

NESS DISTRICT SALMON FISHERY BOARD

Complaints Procedure

INTRODUCTION

Section 24 of the [Aquaculture and Fisheries \(Scotland\) Act 2013](#) amends the [Salmon and Freshwater Fisheries \(Consolidation\) \(Scotland\) Act 2003](#) to place a number of new duties on DSFBs relating to openness and accountability. The new section 46D requires a District Salmon Fishery Board to maintain, and keep under review, proper arrangements for dealing with complaints, who may make them and record keeping.

In response to the new duties and in line with our general policy to be as open as possible about the way we conduct our business, the Ness District Salmon Fishery Board has produced the following Complaints procedure. This procedure will be reviewed on an annual basis with a view to determining whether it is meeting local needs.

GENERAL STATEMENT ON COMPLAINTS

- All complaints will be treated seriously, whether they are made by telephone, by letter, or by email;
- Complaints will be treated with courtesy and fairness at all times;
- All complaints will be treated in confidence within the Board and in accordance with the requirements of the Data Protection Act 1998;
- Complaints will be dealt with promptly. Written complaints will be acknowledged within five working days and a full reply within 20 working days of receipt. If a full reply cannot be provided within 20 working days of receipt, the reason will be explained and notification provided as to when a reply will be forthcoming; and
- The number of complaints received, a statement as to the nature of each complaint and how it was disposed of will be published in our annual report.

COMPLAINTS PROCEDURE

Any complaint should be addressed to the Clerk to the Board. Complaints can be made through the following routes:

Telephone: 01463 861245

Email: ceo@ndsfb.org

Post: Fishery Office, Birchwood, 4 Loch Lait, Abriachan, Inverness, IV3 8LB

A four-stage complaints procedure is in place. At each stage it will help us to resolve your complaint quickly if you can give us as much clear detail as possible, including any documents and correspondence and stating that you are making a complaint in line with our procedure.

Stage 1 (Frontline Resolution) - Frontline resolution aims to quickly resolve straightforward complaints that require little or no investigation. This will involve an 'on-the-spot' apology, explanation or other action to resolve the complaint quickly. Complaints addressed by any member of staff, or referred to the Clerk of the Board for frontline resolution. Complaint details, outcome and action taken recorded and used for service improvement.

Stage 2 (Investigation) – For issues that have not been resolved at the frontline or that are complex, serious or 'high risk'. In the first instance, the Clerk will investigate the nature of the complaint in conjunction with the convener of the board. This gives the board the opportunity to resolve and correct any resulting disadvantage (upholding the complaint); or establish that the action of the Board was correct thereby enabling the Board to explain this to the complainant (not upholding the complaint).

Stage 3 (Full Board Review) – If the complainant is dissatisfied with the Stage 2 response, they may request a review by the full board and it would be expected that this would be discussed at the next scheduled meeting of the Board. Given the confidential nature of complaints, the Board might elect to hold this meeting, or part thereof, in private. In this instance the complainant will be given the right to attend the meeting with a representative or representatives.

Stage 4 (Independent Arbitration) – For issues that have not been resolved by a full Board review. Arbitration involves an impartial third party being asked to make a decision on a dispute. The arbitrator will make a firm decision on a case based on the evidence presented by the parties. Arbitration is voluntary, so both sides must agree to go to arbitration; they should also agree in advance that they will abide by the arbitrator's decision.

INDICATIVE TIMESCALES FOR HANDLING A COMPLAINT

Stage 1 – Maximum 5 working days, although in practice we would often expect to resolve the complaint much sooner.

Stage 2 – Maximum 20 working days

- Acknowledgement within 5 working days; and
- Full response within 20 working days.

Stage 3 – Timing will depend on the scheduling of the next Board meeting.

- Acknowledgement within 5 working days, with notification of the date and location of the meeting at which the complaint will be discussed.

Stage 4 – Once the complainant and Board agree to mediation, revised timescales will need to be agreed.

EXTENDING THE TIME LIMITS

We aim to complete all complaints within the timescales above; however, if a complaint is very complex it may occasionally be necessary to extend the time limit. If this is the case we will keep the complainant informed of progress with the investigation, the reasons for the delay, and inform them of the new deadline.

IMPORTANT NOTE: ACCUSATIONS OF OFFENCES IN LAW

This 'Complaints Procedure' describes the way that the board will handle any complaint received about the way that their members or employees have carried out, or propose to carry out, their functions under the 2003 Act. It does not deal with accusations of salmon related offences in law.

Any reports or accusations of offences received by the board will be reported to the Procurator Fiscal (PF or Fiscal), who is responsible for prosecuting crime in Scotland. This will involve the following process:

- 1. Water bailiffs and/or police will carry out an initial crime investigation. If they believe they have enough evidence to support a prosecution, they submit a report to the local Procurator Fiscal.*
- 2. The Procurator Fiscal (PF) considers this report and decides if there is sufficient evidence to disclose a crime known to the law of Scotland. There must be at least two independent pieces of evidence for this to be established. This might include eye-witness stories, fingerprint evidence, or other forensic or scientific evidence. If they think more evidence is needed, the PF may ask the water bailiffs or police to carry out further enquiries.*
- 3. If there is enough evidence, the Procurator Fiscal will then decide what, if any, action it is appropriate to take in the Public Interest. Action includes not only prosecution in court, but also direct measures such as warnings, fiscal fines, compensation offers and social work diversion. The Procurator Fiscal may also decide to take no action. The Procurator Fiscal considers a number of factors in coming to this decision relating to the circumstances of the offence, the accused and any victims or witnesses.*
- 4. If court proceedings are considered to be appropriate in the circumstances, the Procurator Fiscal will also decide which court these should be taken in. This depends on the nature of the offence, the sentencing powers of the respective courts and whether the accused has a criminal record. Certain crimes can only be heard in certain courts.*
- 5. The Fiscal will make their decision based on information, some of which may be confidential. Where a Procurator Fiscal decides to take no action in a case, the victim can ask for an explanation of the decision.*
- 6. If the crime has been committed by a child, but was reported to the Fiscal, the case can be referred to the Scottish Children's Reporter (SCRA). The rules for dealing with children are different from adults.*

More information can also be found on the [Crown Office and Procurator Fiscal Service website](#).