation of the complaint is likely to take longer than 5 working days, the complainant will be notified advising of the proposed timescales and next steps, with the aim of resolving the complaint within a maximum of 20 working days. The Trustee or Head of Charities will respond to the complainant advising of the outcome of the complaint and any action taken as a result of the investigation.

- **Stage 3 – Review**

If unresolved the complaint is referred to the Chair of the Board of Trustees for a Board level review.

- **Stage 4 – Dispute Resolution**

If the resolution of the complaint is not satisfactory at Stage 3, the complaint may be submitted to mediation to resolve the dispute. If deemed necessary, .

[Scottish Mediation](#) will be contacted to arrange for a professional, accredited mediator to conduct a mediation. Independent mediation services will be appointed to resolve the dispute subject to agreement of the complainant. If the complainant does not wish to mediate, the matter will be referred to an independent third party expert agreed with the complainant or, where no agreement is reached, nominated by the President of the Law Society of Scotland. The expert's decision is final.

### **Variation of the Complaints Procedure**

The Board of Trustees may vary the procedure for good reason. This may be necessary to avoid a conflict of interest. For example, a complaint about the Chair should not also have the Chair as a reviewer.

### **Monitoring and Learning from Complaints**

Complaints are reviewed annually to identify any trends which may indicate a need to take further action.

#### **Review**

This policy will be reviewed and approved by Trustees on an annual basis.

**Last reviewed: March 2019**

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