



Ombudsman Northern Ireland

Rights, Responsibilities and Redress

**A Framework for Effective
Complaint Handling**

www.ni-ombudsman.org.uk



CONTENTS

Foreword by the Ombudsman	1
Introduction	3
— Principles of Effective Complaint Handling	4
Framework for Effective Complaint Handling in the Public Sector	
Planning and Establishing a Complaints Procedure	5
Designing a Complaints Procedure	9
Communicating the Process	13
Documenting Complaints	15
Investigating Complaints	17
Providing Redress	19
Evaluating the Process	21
Responsibilities of Complainants	22
Acknowledgements	24





Foreword from The Ombudsman

Every citizen is entitled to complain of acts or failures arising from administrative action and to expect a full and impartial investigation by the public body complained of. Where that body's investigation fails to satisfy the citizen, lacks impartiality or is flawed there remains the right to complain to an impartial and wholly independent official. This 'trusted official' is known as an Ombudsman. Ombudsman is a Swedish term for a spokesperson. The existence of an Ombudsman as an independent adjudicator and the existence of rights of redress are now accepted as the hallmark of a mature democracy.

An internal complaints process is essential to ensure that the citizen has redress for administrative failures. Therefore, I commend this framework to those public sector bodies who are creating, developing or reviewing their complaints processes.

Within our European context the concept of an Ombudsman, someone to whom the public could turn for examination of their grievances against government, first emerged in Sweden some two hundred years ago. The United Kingdom established a Parliamentary Commissioner for Administration in 1967 and the Republic of Ireland established an Office of the Ombudsman in 1984.

In 1969 the then Northern Ireland Government established two Offices to deal with complaints from individuals about bias or unfairness. The Parliamentary Commissioner for Administration, subsequently re-titled the Assembly Ombudsman, to examine complaints against the Government Departments and, in advance of other jurisdictions in the United Kingdom, the Commissioner for Complaints in Northern Ireland was created to examine complaints against a wide range of public bodies. Within a few years of their establishment the Offices were combined in terms of day to day operation and the Offices were held by the same person. Today the combined office is known as the Office of the Northern Ireland Ombudsman. During the past forty years the concept of an Ombudsman has been extended to many areas of life and consumer protection. Throughout this period the Office has sought to assist and advise in the creation of such offices to uphold the rights of citizens in their interaction with public services.

Northern Ireland has experienced many dark days since the Office came into being in 1969. It has been a reassuring feature of our work that at all times public representatives from across the political spectrum felt able to seek help on behalf of their constituents from all who have held the office of Ombudsman and Commissioner. Key, I believe, to that position of trust across the whole community, is the fact that the fundamental principles underpinning the operation of the Office have remained constant. From the outset the cardinal principles of integrity of judgement, independence from the bodies within jurisdiction and a wholly impartial approach to the examination of complaints had primacy. Those fundamental principles have been resolutely protected by successive Ombudsmen and on this fortieth anniversary I pay tribute to my predecessors who guided the Office through some very difficult times.



Clearly, the work of an Ombudsman continues to be significant and have value for the citizens within a country or jurisdiction. Forty years on, and society is and continues to become more complex. In turn the bodies that exist to serve the public are becoming more complex. Consequently, most of the issues of injustice being raised by citizens may not always fit neatly into one domain or category but often reflect the wide range of agencies, organisations and bodies within Northern Ireland. Their functions and interactions often overlap with one another. Social change and the evolution of norms and values have also resulted in increased expectations by citizens in terms of what they require from public services. Ironically, the current economic downturn, and the predicted reduction to public service budgets will come at a time when the public expects even more from the public services in terms of the level of quality of services. All of these factors, coupled with the fact that the service my office provides is free, undoubtedly make the role of the Ombudsman more relevant than perhaps ever before.

The booklet which is introduced today to mark the fortieth anniversary of the Office draws on the experience gained over that period. Equally it draws on the experience and work of other Ombudsman offices in the public sector and reflects the collective expertise of colleague Ombudsmen who have already published advice on this subject.

In addressing these issues I have set out what I believe should be the hallmarks of a fair complaints process. There is perhaps nothing revolutionary in the detail; essentially the guide articulates what I look for as I examine the documented evidence relating to a complaint and how it has been handled. However, I do hope that the complaint handling framework set out in this booklet will provide a motivation for public bodies to review their internal complaints processes, and thereafter the framework will provide a good practice reference guide for those within the organisation handling complaints to monitor their organisation's approach on an ongoing basis.

The framework also sets out what I regard as another important dimension, the responsibilities of the public. Whilst the public have every right to expect efficient public services and a right to see shortcomings addressed, they must also accept responsibility for full and timely disclosure of information, courtesy in dealing with public servants and a willingness to accept that they may not receive the outcome which they expect.

I commend this booklet to public bodies and the public alike and I hope that all will find it helpful.

Dr Tom Frawley CBE
25 November 2009



Introduction

Why have a framework for handling complaints?

In a small jurisdiction there is a recognised need to ensure consistency in complaint handling across the public sector. A common approach to resolving complaints will ensure citizens are provided with adequate standards of service whatever the source of that service. This guide builds on the *Parliamentary and Health Service Ombudsman's Principles of Good Complaint Handling*¹ and provides guidance to public bodies within my jurisdiction on good practice in complaint handling. It aims to encourage local resolution by public bodies so as to better focus scarce resources on service delivery. An effective complaint handling system captures service improvement lessons arising from complaints. The citizen is entitled to an effective internal redress mechanism before seeking external assistance from an Ombudsman or other independent adjudicator. Effective complaint handling provides confidence to the complainant and can help repair a 'broken' relationship between that individual and the public body.

This framework provides guidance to public bodies in developing a clear and consistent approach to local complaint handling and identifies good practice examples for bodies to benchmark their complaints systems against.

How to use this framework

This guide may be used either as a template for creating a new complaints procedure or as a benchmarking tool for existing processes. The good practice advice is based on the experience of my staff which best serves the citizen and the public bodies in achieving local resolution. It draws on guidance from the Local Government Ombudsman on running a complaints system¹. The framework is a flexible tool to be used when public service has failed to best achieve a resolution for the complainant.

I recommend its use when a new public body is created and there is a blank canvas or where problems have arisen in part of a complaints scheme and adjustment is required.

How I will use this framework

In future when considering complaints, I will use this guide to assess the adequacy of response when a public body deals with any complaint. My reports will contain specific references to sections of this guide that require consideration. In addition where good practice in complaint handling has been identified in any investigation conducted by me, this will also be highlighted in my report to the public body and the complainant. In my annual report to the Northern

¹ Published 10 February 2009 by PHSO – www.phso.org.uk

² Guidance on Running a Complaints System – www.lgo.org.uk



Ireland Assembly I will refer to the guidance and the progress of public bodies in developing complaints procedures which meet its requirements.

Principles of Effective Complaint Handling

In developing this framework, I have drawn on the current work of my colleague the Public Service Ombudsman for Wales and the Complaints Wales Project Group which has been established to produce proposals for consideration by Welsh Assembly Government for a model complaints procedure.

These principles are at the core of the Framework for effective complaint handling and are as follows:

1. Accessible and simple.
2. Fair and impartial.
3. Timely, effective and consistent.
4. Accountable.
5. Delivers continuous improvement.

It is with these principles in mind that I have developed the following framework.

Tom Frawley



Planning and Establishing a Complaints Procedure

Leadership is essential to ensuring a culture that values complaints as lessons learned. Planning is necessary to achieve that culture.

Leadership

Effective complaint handling will flourish in a culture that values complaints as a source of information. Understanding citizen's needs is essential for improving public services. It is not sufficient to create a complaints procedure in isolation. It is essential to make it part of how your organisation interacts with the citizen. When developing a complaint handling procedure for the first time or when reviewing an existing procedure it is essential that the commitment to complaint handling is supported at a senior level.

A 'champion' is needed to maintain that focus on complaint handling and to ensure that both management and the complaints team are supported in the process. This senior officer should have responsibility for development of the complaints procedure with the support of a dedicated task force. The membership of a task force should be representative of the business areas within the public body. Good practice in developing complaints procedure requires user groups to participate in the creation of a complaints procedure.

A Statement of Principle

A starting point in developing a complaints procedure is to have a high level statement of principle, such as '*We see complaints as learning opportunities*'. This statement should be communicated both internally and externally. Without the underlying principle a complaints procedure will lack focus. This statement of principle will help define the aims and purpose of the body's complaints procedure.

Reviewing Existing Procedures

When reviewing an existing complaints procedure, a body should consider the following:

- Any legislative requirements or statutory procedures that must be considered;



- Existing processes and how they can merge into the new procedure;
- Other processes and policies such as grievance or disciplinary procedures that exist alongside the procedure; and
- Existing information on complaints collected. Decide what that information is telling you about complaints.

Where there are a large number of complaints not upheld then the existing procedure may not be working effectively or a need exists for clarification of the scheme or process. Should the data reveal that complaints are frequently upheld but no action taken to correct the errors, then good practice requires that you identify the blocks in the existing process. The ability to collect data on complaints is essential and should be considered at the planning stage.

The Complaints Procedure – its purpose and aims

An effective complaints procedure is aimed at resolving complaints quickly and be responsive. Effective complaints handling is achieved by striving to get as close as possible to the source of the service failure. The following are characteristic of an effective complaint handling system which reflect the principles identified earlier:

- Clear, simple and accessible procedures that allow citizens to complain about the service they have received;
- Single point of contact so that complainants can get access to the complaints team;
- Ownership of the complaint is established at the beginning of the procedure and remains consistent throughout the process;
- Investigative procedures ensure all information is gathered quickly;
- Communication with the complainant on progress is timely and regular;
- Outcomes are clearly identified, realistic and deliverable;



- Remedies should have visibility;
- The identification of problems and administrative errors is at the heart of the process.

A complaints procedure that does not aim to correct errors identified is flawed. The Ombudsman will make a finding of maladministration where he finds evidence that the stated aims of the procedure have not been met.

Defining a complaint

Complainants are often confused about what they can complain about. A public body must define clearly what it will deal with as a complaint. Simplicity is a key principle when defining a complaint. This definition will vary depending on the nature and function of the public body. It is a matter for a public body to decide what a complaint is. However, the Ombudsman suggests the following working definition:

‘Any oral or written expression of dissatisfaction by any person, however made, about the service, actions or inactions of a body or its officers which requires a response.’

An effective complaints procedure explains clearly those issues which are not considered to be a complaint. These include a request for a service, information requests or appeals to a tribunal or business as usual request for a service.

Decide who may complain about the service

This is important as there may be privacy or data protection implications where a person other than the ‘aggrieved’ party makes a complaint. A public body should identify clearly who can complain and when a complaint will be accepted on behalf of a person who may be incapable of making a complaint such as minor or person suffering from illness or other incapacity. The complaints procedure must set out in accessible language the documentation needed to support a complaint from someone other than the aggrieved party; such as the requirement for a letter of authorisation or power of attorney.



Good practice requires the complaints process to be accessible also to those who are not directly affected by the action of the complaint.

Public bodies often enter into contractual or partnership arrangements with third parties. In all third party arrangements, provision should be made for a referral to the public body of any complaint. All third party information about a partnership or contract will reflect the right to complain to that public body.

Alternative forms of dispute resolution

When designing a new complaints procedure, or reviewing an existing one, consideration should be given to alternative forms of dispute resolution appropriate to the case. For instance, a complaint which concerns the conduct of an officer may best be resolved through mediation in order to maintain an ongoing relationship, such as in a landlord/tenant case.



Designing a Complaints Procedure

An effective complaints procedure will focus on the complainant and ensure effective and speedy resolution.

Informal resolution An effective complaints procedure will have sufficient stages to ensure a fair and proportionate process. In theory many complaints procedures have an informal stage during which an initial complaint may be resolved through direct contact with the service provider or decision maker. Where an informal process exists, this should be clearly identified in all complaints documentation. Informal resolution can achieve a timely solution and the Ombudsman encourages this. However, lack of formality can mean no records. It is in the best interests of the body and the complainant to record every complaint as an expression of dissatisfaction with the service provided. This will demonstrate that the body takes the complaint seriously and will ensure that should the complaint escalate further there is a contemporaneous and accurate record of the complaint. Early resolution has cost savings. Effective complaints handling means '*getting it right first time*'

Stages in the complaints procedure

To ensure timely resolution, the Ombudsman considers that the procedures should be limited to two or at most a three stage complaint procedure. A more streamlined procedure will increase the potential for a relevant outcome for the complainant. A complaints system with 4 or more stages will merely frustrate the complainant. There have been many debates about the requisite number of stages. This guidance does not seek to be prescriptive and bodies should tailor the procedure to suit its functions, structure and the needs of the public it serves. A multiplicity of stages has the potential to lead to inconsistency in the decision making process. The Ombudsman would expect all stages to be clearly identified to complainants at the beginning of the process.



Too many stages often leads to delay and loss of relevance in terms of the outcomes both for the complainant and the body concerned. A two or three stage process with a final stage being undertaken by the Chief Executive or head of the body concerned is good practice. This ensures Senior Management ownership of the complaints process but also it allows a Chief Executive to have clear ownership of the complaints process. Having a Chief Executive or senior officer to oversee the complaints process provides reassurance to the complainant and allows senior management an invaluable insight into the experience of the citizen in relation to the services offered by the public body.

A common mistake on the part of a public body and one which causes complainants to doubt the impartiality of the process is the practice of the Chief Officer at the final stage of the process sending the complaint back to the original decision maker or another officer who has been involved in the case. This approach is considered to be poor practice by the Ombudsman. Such practice suggests that the Chief Executive has no part to play in the process and is not a discrete decision maker. From the complainant's perspective the process may therefore lack credibility. For the body, it is in effect a missed opportunity to create credibility for the procedure and 'real time' insight into the service the body provides.

Establishing ownership

Complainants should have a single point of contact for each complaint as this ensures that one officer of a body has taken responsibility on behalf of that body for the perceived service failure. Often complainants express frustration at having to deal with differing officers during the life cycle of their complaint. It is good practice for a body to create a complaints procedure that allows for one person to be the single point of contact for the complainant. The benefit of this contact point is to re-establish the broken relationship with the complainant and to ensure commitment to resolution. A complaint handling team should allow for this relationship to develop.



Complainants often feel that 'passing the parcel' has occurred if ownership is not established or maintained.

A credible review

Many complainants consider that internal complaints procedures are ineffective in resolving their issues with a public body. Lack of credibility can be avoided by ensuring that as far as possible there is a distance between the original decision maker and the complaint handling team. It is good practice to establish a separate complaint handling unit and separate line management reporting. Often a complaints handling team will be the unit that keeps a public body accountable and marks standards of propriety.

Monitoring the outcomes of a complaint process is essential to ensure that the complaints are being treated seriously. Collating information on complaints and outcomes will help ensure that the decision making is genuine and based on evidence. A large number of complaints being upheld suggests a trend that may require a systems review. Too few complaints being upheld may suggest a bias in favour of the body. To ensure freedom from bias regular feedback from complainants is needed combined with regular review of the procedures.

The decision maker

Decisions should be made by those who have no public or private interest in the outcome. Where there is a conflict of interest, or a reasonable person would perceive that such a conflict existed, the complaint should be considered by another person. Conflicts of interest can exist because of the size of the jurisdiction or the geographical limits of a body. Alternative arrangements for handling complaints where a conflict or perceived conflict is identified can be made between other similar bodies or units outside the geographical area. The complainant should be made aware of a conflict as soon as it is identified and they should be informed of the proposed alternative arrangements. Access to documents and information should be denied to the 'conflicted' officer of the body so as to protect that individual and the public body from accusations of bias.



Anonymous complaints

A complaint handling procedure is not a judicial process but it must as far as possible reflect the principles of natural justice. Normally the complaints process is not applicant blind but in some instances a body may wish to investigate an anonymous complaint where the issue is one which identifies systemic issues of concern. A complaints process needs to be sufficiently flexible to capture, in exceptional circumstances, concerns raised in anonymous complaints.

Special cases

In designing a new complaints procedure or reviewing an existing one, the process should have flexibility so that special or unusual cases can be dealt with. For example where the case highlights financial impropriety or any criminal activity it is important that a smooth handover be effected to the appropriate authority. Where fraud or other criminal activity is suspected on the part of officers or revealed during any stage of the complaints process, this should be the subject of legal advice or dealt with by a designated Fraud Officer. This is essential to ensure that the evidence that may be needed to launch a criminal investigation is not tampered with or lost.



Communicating the Complaints Process

Accessibility is paramount in ensuring an effective complaint handling process.

Tailored communication

A complaints procedure must be clearly communicated and accessible to all users. This is an established Principle of Effective Complaint Handling. The methods of communication are a matter for the public body. Frequently a sectoral approach is needed to ensure wide dissemination of the complaints procedure. For instance, in the case of health complaints it is good practice to provide a patient with a leaflet explaining the complaints procedure at the beginning of their stay in hospital.

A balanced communication programme will ensure accessibility to all groups including the elderly, the mentally ill, children and vulnerable adults. Most of the bodies in Northern Ireland who come within the jurisdiction of the Ombudsman are also 'Section 75 bodies'³. These bodies are under a legal duty to promote equality of opportunity among nine protected groups. That may mean providing a copy of the complaints procedure in alternative formats such as braille or producing a leaflet in different languages. Alternatively, providing for interpretation services to be available to those who wish to complain may suffice. For further guidance on these requirements contact the Equality Commission.⁴

Accessibility is a key principle. Users who complain must be made aware of who to complain to and the detail of each stage of the complaint process. If there are time limits for each stage these should also be communicated. Time limits should be achievable and at the same time testing. There should be a deadline for an acknowledgement and also for a final report or decision letter. It must be made clear who will deal with the complaint at each stage and any anticipated outcomes. Where a complainant is unhappy with the outcome of the complaints procedure there must

³ Section 75(i) of the Northern Ireland Act 1998

⁴ www.equalityni.org.uk



be clear sign posting to the Ombudsman; this is an essential part of a public sector complaints process.

Accurate communication

Failure to communicate a complaints procedure adequately is considered by the Ombudsman as maladministration. Where the body uses its website as the main method of communication, this should be updated regularly. Documentation used by partners or agents of the public body should refer to that body's complaints process. When the complaints procedure changes or staff dealing with complaints change this must be communicated to the public. Where a deadline cannot be met this should be communicated with an explanation for any delay and an expected completion date. Inaccurate information can raise false expectations or even generate another complaint.

Initial launch and set-up

When a body is designing a new procedure it should consider the audience it wishes to communicate with. The most simple and direct methods of communication must be used. A certain amount of publicity may be necessary to invite interest and inform the public that a procedure exists. It is at this point that the 'statement of principle' becomes significant and senior officers of the public body must be visible in their support of the new process.

General and targeted publicity

It is good practice to have general as well as targeted publicity. At all times the public should be made aware in general terms that a complaints procedure exists. Where a complaints procedure changes, there is a need again for targeted publicity. For instance where the number of stages increases or decreases for any reason this must be communicated to the public. Failure to advise the public of essential changes to a complaints process is considered by the Ombudsman to be maladministration.



Documenting Complaints

Clear and simple documentation in accessible language will provide the complainant with an opportunity to describe the service failure and the remedy sought.

Complaints forms and letters

A complaint can be made orally initially but it is best practice to ask that the complaint be put in writing. The Ombudsman does not wish to be prescriptive about how a complaint is recorded, however he considers it is good practice to have a specific form. Neither is he prescriptive about what a complaints form should look like but it may contain the following:

- Space for name, address and contact details and preferred method of communication;
- Identification of alternative contacts;
- Sufficient space for the complainant to set out their complaint;
- Data Protection Information about what the information will be used for;
- An outcomes section – what does the complainant want to happen;
- A section to allow the public to explain if they have already complained and to whom;
- Details of what will happen next and the timescale.

Some public bodies now allow for online completion of forms. This has data protection implications. There may be some bodies who simply allow for freepost, either way the form should be expressed in clear terms and accessible language.

The Ombudsman is mindful that individuals wish to protect their privacy and that confidentiality is important in any complaint handling process to ensure trust in that procedure. Public bodies need to ensure that staff who deal with complaints are trained in Data Protection law and practice and are aware of the expectations of the public in respect of their information.



Complaint handling officers may need to meet face to face with complainants or third parties in a case. They may also be required to record telephone conversations with a member of the public who may wish to complain. The threshold for recording information is that of relevance and only records what is relevant to the complaint. Overly detailed or verbatim records may not be necessary unless a formal witness statement is being taken. It may be relevant to record a complainant's demeanour and sense of frustration as this can convey to the decision maker in any complaints procedure how the person feels about the complaint.

Records of complaint handling procedures need to be maintained for a suitable period to enable the investigation process to be completed and to allow investigation by the Ombudsman and any legal process to be completed. An incomplete complaints file will be misleading and can hamper effective resolution and any subsequent Ombudsman investigation.

The Ombudsman does not wish to be prescriptive but considers that records should be kept for at least 1 year after the complaints procedure has been exhausted subject to any legislative requirements that a body may be subject to. It is essential to ensure compliance with the requirements of Public Records legislation. Central government bodies will have a Destruction and Disposal of Records schedule and this must be adhered to. Failure to do so will be maladministration on all aspects of record keeping. For further guidance on this issue visit the PRONI website⁵.

⁵ www.proni.gov.uk



Investigating Complaints

Investigation staff require dedicated skills training. All officials must co-operate with investigators in providing relevant information and documentation.

An independent investigator is necessary

A proper investigation starts with a thorough review by an officer with sufficient internal credibility and independence to ask difficult questions and recommend changes in response to the complaint.

An internal investigation into the complaint must start with the complaint documentation. This will normally include the complainant's records, records of phone conversations with the complainant and the complaints form as well as supporting documentation or correspondence. This is vital information upon which to make a decision. Once the documentation is collated it is good practice to prepare a chronology or history of the circumstances leading to the complaint. If there are gaps in the information these should be identified.

The Ombudsman has produced a leaflet on what he expects to see when investigating Health and Social Care complaints, this is available on his website.⁶ This is a good reference guide to such complaints which frequently result in lengthy and complex investigations. Staff who conduct the investigations must have attention to detail and be aware of the need for proper research methods. The investigative process should follow Local Government Ombudsman guidance⁷.

It is good practice when investigating a complaint to speak to the staff who dealt with the complainant and if necessary take a formal witness statement. An investigator in this instance must have access to people, records and legal advice if necessary. A gap analysis will tell the investigator if additional information is needed. Such

⁶ www.niombudsman.org.uk

⁷ www.lgo.gov.uk



investigations are resource intensive and can result in delay – make investigation proportionate to the alleged wrong and any loss suffered. In health cases for instance, where a patient has died or the complaint relates to a mis-diagnosis an expert opinion may be needed.

Establish the issues When investigating complaints, there are three main areas that need to be fully addressed in order for resolution to be achieved. These are:

- dealing with the substantive issues of the complaint;
- dealing with the procedural requirements of how decisions in relation to the complaint have been made; and
- considering how the complainant has been dealt with throughout the process.

A response to a complaint should outline the areas of investigation so as to provide assurance to the complainant that the matter has been fully and properly investigated.

Other investigating bodies

Should the investigation reveal fraud or other criminal activity an early handover is needed to the appropriate authorities. Best practice demands a policy with identifiable trigger points or criteria for when this might occur to aid the investigator. This will help avoid contamination of evidence or leakage of information in a case which might warrant a criminal investigation.



Providing Redress

An effective complaints procedure will provide appropriate and flexible remedies to complainants. Public bodies should be open to the complainant's wishes and avoid being over-prescriptive as regards redress mechanisms.

The Parliamentary and Health Service Ombudsman (PHSO)⁸ outline the remedy and the Ombudsman commends these to public bodies in Northern Ireland. In addition he considers the following considerations to be relevant. These are:

- Getting it right;
- Being customer focused;
- Being open and accountable;
- Acting fairly and proportionately;
- Putting things right; and
- Seeking continuous improvement.

Proportionate and Fair Outcomes

Remedies need to be flexible and proportionate to the wrong that has been highlighted by the complaint, and it is good practice to have a range of available remedies which might include the following:

- An apology;
- An explanation;
- Correcting the error;
- Undertaking service improvement;
- A change in policy or procedure; or
- Financial compensation.

It is important to ask a complainant what outcome they seek. However there may be limits on a body's powers or capacity to provide a remedy. Financial settlements are often in the form of ex-gratia payments. Before a remedy is offered there may be a need to obtain legal advice to ensure that the body can actually provide that remedy and to ensure consistency in approach to similar complaints. In some instances where a fault is systemic there may be a need to develop a compensation scheme.

⁸ Principles for Remedy - www.phso.org.uk (published 10 February 2009).



Factors favouring financial remedies

Earlier PHSO guidance on the factors to be considered in deciding upon financial compensation is also relevant and I commend this as follows:

Public bodies should consider:

- Whether there has been a failure of entitlement;
- Whether someone has faced additional cost;
- Whether the process has imposed costs on the complainant;
- The circumstances of the complainant, has the action or inaction resulted in hardship;
- Whether the loss or damage is likely to last for some time;
- Whether there is a loss of opportunity;
- Any tax implications.

Often a complainant simply wants an acknowledgement that something has gone wrong and wants the body concerned to apologise. There may be difficulty in getting the service unit or the original decision maker to admit they were wrong and apologise. An apology should be unequivocal and not dependent or subject to a condition precedent for example, “I will apologise if you withdraw your complaint”. It is poor practice to apologise and criticise the complainant at the same time.

Some complainants may not be satisfied with an apology and want to humiliate a member of staff or the body concerned. The Ombudsman considers this is not appropriate behaviour on the part of the complainant.

Alternative redress

The Ombudsman considers that any scheme for remedying administrative failure should put the complainant back in the position he or she was in before the error occurred. If this is not possible and if compensation is not an option then other forms of redress need to be considered such as explanation or arrangement of staff training. It is good practice to be open to suggestions from the complainant about what they see as appropriate. In some instances a complainant’s wishes cannot be met and they may need to seek an alternative form of redress such as a legal remedy. This should not be an option which a body should try to dissuade the complainant from taking, as an individual has a right to choose the form of redress.



Evaluating the Process

Regular monitoring should take place to ensure timescales and satisfaction levels are achieved.

Lessons learned

A complaints procedure will provide valuable information to a body on what errors have occurred and how to avoid them in future. This is essential for continuous learning. Information is essential in order for the complaints to be assessed and lessons learned to be fed back into the system.

Information about complaints will help inform policies and procedures and to ensure consistency in decision making. Staff need to be aware at induction stage that there is a complaints process and how it might affect them so that they record the relevant information and the lessons are not lost. In Bodies where complaints are viewed as a service improvement tool staff do not feel threatened by a complaint. They see it as an opportunity to make things better.

Feedback to staff

Staff need to be clear about what may happen to them if a complaint is made. Often Bodies focus on the complainant but ignore the impact on staff morale and performance. Taking time to explain what went wrong and to extract the lessons will reassure staff and provide a focus for performance improvement. Complainants are not necessarily wrong but sometimes staff treat them as such and this behaviour does lead to further complaints.

Complaint outcomes

Too many complaints being upheld by a body's complaints process will mean there is a significant problem and require a closer examination of the reasons for the complaints. Too few complaints can be equally of concern, suggesting inaccurate recording or a lack of understanding of what a complaint is.



Responsibilities of Complainants

The public have every right to expect efficient public services and a right to see shortcomings addressed, they must also accept responsibility for full and timely disclosure of information, courtesy in dealing with public servants and a willingness to accept that they may not receive the outcome which they expect. The Ombudsman is mindful of the increasing pressures on public bodies to deliver services to the public with scarce resources. The Ombudsman recognises that in addition to the right to complain, the public have responsibilities in the manner in which they interact with a public body when complaining of poor service.

Provide timely information in support of complaint

The Ombudsman expects complainants to act in the following manner when submitting a complaint to a body or to his office.

Complainants must provide adequate details of their complaint within the timeframes laid down by the organisation. The body against which the complaint is made should be identified. This information must set out clearly the cause for dissatisfaction with the service provided; or the actions leading to the alleged maladministration or hardship.

Where there has been delay in submitting a complaint, the complainant should explain the cause of that delay. If possible, the complainant should state what they seek as a satisfactory outcome.

Provide accurate information in support of complaint

The complainant must provide the public body with accurate details of their complaint. Copies of supporting relevant correspondence should be submitted whenever available. Where appropriate, accurate details of any third parties who are involved should be provided.

Treat organisation staff with respect and courtesy

Complainants must treat staff of the public body with good manners, politeness and civility. They should also treat staff with due consideration. It is recognised that



there may be a small number of people who act in a vexatious manner or in bad faith. Most public bodies have in place policies for dealing with such cases which strike a balance between the interests of the public body, its staff and the person concerned.

Adopt a reasonable and open minded attitude

Complainants should accept that in the main public bodies will act fairly in dealing with their complaints. The complainant in his/her dealings with the public body should adopt a reasonable and open minded attitude to the perceived problem and listen to reasonable explanations. This will require the complainant to adopt an unbiased and flexible approach.

It will not always be possible to achieve the outcome sought by the complainant, or to put him/her back in the place they would have been in had the wrong action not been taken. In these circumstances the complainant should adopt a reasonable and realistic approach.



Acknowledgements:

We are grateful to the following for their assistance in the preparation of this document:

**Ann Abraham, Parliamentary and Health Service Ombudsman;
The Local Government Commission;
Public Service Ombudsman in Wales, Peter Tyndall;
Project Wales;
The British and Irish Ombudsman's Association (BIOA); and
The Alaskan Ombudsman**



Contact us:

Progressive House
33 Wellington Place
Belfast
BT1 6HN

Tel: +44 (0) 28 9023 3821
Fax: +44 (0) 28 9023 4912

www.ni-ombudsman.org.uk