

A closer look - carrying out the investigation

1. Introduction

- 1.1 This is part of a series of guidance modules that will help you implement and deliver the expectations in the [UK Central Government \(UKCG\) Complaint Standards](#).
- 1.2 This module explains what you need to do when carrying out an investigation. It covers:
 - planning your investigation
 - calculating timescales for responding to complaints
 - identifying and gathering evidence
 - acting fairly during the investigation
 - reaching a conclusion
 - considering potential legal claims
 - sharing initial views
 - issuing a final response letter
 - how to deal with complaints concerning issues that may give rise to disciplinary procedures
 - good investigation record keeping.
- 1.3 You should read this guidance alongside the [UKCG Model Complaint Handling Procedure](#) and the following modules [insert link to guidance page]:
 - Complaints and other procedures
 - Early resolution
 - A closer look - clarifying the complaint and explaining the process
 - A closer look - providing a remedy
 - A closer look - writing and communicating your final written response
 - Referring people to the Ombudsman.

The guidance modules are available on the [Ombudsman's website](#).

- 1.4 You should deal with each complaint on a case-by-case basis. This guidance should not influence the outcome of a complaint.

2. The Complaint Standards and national guidance

2.1 The relevant Complaint Standards are:

Being thorough and fair

- Organisations make sure all relevant colleagues have the appropriate level of training, skills and authority to look into complaints thoroughly.
- Organisations make sure all colleagues who look at complaints have the appropriate resources, support and protected time to do so in order to meet these expectations consistently.
- All colleagues who handle complaints do so fairly. Where possible, organisations make sure they assign complaints to colleagues who have had no prior involvement or who have no actual or perceived conflict of interest. Where this is not possible, colleagues take clear steps to demonstrate how they have looked at the issues fairly.
- Colleagues make sure key parties involved in a complaint (including colleagues specifically complained about) know how they will look into the issues. This includes what information complaints colleagues will need, who they will speak to, who will be responsible for providing the final response and how they will communicate their findings.
- Colleagues will agree timescales with everyone involved and will agree how people will be kept informed and involved. Colleagues provide regular updates throughout.
- At all times, colleagues have the freedom to look for ways they can resolve complaints at the earliest opportunity.
- Colleagues make sure everyone involved in a complaint has the opportunity to give their views and respond to emerging information. Colleagues act openly and transparently and with empathy when discussing this information, making sure they take everyone's comments into account.

Giving fair and accountable responses

- Colleagues give a clear, balanced account of what happened, based on established facts. Each account compares what happened with what should have happened. It gives clear references to any relevant standards, policies or guidance, based on objective criteria.
- In more complex cases, colleagues make sure they share their initial views on a complaint with key parties involved and give them the opportunity to respond. Colleagues make sure they take any comments into account in their final response to the complaint.

- Organisations make sure colleagues are supported and encouraged to be open and honest when things have gone wrong or where improvements can be made. Colleagues recognise the need to be accountable for their actions, and to identify what learning can be taken from a complaint, and how the learning will be acted on to improve services and support colleagues.
- Wherever possible, colleagues explain why things went wrong and identify suitable ways to put things right for people. Colleagues make sure the apologies and explanations they give are meaningful and sincere, and openly reflect the impact on the individual or individuals concerned.

2.2 The Complaint Standards work alongside several other important requirements and guidance, including:

- A Modern Civil Service
- The Civil Service code
- The Seven Principles of Public Life (the Nolan Principles)
- Managing Public Money
- the Public Value Framework
- Delivering better outcomes for citizens
- Corporate governance code for central government departments.

2.3 Relevant statutory and national guidance

The Committee on Standards in Public Life published **The Seven Principles of Public Life** (the Nolan Principles) which state:

‘1.3 Objectivity - Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.’

The Civil Service code states:

‘Values - ... “honesty” is being truthful and open ... “objectivity” is basing your advice and decisions on rigorous analysis of the evidence ... “impartiality” is acting solely according to the merits of the case and serving equally well governments of different political persuasions’

‘Standards of behaviour - “Integrity” ... always act in a way that is professional ... deal with the public and their affairs fairly, efficiently, promptly, effectively, and sensitively, to the best of your ability ... keep accurate official records and handle information as openly as possible within the legal framework. ... “Honesty” - set out the facts and relevant issues truthfully, and correct any errors as soon as possible. ... “Objectivity” ... provide information and advice ... on the basis of the evidence and accurately present the options and facts ... take decisions on the merits of the case ... take due

account of expert and professional advice ... you must not ignore inconvenient facts or relevant considerations when providing advice or making decisions. ... "Impartiality" ... must carry out responsibilities in a way that is fair, just and equitable and reflects Civil Service commitment to equality and diversity.'

The Cabinet Office published **Public Bodies: a Guide for Departments**. Chapter 8: Openness and Accountability states:

'4.2.3 Complaints relating to decisions or action taken by a body should be referred to that body for response. Complaints should firstly be subject to internal review, which should not involve colleagues involved in the initial decision or action. If the decision or action is upheld, the complainant may wish to ask their MP to refer the matter to the Parliamentary Ombudsman or the Health Service Ombudsman (if the body concerned is within the Ombudsman's jurisdiction).'

Managing Public Money

'Annex 4.14 ... Prompt and efficient complaint handling is an important way of ensuring customers receive the service to which they are entitled and may save public sector organisations time and money by preventing a complaint escalating unnecessarily. If their services have been found deficient, public sector organisations should consider whether to provide remedies to people or firms who complain. ... Remedies may take several different forms and should be proportionate and appropriate. ... **Dealing with complaints ...** Public sector organisations should operate clear accessible complaints procedures. They are a valuable source of feedback which can help shed light on the quality of service provided, and in particular how well it matches up to policy intentions. So all complaints should be investigated. The Parliamentary and Health Service Ombudsman (PHSO) has published Principles of good complaint handling [and the UKCG Complaint Standards] to help public bodies when dealing with complaints. Systems for dealing with complaints should operate promptly and consistently. Those making complaints should be told how quickly their complaints can be processed. ... Public sector organisations should seek to learn from their complaints.'

3. What you should do

- 3.1 The important principle is 'investigate once, investigate well'. Your aim is to carry out one investigation to deal with the concerns raised thoroughly, rather than multiple investigations one after the other. This can result in long and sometimes open-ended investigations and correspondence, which take up too much time and resources.

Clarifying the complaint

- 3.2 Problems can start right at the beginning if you do not take the time to fully understand:
- the complaint
 - what you are investigating
 - the outcome the service user making the complaint is looking for. There is a separate module on this important step - see [insert name of module].

Planning your investigation

- 3.3 Having an investigation plan will help you stay focused and make sure you do not miss anything crucial. It will help you keep track of progress, and will quickly alert you to any changes needed to the timescales so you can update the parties involved.
- 3.4 The scale and scope of your investigation should focus on the matters you are investigating and should use resources effectively and proportionately. The investigation should be cost-effective, while taking full account of customer service and legal requirements. Discussing your plan and getting the views of a colleague, or others who may be involved in investigating the complaint, may help you to ensure your plan is robust.
- 3.5 For straightforward, single-issue investigations, you can make your plan quickly. Incidents that may involve serious failings or numerous issues will need more detailed planning, often in discussion with colleagues who will help with your investigation.
- 3.6 You should share the outline of your investigation plan with the service user making the complaint, their representative (if they have one) and any colleagues specifically complained about. It is always worthwhile asking if they think you have missed anything that might be helpful. Consider any comments and suggestions before finalising your plan.
- 3.7 A good investigation plan:
- includes your agreed communication plan, setting out how and when you will update the parties involved and any reasonable adjustments that are needed
 - sets out the issues to be investigated, which you have agreed with the service user making the complaint
 - sets out the outcomes requested by the service user making the complaint
 - includes an assessment of risk and consideration of any broader issues or public interest concerns (taking account of other service users who may be affected by the same issues and any systemic concerns)

- sets out the evidence you will need to get and consider to address each issue, including:
 - evidence to establish what happened
 - evidence to establish what should have happened
- if you are delegating the investigation or part of it to someone else, includes:
 - details of who that is
 - what exactly you are asking them to investigate (and how)
 - the agreed timescale for completing and submitting their response or report
- if the complaint involves a specialist area or technical matters, includes details of who will provide you with a view, on behalf of your organisation, on whether the service provided was appropriate (they should be suitably qualified but not involved directly in the issues complained about)
- includes estimated timescales for:
 - sharing what you have found with the parties involved and asking for their comments
 - completing your investigation and drafting your final response to the complaint
 - securing any quality assurance and sign off.

Calculating timescales for responding to complaints

- 3.8 Having set out the work involved in investigating the complaint and the likely time needed for each part, you should be able to identify a realistic timeframe for completion. You must share this at the start with the service user raising the complaint and the other parties involved. Each complaint will have its own timescale depending on the requirements and complexity of the case. Complaints with numerous heads of complaint, involving different service areas or multiple organisations, are likely to take much longer than a complaint about a single issue. This should be explained at the start.
- 3.9 Having recorded the complaint on your complaint handling system when you received it, you should:
- keep track of (and record) progress against the plan
 - take responsibility for monitoring the smooth running of the investigation
 - make sure you provide regular updates as agreed and meet timescales.

Occasionally, you may uncover issues, or events may occur, that mean that you need to revise your target date for completion. If this happens, you must inform the service user making the complaint, their representative and any colleagues complained about immediately, and explain the reasons for the delay. You should always focus on providing a response as quickly as possible. The longer it takes to deal with a complaint, the more stressful it can be for everyone involved.

3.10 For reporting purposes, you should keep a record of:

- each complaint received
- the subject of the complaint
- the outcome
- whether you sent your final written response to the service user who made the complaint within the timescale agreed at the start of the investigation.

Identifying and gathering evidence

3.11 Once you have established the specific points of complaint and the desired outcomes, you can use these to focus the scope of your investigation. You can delegate the investigation, or any part of it, to a colleague in your organisation who has specific knowledge of the service area you are investigating, but you should oversee the overall investigation.

3.12 A good investigation starts with a thorough review of the circumstances being complained about. You should aim to establish:

- what happened
- what should have happened
- if there is a difference, the cause of any identified failings
- what you can do to put right any failings
- the impact the failings had on the service user making the complaint
- how that impact can be put right for them and others who may be affected.

You must base your conclusion on an objective analysis of the evidence and explain this analysis clearly.

3.13 The evidence you need to gather to find out what happened could include:

- evidence from the service user making the complaint to support what they say
- evidence from any witnesses to the events
- interviews or statements from relevant colleagues and evidence to support what they say
- information from relevant internal records
- information from other sources if necessary (for example CCTV or phone records).

- 3.14 This is not an exhaustive list. You need to consider what evidence may be available to help you in your investigation. As part of sharing the outline of your investigation plan (and during any updates) you should talk to the people involved about the evidence you will be looking at and ask if they think anything is missing.
- 3.15 The evidence you need to gather to find out what should have happened could include relevant laws, standards, policies, procedures and guidance.

Acting fairly during the investigation

- 3.16 The service user who made the complaint, and any colleague complained about, should have the opportunity to:
- say what they believe happened in relation to the complaint
 - provide evidence to support what they say
 - say whether they agree with any initial findings before you reach a conclusion.

You should not prejudge the outcome or favour the service user or any colleagues complained about.

- 3.17 Where possible, as the person investigating the complaint, you should have had no previous involvement in the issues complained about. If this is not possible, you should be open about this at the start. Explain to the service user making the complaint how you will:
- investigate
 - provide a balanced account of what happened
 - reach conclusions based only on the evidence.
- 3.18 You should provide service users who have made a complaint, and any colleague complained about, with an opportunity to submit relevant information and evidence. You should keep them informed and updated throughout the process. Before you issue a final response, it is good practice to give them the opportunity to comment on any initial findings and consider their comments before you reach a conclusion.
- 3.19 The service user making the complaint, and any colleague complained about, should know how they can access help and support during the process if they need it. You should make sure you have a good understanding of the sources of advice for your service users and signpost to these accordingly. For further details, see guidance on 'Making sure service users know how to complain'.

You should also make sure any colleagues complained about are supported through the process and have access to a named contact who can help them (if needed). This may be their line manager but should not be the person who is responsible for investigating or making decisions about the complaint outcome.

Reaching a conclusion

What happened

- 3.20 You can usually determine what happened using the evidence gathered during your investigation. Where there is conflicting evidence or uncertainty about what happened, you should consider whether something is more likely than not to have happened, based on the balance of probability.
- 3.21 In some cases, there may not be enough evidence, or the evidence is so equally balanced that even on the balance of probability, you cannot reach a view. In these cases, you should clearly explain why this is the case, setting out all of the evidence you have considered.

What should have happened

- 3.22 It is not enough just to explain what happened. You should also determine what should have happened in the situation. You can then compare the two to see if there is a difference and if anything has gone wrong. You must base this on evidence and not opinion. To determine what should have happened, you will usually look at things like:
- laws, statutory powers and duties
 - nationally recognised policy, guidance or standards
 - internal policies and procedures
 - relevant professional standards
 - any other recognised standards in place at the time of the events complained about.
- 3.23 You must identify whether there was a gap between what happened and what should have happened. You should do this by comparing what happened against the standards relevant to the case.

Considering the impact

- 3.24 Where your investigation has found that something has gone wrong, the next step is to consider what impact this had on the service user. This will make sure you are clear about what your remedy is putting right. It should also include thinking about whether the failings you have found could affect other service users or services your organisation provides in the future.
- 3.25 At the beginning of your investigation, you will have discussed the impact with the service user making the complaint and they will have told you how they feel they have been affected. You should now consider if that is the case or if there are wider issues they are not aware of.
- 3.26 The impact of something going wrong could include:
- inconvenience and distress - possibly caused by:
 - cancellations
 - failures or delays in service provision or decision making

- failures in communication
- unreasonably prolonged complaint handling.
- being denied an opportunity - for example, being denied the opportunity to make an informed choice or a claim because the service user was not given all the facts
- physiological injustice - for example, an impact on physical or mental health
- bereavement - such as where a poor standard of service caused someone's death
- loss through actual costs incurred - for example, loss of benefits
- other financial loss - for example, loss of a financial or physical asset, reduction in an asset's value, or loss of financial opportunity.

3.27 This list is not exhaustive. If you think it is necessary, you should have a further discussion with the service user making the complaint to make sure you have understood the impact fully. For further help, see guidance on 'Providing a remedy'.

Considering potential legal claims

3.28 If you identify what may be a serious failing or impact, you will need to consider whether the person has a potential legal claim. The complaints process is not designed to determine legal responsibility, negligence or breach of statutory duty, or to provide compensation that a court might award.

3.29 Where you have identified that someone may have a potential legal claim, you should discuss this with relevant colleagues. You should inform the person making the complaint and tell them about the availability of independent advice from solicitors who specialise in the relevant field.

Sharing initial views

3.30 By this point, you should have identified whether something has gone wrong. If it has, you should have a good idea of the impact it has had. You will also be thinking about what you need to do to put that right. See 'Providing a remedy' for more information.

3.31 Before you reach a conclusion, and to make sure you have acted fairly, you should always consider giving the service user making the complaint, and any colleague specifically complained about, the opportunity to comment on what you have found so far.

3.32 When deciding whether to share your initial findings, proportionality will be an important factor. You should always do this in more complex cases (for example, cases with multiple issues or covering complex matters) or where the claimed (or identified) impact is significant. For more straightforward cases (for example, complaints covering single issues, or where the claimed (or identified) impact is minor) it may not be necessary to share your initial

views. You must always consider the best approach for each case in the interests of fairness and transparency. Bear in mind that the purpose of this communication is to make sure you have not missed anything and that you consider any final thoughts and comments before you issue a final response. You should take a proportionate approach and do this by phone, email or meeting, in line with the service user's communication preferences.

- 3.33 When sharing your initial views, you may want to share a draft of your final response letter.

The best way to do this may be to tell the person making the complaint that you are nearing the end of your investigation, but before you make a final decision, you would like to share what you have found so far in case you have misunderstood anything or have missed something. You can tell them that you will send them a draft letter and would like to receive any final comments. If they ask what you have found, depending on your findings, you could say that:

- you have not found that anything went wrong, and that hopefully your letter will clearly explain what happened and reassure them
- you have found that something went wrong, what that is, and apologise.

- 3.34 When you are deciding how to share your initial views, and before you have the discussion, you should always consider:

- the sensitivity of the information to be shared
- the likely impact on the service user making the complaint.

You should show empathy and offer apologies for any failings. In the most serious cases, you may want to meet face-to-face with the person making the complaint, their family, any representative, and relevant colleagues to explain what you have found so far. This is a good opportunity to discuss the issues and identify any unanswered questions before you give your final written response.

Issuing the final response letter

- 3.35 Once you have shared your initial views, considered any comments and carried out any further investigation, you can conclude your investigation and issue a final response. See [guidance](#) on 'Writing the final written response' for more information.

Complaints involving issues that may give rise to disciplinary procedures

- 3.36 The complaints procedure itself is not a disciplinary procedure. But, while considering or investigating the complaint, you may identify issues that require a colleague to be subject to remedial or disciplinary procedures. If that happens, you will need to discuss this with relevant colleagues. If the complaint includes those issues, you should advise the service user making the complaint that such action is being taken, providing as much information as you can without breaching GDPR legislation. You should take legal advice about how much information you are allowed to disclose. See [guidance on complaints](#) and other procedures.

Good investigation recordkeeping

- 3.37 It is important to keep a record of the complaint and all relevant evidence. This will provide a full audit trail of what you have done and how you have reached a conclusion, which you will need if the complaint is referred to the Ombudsman or pursued via a legal claim. You should store this record centrally in a complaint or investigation file (either electronic or hard copy).
- 3.38 Important documents you will need to include are:
- a copy of the original complaint or complaint statement
 - the investigation plan
 - all telephone, meeting and interview notes or recordings, with the date, time and names of those present
 - any statements from colleagues
 - any statements from witnesses
 - copies of any relevant extracts from internal records
 - notes of any updates provided or discussions about the case
 - copies of all evidence reviewed during the investigation
 - a copy of any advice received, including reference to any relevant laws, standards, policy and guidance
 - a statement about any action taken (or to be taken) in response to the complaint, or any specific resolution reached on the matter, including clear reasons for decisions
 - details of any comments received from the parties on initial findings and how they have been addressed
 - the final written response
 - if relevant, details of how the person making the complaint will be involved and updated until any necessary actions are completed.

4. Version control

- 4.1 Final - November 2022.