

SERVICE MODEL - CAN WE LOOK INTO YOUR CASE

Purpose Statement - Help people make an informed choice about whether to complain to us, including explaining our role and what we can and cannot do.
Deciding whether we can look into the complaint and explaining why.

METHOD		
Objective	Actions	Behaviours/Working Practices
Is the complaint in remit?	<ul style="list-style-type: none"> • Ensure that the complaint is about an organisation we can investigate. Consider whether the case falls into any of the below categories: <i>Parliamentary only</i> <ul style="list-style-type: none"> ○ Actions abroad other than consular functions. ○ Administrative action taken on judicial authority. ○ Commencement/conduct of civil/criminal proceedings. ○ Criminal investigation or national security. ○ Exercise of judicial/legislative functions. <i>Health only</i> <ul style="list-style-type: none"> ○ Pre-1996 clinical matters (health cases only). ○ Private healthcare (not NHS funded) (health cases only). ○ Three year rule. <i>Health and Parliamentary</i> <ul style="list-style-type: none"> ○ Public service personnel matters. ○ Alternative legal remedy achieved. ○ Organisation we cannot investigate. ○ Commercial/contractual matters. ○ Ineligible complainant. ○ Out of remit - other. 	<ul style="list-style-type: none"> ➤ I will make contact either by telephone or in writing within two weeks. ➤ I will provide tailored advice about what PHSO can and cannot do. ➤ I will check the complainant has understood our service and knows what to expect. ➤ I will clearly explain what checks we make, what information I need and why. ➤ I will take time to make sure I understand the complaint: listening carefully and checking my understanding. ➤ I will see if there is an opportunity to resolve the issues quickly and effectively. ➤ I will capture the key details of each complaint by checking information and making further enquiries. ➤ I will clearly explain every decision we make on a complaint. ➤ I will capture key data about the contact and accurately record what action we took and any decision we make. ➤ I will ensure I keep an accurate audit trail of every action/decision taken. ➤ I will provide a tailored service, making reasonable adjustments as needed. ➤ I will look after the information I am entrusted with and be fully compliant with our records management policies. ➤ I will take a planned and proactive approach to managing my workload to the required standards.
Is the complaint properly made?	<ul style="list-style-type: none"> • <i>Parliamentary</i> - Check that the complaint has been made in writing to an MP, with the consent of the person aggrieved and we have received a request from the MP to investigate.¹ • <i>Health</i> - Check that the complaint has been made in writing (email is accepted)². 	
Is the complaint ready for us - Has local resolution been completed?	<ul style="list-style-type: none"> • Check that the complaints procedure of the health organisation/service provider or government department has been exhausted and a final response received. • Look at whether there are any exceptional circumstances where we consider investigating even if the individual has not completed local resolution. Examples could include: <ul style="list-style-type: none"> ○ if the person was suffering particular hardship or a terminal illness or ○ where it was clear that the relationship between the person and the organisation had broken down irreversibly. 	
Categorisation and allocation	<ul style="list-style-type: none"> ○ Review the case categorisation criteria to ensure the case is triaged to the appropriate caseworker. ○ Ensure the case is allocated to an appropriate caseworker when one is available. 	
Is the complainant suitable?	<ul style="list-style-type: none"> • The person affected must complain to us unless they can't act for themselves³. • If we get a complaint made on behalf of someone else, consider whether we need to make some further enquiries to check it is appropriate for the complainant to complain on the other person's behalf. • If we are satisfied that the aggrieved cannot complain for themselves, check whether the person bringing the complaint on their behalf is appropriate to do so. Consider: <ul style="list-style-type: none"> ○ Is there any conflict of interest? ○ Is there any evidence to suggest that the person affected by the complaint wouldn't want the person complaining to have access to confidential information about them? ○ Is there any suggestion that the person complaining is not acting in the best interest? 	

¹ Section 5(1)(A) 1967 Act

² Section 9(2), 1993 Act

³ 1967 Act, section 6(2); 1993 Act, section 9(3)

	<ul style="list-style-type: none"> • If the complainant has a representative we must still ask them if they are happy for that person to act for them. This consent can be taken verbally over the phone. 	
<p>Is the complaint within time?</p>	<ul style="list-style-type: none"> • <i>Health</i> - The person affected must refer the complaint to us within one year from the day they first became aware that they had a reason to complain⁴. • <i>Parliamentary</i> - The person affected must refer the matter to an MP within 12 months from the day they first became aware that they had a reason to complain⁵. • If a case comes to us outside of the 12 month time limit, consider relevant points from the following before deciding whether to put the time limit to one side: <ul style="list-style-type: none"> ○ Complainant's reasons for delay (could include ill health of the person complaining or close family or not being aware of the Ombudsman, especially if not told by the organisation complained about). ○ Time taken for organisation to respond to complaint. ○ Scale of injustice - if the case raises clinical issues you may need clinical advice to help you reach a decision. ○ Wider public interest. ○ The practicality of our ability to investigate. ○ Any other relevant factor. 	
<p>Does the complainant have an alternative legal remedy?</p>	<ul style="list-style-type: none"> • The Ombudsman cannot investigate if the person affected by the complaint has or had the option to take legal action to resolve their complaint, unless it is (or was) not reasonable for them to do so. • Our policy is that if the person affected has resorted to a court or tribunal that did (or could have but didn't) provide the full remedy sought the complaint is not one we can look at. • For all other cases (which includes not taking legal action) we must consider: <ul style="list-style-type: none"> ○ Is or was there an alternative legal remedy? ○ If so, is it/was it reasonable for the individual to use it? Points to consider include: <ul style="list-style-type: none"> ▪ Cost (would it cost more to take legal action than they would get in compensation). ▪ Time needed to pursue legal action. ▪ Whether the legal route would give them all the outcome/remedy they want. ▪ Whether the legal route was the only way that the complainant could obtain (or could have obtained) the outcome they are seeking. For example, the overturning of a planning decision. 	
<p>Risk assessment</p>	<ul style="list-style-type: none"> • Risk should be assessed when a decision is taken not to investigate a complaint. Risk should be monitored and reviewed throughout the life of a case. Consider whether any of the following 7 risk categories are relevant to the case: <ul style="list-style-type: none"> ○ <i>Risk to physical and/or mental well-being of staff</i> - this includes anything which could cause harm or unwarranted stress to Parliamentary and Health Service Ombudsman staff. ○ <i>Risk to professional standing of staff</i> - for example, the threat by a complainant or organisation to refer a person employed by or contracted to PHSO to their professional regulator. ○ <i>Risk to complainant, stakeholders and third parties</i> - one example are the threat of suicide or self harm or threats to others. ○ <i>Risks associated with the potential impact of our decision</i> - One example could include cases which we have identified as strategic or systemic and so may have a significant impact externally and/or the complaint has a finding of avoidable death. ○ <i>Risks to our ability to carry out our function</i> - One example could include cases where we do not get the cooperation we need from an organisation or person using our service. ○ <i>Other</i> - This is included for any risk factor not captured elsewhere. ○ <i>None identified</i> - for cases where we have fully considered risk in relation to the information available and decide that no risk is currently present. • Consider flagging potentially 'high risk' cases: <ul style="list-style-type: none"> ○ Cases concerning wider public interest issues ○ Cases regarding serious failures or potentially avoidable deaths. 	

⁴ Section 9(4) 1993 Act

⁵ Section 6(3), 1967 Act

Outcomes produced

- i) Case created
- ii) Statement of reasons why a case cannot be investigated; or
- iii) Resolution (further work to be done by organisation).

Service Standards	Quality Assurance
• TBC	• TBC

What Good Looks Like

- Support people to make an informed choice about whether to complaint to PHSO.
- Ensure people do not invest time and effort making a complaint to PHSO that we cannot look at.
- Provide good customer service via polite, professional, tailored advice and support: first contact means first impressions.
- Provide clear, accessible, tailored information via PHSO's website and social media channels.
- Ensure online complaint process gives same level of support, advice and detail expected across all channels.
- Ensure everybody has access to our service in a way they prefer.
- Ensure that people understand why we could not investigate a complaint.