



Guidance for reviewers – how we consider complaints about our decisions

Introduction - Feedback about us: what does that mean?

1. PHSO handles thousands of complaints each year, and it is inevitable that people will want to comment on the service and decision received from us. We hope that most people will be happy with the contact they have with us and we will use this positive feedback to continue improving the experience that all our customers receive. However we recognise that a small number of those who use PHSO will have had a negative experience and we must have a process in place to handle this dissatisfaction.
2. Feedback covers all types of comments from customers (including organisations we investigate) about our service and the decisions we make. This can include times when customers are unhappy with our service or decisions we have made on a complaint. It can also include unhappiness with the methods we used to look into their complaint (for example, we did not interview somebody when we should have). It can also be a complaint about our response to a request for information under the Freedom of Information or Data Protection Acts. Our decisions are final and can only be challenged by Judicial Review.
3. We recognise that Judicial Review is a technical and expensive process and so our Customer Care Team are in place to talk with those customers who are unhappy with our service, decisions and methodology. The Customer Care Team will communicate with the customer and establish, using the relevant review criteria, if there might be a problem with our decision or method used in the case. If they believe we need to take a further look at the case, it will be referred to the Corporate Casework Team. This guidance explains how the Corporate Casework Team will review our decisions when we think there might be a problem and assess whether the decision we made was sound.

Accepting a case for review

4. If concerns have been raised about our decision or method the Customer Care Team will identify those cases where we need to take a further look at the case using the following criteria:
 - we made our decision based on inaccurate facts that could change our decision or
 - they have new and relevant information that was not previously available and which might change our decision or;
 - we overlooked or misunderstood parts of the complaint or did not take account of relevant information, which could change our decision
5. If the case meets the criteria the case will be passed to the Corporate Casework Team and the Customer Care Team will notify the customer that a review will be conducted. In cases where a customer has advised there is new material to consider, the Customer Care Team will make efforts to ensure that the customer has sent in all the relevant material before the review process is started. At this point the Investigation Manager in the Corporate Casework Team will conduct a formal risk assessment of the case and record the risk level together with any mitigation to the risk level (See Annex C) . The Investigation

Manager will also decide whether there is a need to prioritise the review. At this point the case will be logged on visual files as a review.

Conducting a review

6. The case will be allocated to a reviewer within the Corporate Casework Team. The reviewer will review the risk assessment of the case on allocation. Following the initial assessment of the case, the reviewer will contact the customer introducing themselves and explaining what the review will entail (reinforcing the explanation already provided by the Customer Care Team).
7. The reviewer will make contact with the original caseworker to inform them that a review is underway and inviting them to discuss the complaint if they wish to do so. If the reviewer plans to partly or fully uphold the complaint, they should contact the caseworker again and offer them a further opportunity to comment.
8. The reviewer will prepare a review analysis¹ of the complaint detailing their assessment of the customer's request; evidence the reviewer will rely upon and their decision making process for deciding the complaint outcome. This may include:
 - Identification of a new complaint - in which case a decision would usually be made within the Corporate Casework Team as to whether it is ready for investigation. If a decision is made to investigate a new complaint, this would usually be passed to the Investigations Team to take forward.
 - Further investigative work (for example, further clinical advice or communication with the case parties, to provide clarification on the complaint components). In most cases, this further work will be undertaken by the reviewer within the Corporate Casework Team.
 - In cases where substantial further investigative work is required and there is an assessment that the complaint will be upheld, a decision may be made for the case to be referred elsewhere for completion (for example, Operations, an External Reviewer or Associate Investigator).

The review analysis will also identify any further work that may be required to resolve the complaint or assist with any area that the reviewer predicts will be raised following the conclusion of the review.

9. Once the reviewer has fully assessed the case, the reviewer will prepare a letter to the customer detailing their findings and explaining their decision in assessing their review of their complaint. Where appropriate and proportionate, they will address any of the questions that the customer may have asked in the review request, or provide additional clarification to points originally covered within the investigation report. The investigator will aim to complete the review within the agreed service standards. Signatory arrangements are contained with Annex B.

¹ Detailed in Annex A: Analysis Framework.

10. The outcome of the review will be:

- There is no issue with our method or decision. The review is closed as not upheld. A letter outlining our decision will be sent to the customer and the case returned to the Customer Care Team to manage any post-review correspondence.
- There is an issue with the method used or decision made that requires further explanation or further questions to be answered. The reviewer will prepare a letter explaining the outcome of the review and providing those further explanations or answers². Customer Care will then manage any post-review correspondence.
- The reviewer identifies that our method/decision is potentially flawed and that further work on the case is required.

11. Once a review has been completed the decision is final. Any further feedback will be passed to the Customer Care Team who will maintain a dialogue with the customer and continue to answer any further questions they may have.

Service Standards

12. The review process has a service standard that 90% of reviews are concluded within 16 weeks from the date on which the complaint is accepted by the review team. The customer will also be provided with updates on the progress of their review every four weeks.

Learning from complaints about our decisions and methodology

13. As part of the review consideration, the reviewer will assess the handling of the case. The reviewer will also assess how the complaint has been handled with reference to the service model and My Expectations for Raising Concerns and Complaints³. If we identify that we could have done something better, either in the decision we have made or the method used by the case worker, the reviewer will outline what learning can be gained. The reviewer will also assess if a case has been handled efficiently and where positive learning can be gained from the handling of the case. The learning points will be logged by the Investigation Manager and referred by them to the Operations Directors for consideration/action.

Joint working

14. Complaints about investigations undertaken jointly with the Local Government Ombudsman will be sent to the Investigation Manager - Corporate Casework Team to decide whether we have enough information to carry out a review and whether the request meets the criteria. The IM will share the decision with the relevant person at the LGO. Any joint decisions made by PHSO and the LGO will be reviewed and signed out by the relevant Ombudsman.

² Please see Annex B for signatory requirements.

³ 'My Expectations For Raising Concerns and Complaints' was developed in relation to complaints surrounding health, however it is anticipated that the guidance will also inform in the handling of parliamentary cases.

Annex A: Analysis Framework

The framework can be used as the basis for an analysis of any concerns about our decision or method. The framework can be adapted, as necessary, to fit the particular circumstances and complexity of the case.

- **Type of complaint:**
 - Is it a concern about our decision or method?
 - What are the customers continuing concerns? For example, a decision not to investigate; investigation report; proposal to investigate but with limited scope...
 - What the customer feels PHSO has done wrong, how they have been affected and what they want to achieve/how they want the complaint to be resolved.
- **Case background:**
 - A brief summary of the complaint originally put to PHSO (for example, what bodies were complained about and the main complaints) and any other key stages in the consideration of the case within PHSO (for example, when the case was received, when the main stages of the consideration of the case were completed (sharing draft reports if the complaint was accepted for investigation), any periods of significant delay and decision dates).
- **Analysis**
 - We should look to establish:
 - What did happen?
 - What should have happened (referencing appropriate guidance for example, the Quality Framework, Assessment & Resolution/Investigation Manuals, My Expectations for Raising Concerns and Complaints etc.)?
 - Whether any difference between the two appears significant enough to warrant the complaint against PHSO being upheld (either in full or in part)?
 - Does the customer have any specific questions that we can answer? If so, what are the answers?
 - Could PHSO have done more to explain our decision or resolve the complaint? If so, what more could now be done to resolve the customers concerns?
 - Overall, what happened and what impact did this have on the customer experience?

RESTRICTED

- The analysis should, as far as is possible, be self-standing so that the person communicating the outcome should be able to do so based upon the analysis and draft reply alone. If there are any specific records or documents which (due to their content, length or complexity) cannot be adequately summarised in the analysis then they should be either copied and annexed to the analysis or cross-referenced in the analysis and flagged clearly on the file.
- **Recommendation:**
 - This should state clearly the proposed outcome - whether it should be upheld, partly upheld or not upheld and (drawing upon the more detailed analysis already set out above) why that conclusion has been reached.
 - Highlight any particular considerations arising from the proposed draft response (including any adjustments that might need to be made in communicating the decision and explanations for the length or structure of the response).
 - If further work is required, what that further work is and how it should be undertaken.
 - What, if any, remedy or redress should be offered.
- **Handling issues/lessons/conclusions arising from customer experience issues**
- What can we learn from the complaint and how we handled it?

Annex B: Signatory arrangements

Activity	Review decision and response
Complaint where the Ombudsman signed off the decision complained about	The Ombudsman or the Managing Director
Complaint where the Managing Director signed off the decision complained about	The Ombudsman or the Managing Director
Complaints that have representation from the Speaker of the House, Leaders of the three main parties, a PACAC/HSC member and the chair of the public accounts committee.	The Ombudsman or the Managing Director
Complaints which are considered to be high risk	The Ombudsman or the Managing Director
Complaints about Corporate Resources issues	A relevant Director, Executive Director or Managing Director
Complaints about our service	A member of the Customer Care Team, the Customer Care Team Manager, the Head of Customer Care, the Head of the Corporate Casework Team, the Assistant Director of Customer Services, Director of Customer Services or the Managing Director
Complaints about decisions made by members of the Corporate Casework Team and the Customer Care Team, including the Head of the Corporate Casework Team and the Head of the Customer Care Team	The Investigation Manager - Corporate Casework, the Customer Care Team Manager, the Head of the Customer Care Team, the Head of the Corporate Casework Team, the Assistant Director of Customer Services, the Director of Customer Services or the Managing Director
<p>All other complaints:</p> <ul style="list-style-type: none"> - Where the recommendation is to partly or fully uphold - All others 	<p>Head of the Corporate Casework Team, the Assistant Director of Customer Services, or the Director of Customer Services</p> <p>Members of the Customer Care Team or members of the CCT</p>

Annex C: Assessing Risk in Review Processes

Introduction

1. We need to identify and manage risk continuously through the life of a case, during review processes and any post review correspondence. Everyone is responsible for ensuring that risk is managed appropriately.
2. Much of PHSO work is not high risk – most identified risks have potentially low impact and are unlikely to occur. However, given that we cannot anticipate every eventuality, it is vital that we are diligent in our assessment of risk and can evidence a risk based consideration of the information of which we are aware. We need to mitigate any risk identified to the best of our ability.

PHSO's four principles in operational risk management

3. These principles underpin our approach to casework risk assessment. We should:
 - Acknowledge that risk is inherent in the work that we do
 - Accept no unnecessary risk
 - Anticipate and manage risk by planning
 - Make risk decisions at the right level
4. There are eight risk categories (see 'risk category definition' below) to consider at key stages once a complainant has requested review. The categories provide a broad framework for any particular risks identified and encompass both casework risk assessment and additional considerations that might be present at during the review process. It is important that risk is assessed against likelihood and impact of the risk at the stage of the case.
5. When assessing the risk of a review cases we must take into account both actions that have occurred during the life of the case, and any anticipated action that might result from the review findings. Visualfiles must be updated with the most current risk assessment. PHSO's risk management guidance can be found here....[insert Meridio link].
6. In addition to following PHSO's risk management guidance there are a number of other factors that should be considered when assessing risk at review. These include:
 - Is there a threat or initiation of Judicial Review proceedings against PHSO?
 - Is the case high profile, for example a review has been requested by an MP?
 - Is there increased public interest in a case or subject matter since the investigation has concluded?
 - Is it likely the review findings could have a significant impact externally?
 - Is compliance with any recommendations made still outstanding?
 - Was the case investigated in the Corporate Casework Team?
 - Do the Chair & Ombudsman and/or Managing Director & Deputy Ombudsman have an interest in the case?

- Do the review findings indicate or recommend a change to PHSO investigation processes or identify significant concerns about the quality of the investigation?

When to do a risk assessment

7. Although risk management is a continuous process, a formal risk assessment is required at various points after the casework process has ended.

i. When the case is accepted for review

Once the Customer Care Officer has made a proposal for a review, the Investigation Manager will check that a risk rating has been considered, and is an accurate reflection of the rating before accepting or declining the review proposal.

ii. When the case is allocated to a reviewer

The reviewer will conduct a formal risk assessment at the following points during the review process:

iii. When the review is complete before we communicate our decision

Responsibility for High and Medium risk cases in review

8. High and Medium risk cases within review should be brought to the attention of the Investigation Manager who will discuss the mitigation plan with Head of the Corporate Casework Team.

Annex D: Review Process - Administrative actions

Logging the review

1. Go to Visualfiles (VF) and search for case.
2. Edit Risk, access the risk, click "Reassess Risk" tab and select which risk (usually the risk which the case is already at).
3. Go back to the Review Tab and select complaint type e.g. investigation or enquiry.
4. Edit initial details - select who contacted PHSO and requested the review (complainant, aggrieved, rep etc).
5. Enter date the review request was received in the office.
6. You also need to generate a letter by clicking on the Acknowledge correspondence tab. Select who to send the letter to i.e. complaint, MP. This needs to be done for the other tabs on the review screen to work. In the letter add NOT SENT and also add this to the History Item on VF as the Customer Care Team contact the complainant to inform them that we have accepted the case for review. If we need to send a letter use the letter templates that are saved in the Review Team Administration folder in Meridio.
7. Print off the review request and review proposal form to be added to the blue "awaiting files" folder (found in the BSO's in-tray).
8. If the file needs to be requested then send a FILE REQUEST email to the file holder and save the email to VF.
9. Then add the case details to the review team tracker. Enter the following, case reference, complainants name, type of complaint, risk, date review requested by complainant, date request received by team to consider proposal, 8 week target date, 12 week target date, 16 week target date (auto generated from VF), next update due, type of complaint (health or parliamentary and any comments from IM/Head of Team).
10. When the file arrives add the review request and proposal to the file under the post review/decision tab in the file.
11. Label the file with a yellow post it note with the type of complaint e.g. investigation, enquiry and stick to the top right hand side of the file. Any colour tab - write case reference and stick on the left hand side at bottom of file. Any colour tab - write name, 12 week target date and 16 week target date (from the review team tracker) and stick to the right hand side at the bottom of the file.

RESTRICTED

12. Place the file in "cupboard 3" which is the cupboard with the files waiting to be allocated and file in order of the 16 week target date. If the file is a box, make a note of this and the cupboard location on the review team tracker.

Sending update letters

Update letters should be sent every 4 weeks. The BSO looks at the review team tracker on a weekly basis.

1. Go into the review team tracker in the unallocated and allocated tabs and click on the filter to "sort oldest to newest" in the next update due date.
2. Make a list of case reference numbers that have an update due date prior to the current date.
3. Check on VF who the case is allocated to and email them to find out if an update letter needs to be sent. For unallocated cases check to see if the complainant has had any recent contact with the office. If not then an update letter needs to be sent. If a case is with an external reviewer check to see if the draft response is on VF or check with Sarah or Nicki to see if the external reviewer has emailed them.
4. When creating the letter you will have to check VF to see whether the complainant is due a 1st, 2nd, 3rd, etc. update. The templates for update letters are saved in the Review Team Administration folder in Meridio.
5. In the review team tracker update the next update due date with another 4 weeks.

Closing reviews on VF

1. Open the case on VF.
2. Go to the review screen - select view an existing issue - select the review item - choose decision - not upheld/upheld or partly upheld.
3. Then click the same button which should now read complaint outcome - N/A /apology etc. - select enquiry outcome.
4. Click resolve button - resolve - yes - other/ombudsman - complaint not upheld/upheld or partly upheld - select details - date.
5. Open the review team tracker and copy and paste the case from the allocated tab to the close tab.