

Initial Action

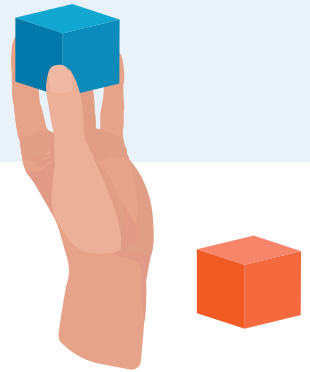
Access to Justice in Scotland

If you feel that you have been treated wrongly or discriminated against, there are various steps you can take before taking legal action. This factsheet will outline possible avenues that might work for you.

We also have factsheets on other ways to access justice, such as:

- Making an [Equality Act Claim](#)
- Making a [Human Rights Act Claim](#)
- [Judicial Review](#)
- [Direct and Indirect Discrimination](#)
- [Legal Aid](#)

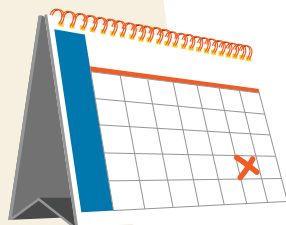
The factsheets contain general information, not legal advice.



Initial Action

If you believe that you have been discriminated against or that your Human Rights have been breached by a public body, but you do not want to make an official complaint yet, there are different proactive steps that you can take to help your situation.

However, it is important to be aware of specific deadlines for raising court actions, so that you do not lose the possibility of raising a court claim. This is discussed later in this factsheet.



Advocacy Services

We recommend having an advocate present at meetings between yourself and the public body in question, such as a Local Authority or Council. We are not referring to an “Advocate”, which is a specially trained lawyer who can appear in Scotland’s Court of Session. We are referring to independent [advocacy services](#).

An advocate’s role is to support you to ensure that you are able to express your views and feel understood during the process. They are there to make sure that your voice is heard, and that you are treated with respect.

An advocate can also encourage the public body to act fairly and without discrimination. They can also help to make sure you are fully aware of your rights and that you are making an informed decision.

There is a wide range of organisations that provide independent advocacy services. These tend to be specialised – either by location or type of advocacy services provided. For example, some services will provide advocacy for those located in a specific area of Scotland. Others will provide services for those who would like support with their mental health.

To find an advocacy service, you can contact your local authority who can let you know of services in your area. Or you can go onto the Scottish Independent Advocacy Alliance website, where they have a search function for independency advocacy organisations across Scotland:

<https://www.siaa.org.uk/find-an-advocate/>



Written Documentation

We also recommend that you request any decision made by the public body, and any correspondence between yourself and the public body, be in writing. This will mean that you can hold a record of what they have told you and hold them to account.

Keeping this in a folder – either digitally or physically – will help you keep track of the situation and will also help a lawyer understand what has happened quickly if you do end up taking legal action. An independent advocate can also help you with this.

Writing a Complaint

Before writing a complaint, you need to know who to direct the complaint to, and how the public body concerned accepts complaints. There may be a specific person to send the complaint to, or a specific way they accept complaints. This information should be available on the organisation's website.

The organisation's webpage should also outline how long they will take to get back to you regarding your complaint.

Timing is key when seeking justice, so make sure that you make a complaint as soon as is suitable for your situation. This should help prevent you from missing any time limits.

When writing your complaint, you should make it clear that it is a complaint – you can do this by clearly stating that you are making a complaint. You should try to be as clear as possible, laying out the situation chronologically and avoiding long and confusing sentences. You should include any evidence that you have about how you have been treated unfairly.

If you're making more than one point, separate them out within the same letter. You should also keep font and size consistent throughout, so that the receiver of the complaint can read your letter with ease. Keeping your complaint as brief as possible, while outlining the key facts, with consistent formatting should aid the strength of your complaint.

Once you have submitted your complaint, you should make sure that you get a confirmation or an acknowledgement that the public body has received your letter of complaint.

If you're unhappy with the response regarding your complaint, you may be able to escalate it to a 'second stage'. This will depend upon which public body you are dealing with.



You can also look at the [Public Law Project's guide to Making an Effective Complaint to a Public Body](#) (although this guide concerns England and Wales, the suggestions it contains about how to approach complaints are applicable in Scotland).

Complaint to your Local Authorities

You can make a direct complaint to a local authority if you feel that you have been treated unfairly or discriminated against. This includes services run by your local authority, such as social care.

The first stage – known as a Stage 1 Complaint – is to complain to the local council. Councils have a duty to respond to these complaints quickly – usually within 20 working days.

If you're not satisfied with the response to your initial complaint, you can make a Stage 2 Complaint. You should make this complaint within 20 working days of receiving the response to your Stage 1 Complaint.

You can find [which local authority you're in on the Scottish Government website](#).

Scottish Public Services Ombudsman

If you've made a complaint to the organisation, and the matter is still unresolved, you can make a complaint to the Scottish Public Services Ombudsman:

<https://www.spsso.org.uk/spsso>

You usually have to make a direct complaint to the organisation or public body before taking this step.

The Scottish Public Services Ombudsman – often referred to as the SPSO – is an independent and free service that investigates complaints about public services.

The SPSO is an impartial body – meaning they do not take sides. Going to the SPSO is a way to resolve a complaint without going to court and taking legal action. However, it has limited powers.

You can make complaints about public services in Scotland – including local authorities and councils – as well as the NHS, housing associations, the Scottish Government, universities and colleges, prisons, and the Scottish Parliament.

There are other Ombuds in Scotland, including: Scottish Legal Complaints Commission; Commissioner for Ethical Standards Public Life in Scotland; Financial Ombudsman Service; the Property Ombudsman; the Energy Ombudsman; the Communications Ombudsman; the Consumer Ombudsman; the Motor Ombudsman; Ombudsman Services: Home Improvements; the Pensions Ombudsman; and the Ombudsman Associate website.

NHS Complaint

To make a complaint to the NHS, you can write a letter or an email to the relevant NHS organisation. This will most likely depend which NHS district you live in – these are called NHS Health Boards. You can find the different NHS Health Boards on [this NHS webpage](#).

More information on making a complaint to the NHS can be found on [the NHS Inform website](#).

The [Patient Advice & Support Service](#) is an independent service that can support you with raising a complaint with the NHS.

Legal Action

If you are still unable to resolve your situation, it may be time to think about taking legal action.

This can be both time consuming and costly. However, you may be eligible for Legal Aid. Legal Aid can help you if you cannot afford to pay your own legal costs if you are eligible.

Please refer to our other factsheets on taking legal action.



For more help and information:

Citizens Advice Scotland – [Help with legal costs](#)

Scottish Government – [Legal Aid](#)

Scottish Legal Aid Board – www.slab.org.uk



JustRight Scotland identified a need in the community for better information and resources on access to justice.

Read our other factsheets on:

Equality Act
Claims

Judicial Review

Discrimination

(Direct and Indirect)

Legal Aid

JustRight Scotland

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PEOPLE'S RIGHTS**

