

PHSO Scheme of Delegation - Casework matters

1. Introduction

- 1.1 The Parliamentary and Health Service Ombudsman (the Ombudsman) combines the two statutory roles of Parliamentary Commissioner for Administration (the Parliamentary Ombudsman) and Health Service Commissioner for England (Health Service Ombudsman), whose powers are set out in the Parliamentary Commissioner Act 1967 and the Health Service Commissioners Act 1993 respectively.
- 1.2 The Ombudsman's role is to investigate complaints that individuals have been treated unfairly or have received poor service from government departments and other public organisations and the NHS in England.
- 1.3 This scheme of delegation (the Scheme) sets out how the Ombudsman delegates his or her powers and functions as set out by s.3(2) of the Parliamentary Commissioner Act 1967 and para.12 of Schedule 1 to the Health Service Commissioners Act 1993 as they relate to casework.
- 1.4 The Scheme sets out:
 - Those powers and decisions reserved only to the Ombudsman with regard to carrying out casework;
 - Those powers and decisions which the Ombudsman has delegated only to the Chief Executive, the Director of Legal, Quality and Clinical, and the Director of Operations (Deputy Ombuds);
 - Those powers and decisions which the Ombudsman has delegated only to the following:
 - Chief Executive
 - Director of Legal, Quality and Clinical;
 - Director of Operations;
 - Assistant Directors in Operations.
 - All remaining powers and decisions delegated to the following where appropriate:
 - Operations Managers (including Heads of the Review and Feedback Team);
 - Intake Operations Managers;
 - Senior Caseworkers (accredited and non-accredited);
 - Caseworkers; and

– Intake Caseworkers.

- 1.5 All Senior Caseworkers go through an accreditation process which is reviewed periodically. A Senior Caseworker who passes this process is given a higher level of delegated authority under this Scheme which they retain for as long as they remain accredited.
- 1.6 This Scheme document specifically references when authority is given only to Senior Caseworkers who are accredited. All other references to Senior Caseworkers within the Scheme apply to both accredited and non-accredited members of staff.
- 1.7 The Executive, under the direction of the Chief Executive, remains responsible for the day to day administration of the Office's affairs and nothing in the Scheme applies to any decision which is administrative in nature that relates to how the Ombudsman's office carries out casework.
- 1.8 The making of these delegations for the performance of the Ombudsman's functions shall not prevent the Ombudsman from exercising those functions personally.
- 1.9 All delegated powers and decisions must be exercised in accordance with the Ombudsman's Service Model and its supporting Policy and Guidance and any other guidance issued to staff. Any of the delegated powers and decisions given in the Scheme may be withdrawn by the Ombudsman on a permanent or temporary basis, or amended at any time without prior notice.
- 1.10 The Ombudsman designates, for the purposes of casework, the Chief Executive, the Director of Legal, Quality and Clinical, and the Director of Operations as Deputy Ombuds.
- 1.11 The Deputy Ombuds may withdraw relevant delegated powers and decisions from any individual member of staff on a permanent or temporary basis with regard to their specific role at that time. When doing so, the relevant Officer making that decision will notify the individual member of staff in writing.
- 1.12 Members of staff who are temporarily promoted into any of the relevant roles listed in the Scheme will take on the delegated authority applicable to the role only for the remainder of their period of temporary promotion.
- 1.13 All delegated authorities listed in the Scheme are assigned to specific roles only and are not transferrable. Each individual member of staff will become eligible to carry out the specified delegated authority upon commencement of their appointment to that role. Any member of staff who moves to another role within the Office will relinquish all delegated authority given to them in their previous role upon leaving that post.
- 1.14 Notification of any changes to the Scheme will be made and circulated in writing.

2. General powers and decisions reserved only to the Ombudsman with regard to carrying out casework

- 2.1 The power to disclose information for the purposes of proceedings for an offence under the Official Secrets Act or for an offence of perjury alleged to have been committed in the course of an investigation.
- 2.2 Decisions to lay reports before Parliament.
- 2.3 The administering of oaths or affirmations (and the examination of witnesses abroad).

3. General powers and decisions delegated only to the Deputy Ombuds

- 3.1 The decision to carry out a new investigation following an upheld review of a closed investigation.

4. General powers and decisions delegated only to the Deputy Ombuds and Assistant Directors in Operations

- 4.1 Decisions to consider or exercise powers in relation to obstruction of an investigation (including the release of information for those purposes) or where documents or other evidence have been required from but not provided by individuals or bodies.
- 4.2 The power to pay expenses or fees to a mediator.
- 4.3 The power to pay fees and allowances to advisers or persons supplying information for the purposes of an investigation.
- 4.4 The power (as given in the Health Service Commissioners Act 1993) to disclose information in the interests of health and safety to patients.
- 4.5 Decisions to disclose information obtained during the course of an investigation other than for reasons set out in s.15 of the Health Services Commissioners Act 1993 and s.11 of the Parliamentary Commissioner Act 1967.
- 4.6 The power to limit or remove the delegated authority given by the Ombudsman to individual Caseworkers for a specified period or in specific circumstances.

5. Delegations to external persons

- 5.1 In the interests of effective complaint handling, there may be times when it is better for another Ombudsman service to undertake activity on behalf of the Ombudsman. In such cases, the Ombudsman will write and make reference to this provision and as such authorise and delegate to that Ombudsman all the powers in sections 4 and 6.
- 5.2 In relation to the Joint Working Initiative a supplementary delegation scheme is set out at annex A.

All Remaining powers and decisions delegated to staff where appropriate

- 6.1 The following delegations are classified by action or decision type. The following table illustrates the relevant powers and decisions delegated to staff in accordance with our ‘three step’ casework process.
- 6.2 All of the powers and decisions referred to below are delegated as a matter of course to the Chief Executive, the Director of Legal, Quality and Clinical, and the Director of Operations as their Deputy Ombuds.

General powers to obtain information to carry out casework		
Power to obtain information for the purposes of: <ul style="list-style-type: none"> Deciding whether we can look at a complaint; Deciding whether to accept a case for investigation; Carrying out an investigation. 	<ul style="list-style-type: none"> Assistant Directors Operations Managers¹ Intake Operations Managers Intake Caseworkers Senior Caseworkers Caseworkers 	<ul style="list-style-type: none"> Caseworkers (Early Consideration) Business Support Shared Service Centre Manager Quality Assurance Manager Assurance Officer Casework Sampler
Power to obtain information for the purposes of: <ul style="list-style-type: none"> Confirming an organisation has complied with recommendations. 	<ul style="list-style-type: none"> Assistant Directors Operations Managers Intake Operations Managers Intake Caseworkers Senior Caseworkers Caseworkers 	<ul style="list-style-type: none"> Caseworkers (Early Consideration) Business Support Shared Service Centre Manager Quality Assurance Manager Assurance Officer Casework Sampler Compliance Officer

¹ Managers in Operations who manage Caseworkers and Senior Caseworkers. This includes the Review and Feedback Team.

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Step 1: Actions and decisions at Intake	Standard Cases	Complex Cases
<p>Power to decline a case for investigation on the ground(s) that:</p> <ul style="list-style-type: none"> The organisation complained about is outside the Ombudsman's jurisdiction; The complaint concerns public service personnel matters; The complaint concerns pre-1996 clinical matters; The complaint concerns Private Healthcare (not NHS funded); The complaint was not properly made²; The complaint is not 'ready for us'³. 	<ul style="list-style-type: none"> Assistant Directors Operations Managers Intake Operations Managers Senior Caseworkers Intake Caseworkers Quality Assurance Manager Assurance Officer 	<p>(if already identified)</p> <ul style="list-style-type: none"> Assistant Directors Operations Managers in Complex Investigations
Step 2: Actions and decisions at Primary Investigation Stage	Standard Cases	Complex Cases
<p>Power to decline a case for detailed investigation on the grounds that:</p> <ul style="list-style-type: none"> The complaint relates to a less serious impact or injustice. 	<ul style="list-style-type: none"> Assistant Directors Operation Managers Senior Caseworkers Caseworkers (including Early Consideration and Early Dispute Resolution) 	<p>(If already identified)</p> <ul style="list-style-type: none"> Assistant Directors Operation Managers in Complex investigations

² Not properly made: For Parliamentary Complaints, this refers to when a complaint has not been made in writing and/or referred to the Ombudsman by a Member of Parliament. For Health Complaints, this refers to when a complaint has not been made in writing.

³ Ready for us: a complaint has completed the local complaint handling stages for the Organisation complained about, which would include any second tier complaint handler where relevant.

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<p>Power to decline a case for detailed investigation on the ground(s) that:</p> <ul style="list-style-type: none"> the complaint is not in remit;⁴ a person or organisation is not suitable to bring a complaint on behalf of the aggrieved; the complaint has been made out of time; the complainant has (or has had) an opportunity to achieve an alternative legal remedy; the complaint does not show indications of maladministration or service failure; the complaint does not show indications that any potential maladministration or service failure has led to an unremedied injustice; there is an alternative dispute resolution forum available; there is any other reason why an Investigation would not be practicable. 	<ul style="list-style-type: none"> Assistant Directors Operations Managers Intake Operations Managers (cases closed at intake stage only) Senior Caseworkers Quality Assurance Manager Assurance Officer 	<ul style="list-style-type: none"> Assistant Directors Operations Managers in Complex Investigations
<p>Power to investigate a complaint in principle (including joint working cases⁵)</p>	<ul style="list-style-type: none"> Assistant Directors Operations Managers Senior Caseworkers 	<ul style="list-style-type: none"> Assistant Directors Operations Managers in Complex Investigations

⁴ See section 2 and Annex A of the Service Model Main Guidance for the categories of complaints that are 'out of remit'.

⁵ Covers investigations carried out jointly with the Parliamentary Ombudsman, the Health Services Ombudsman, the Local Government Ombudsman or the Public Services Ombudsman for Wales.

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	<ul style="list-style-type: none"> • Quality Assurance Manager • Assurance Officer 	<ul style="list-style-type: none"> • Senior Caseworkers in Complex Investigations
Step 3: Actions and decisions at Detailed Investigation Stage	Standard Cases	Complex Cases
Power to confirm a proposed investigation	<ul style="list-style-type: none"> • Assistant Directors • Operations Managers • Senior Caseworkers • Quality Assurance Manager • Assurance Officer 	<ul style="list-style-type: none"> • Assistant Directors • Operations Managers in Complex Investigations • Senior Caseworkers in Complex Investigations
Approval and issue of provisional views (including making recommendations)	<p>Low risk only</p> <ul style="list-style-type: none"> • Senior Caseworkers (when accredited) <p>All cases</p> <ul style="list-style-type: none"> • Assistant Directors • Operations Managers • Quality Assurance Manager 	<ul style="list-style-type: none"> • Assistant Directors • Operations Managers in Complex Investigations
Power to make decisions on the outcome of investigations	<p>Low risk only</p> <ul style="list-style-type: none"> • Senior Caseworkers (when accredited) <p>All cases</p> <ul style="list-style-type: none"> • Assistant Directors • Operations Managers • Quality Assurance Manager 	<ul style="list-style-type: none"> • Assistant Directors • Operations Managers in Complex Investigations

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Power to discontinue an investigation	<ul style="list-style-type: none"> • Assistant Directors • Operations Managers 	<ul style="list-style-type: none"> • Assistant Directors • Operations Managers in Complex Investigations
Approval and issue of final reports of investigations	<p>Low risk only</p> <ul style="list-style-type: none"> • Senior Caseworkers (when accredited) <p>All cases</p> <ul style="list-style-type: none"> • Director of Operations and Quality • Assistant Directors • Operations Managers • Quality Assurance Manager 	<ul style="list-style-type: none"> • Assistant Directors • Operations Managers in Complex Investigations
Power to disclose a copy of a report made under the 1993 Act to any person the Health Service Ombudsman thinks appropriate	<ul style="list-style-type: none"> • Assistant Directors • Operations Managers • Quality Assurance Manager 	<ul style="list-style-type: none"> • Assistant Directors • Operations Managers in Complex Investigations •
Power to disclose information obtained during or for the purposes of an investigation or for its report	<ul style="list-style-type: none"> • Assistant Directors • Operations Managers • Caseworkers • Senior Caseworkers • Quality Assurance Manager • Assurance Officer • Compliance Officer 	<ul style="list-style-type: none"> • Assistant Directors • Operations Managers in Complex Investigations • Director of Operations and Quality • Assistant Directors • Operations Managers in Complex Investigations

7. Conflicts of Interest

Where there is an actual or perceived conflict of interest, all delegations herein are withdrawn in relation to that specific conflict, for the individual making the declaration. Where one of the Deputy Ombuds has a declared conflict, any exercise of powers will be taken by the other Deputy Ombudsman in accordance with the Scheme of Delegation.

Signed:

Rob Behrens



Rob Behrens CBE

Parliamentary and Health Service Ombudsman

Date: 30 November 2021

Annex A - PHSO Scheme of Delegation - joint working cases

- This document supplements the main PHSO Scheme of Delegation and explains how the Ombudsman delegates his powers in respect of decision-making on joint working cases. It should be read in conjunction with the main Scheme document, which explains the background to the Scheme, information about its administration and how general and specific powers are delegated.
- The main Scheme takes precedence over this supplement and reference should be made to it if there is uncertainty about the approval of specific actions or decisions.
- Joint working covers investigations carried out jointly with the Parliamentary Ombudsman, the Health Services Ombudsman, the Local Government Ombudsman or the Public Services Ombudsman for Wales.
- The Ombudsman gives a general delegated authority to the staff listed in this supplement to publish anonymised case information about joint working cases.
- These delegations apply to all staff in joint working teams dealing with joint working cases, regardless of which Ombudsman's office they are actually employed by.

The following delegations are classified by action or decision type. The table overleaf illustrates the relevant powers and decisions delegated to staff in accordance with our 'three step' casework process. All of the powers and decisions referred to overleaf are delegated as a matter of course to the Chief Executive, the Director of Legal, Quality and Clinical and the Director of Operations as Deputy Ombuds.

All cases	
General powers to obtain information to carry out casework	
Power to obtain information for the purposes of: <ul style="list-style-type: none"> Deciding whether we can look at a complaint; Deciding whether to accept a case for investigation; Carrying out an investigation. 	<ul style="list-style-type: none"> Operations Manager Assistant Ombuds, Joint Working Team Investigators, Joint Working Team.
Power to obtain information for the purposes of: <ul style="list-style-type: none"> Confirming an organisation has complied with recommendations. 	<ul style="list-style-type: none"> Operations Manager Assistant Ombuds, Joint Working Team Investigators, Joint Working Team
Step 1: Actions and decisions made at Intake stage	
Power to decline a case for investigation on the ground(s) that: <ul style="list-style-type: none"> The organisation complained about is outside the Ombudsman's jurisdiction; The complaint concerns public service personnel matters; The complaint concerns pre-1996 clinical matters; The complaint concerns private healthcare (not NHS funded); The complaint was not properly made⁶; The complaint is not 'ready for us'⁷. 	<ul style="list-style-type: none"> Operations Manager Assistant Ombuds, Joint Working Team Investigators, Joint Working Team

⁶ Not properly made: For Parliamentary complaints, this refers to when a complaint has not been made in writing and/or referred to the Ombudsman by a Member of Parliament. For Health complaints, this refers to when a complaint has not been made in writing.

⁷ Ready for us: a complaint has completed the local complaint handling stages for the organisation complained about, which would include any second tier complaint handler where relevant.

Step 2: Actions and decisions made at Primary Investigation stage	
<p>Power to decline a case for detailed investigation on the grounds that:</p> <ul style="list-style-type: none"> The complaint relates to a less serious impact or injustice. 	<ul style="list-style-type: none"> Assistant Directors Operation Managers Senior Caseworkers Caseworkers (including Early Consideration and Early Dispute Resolution) Assistant Ombuds Joint Working Team Investigators Joint Working Team
<p>Power to decline a case for investigation on the ground(s) that:</p> <ul style="list-style-type: none"> the complaint is not in remit⁸; a person or organisation is not suitable to bring a complaint on behalf of the aggrieved; the complaint has been made out of time; the complaint has (or has had) an opportunity to achieve an alternative legal remedy; the complaint does not show indications of maladministration or service failure the complaint does not show indications that any potential maladministration or service failure has led to an unremedied injustice; there is an alternative dispute resolution forum available; there is any other reason why an investigation would not be practical. 	<ul style="list-style-type: none"> Operations Manager Assistant Ombuds Joint Working Team Investigators Joint Working Team

⁸ See section 2 and Annex A of the Service Model main guidance for the categories of complaint that are 'out of remit'.

Power to investigate a complaint in principle	<ul style="list-style-type: none"> • Operations Manager • Assistant Ombuds • Joint Working Team Investigators • Joint Working Team
Step 3: Actions and decisions made at Detailed Investigation stage	
<ul style="list-style-type: none"> • Power to confirm an investigation • Approval and issue of provisional views/draft decisions (including making recommendations) • Power to make decisions on the outcome of investigations. • Power to discontinue an investigation • Approval and issue of final reports of investigations. 	<ul style="list-style-type: none"> • Operations Manager • Assistant Ombuds • Joint Working Team Investigators • Joint Working Team

Where there is an actual or perceived conflict of interest, all delegations herein are withdrawn in relation to that specific conflict, for the individual making the declaration. Where one of the Deputy Ombuds has a declared conflict, any exercise of powers will be taken by the other Deputy Ombudsman in accordance with the Scheme of Delegation.

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