

## Appendix 11: Complaints policy

### Introduction

1. The Commission is committed to resolving expressions of dissatisfaction as quickly and as close to the point of service delivery, or other action, as possible.
2. Complaints provide valuable information that can be used to improve the way in which the Commission works. This complaints procedure will enable the Commission to address specific expressions of dissatisfaction and may also prevent the same problems that led to the complaint from happening again. The procedure sets out the process for conducting thorough, impartial and fair investigations of complaints so that, where appropriate, evidence-based decisions can be made on the facts of the case.
3. Handled well, complaints can give people a form of redress when things go wrong, and can also help to continuously improve the Commission's services. Resolving complaints early saves money and creates better stakeholder relations. Sorting them out as close to the point of service delivery, or action, as possible means that they can be dealt with quickly, so they are less likely to escalate to the next stage of the procedure. Complaints that are not resolved swiftly can greatly add to the Commission's workload.

### How to use this complaints handling procedure

4. This document explains how the Commission will handle complaints. Another document provides information for people who wish to make a complaint. Together, these form the complaints procedure.

### What is a complaint?

5. A complaint is an expression of dissatisfaction about the Commission's action or lack of action, or about the standard of service provided by or on behalf of the Commission. A complaint may relate to:
  - failure to do something
  - inadequate standard of service
  - treatment by or attitude of an employee or Commissioner
  - disagreement with a decision where a person cannot use another procedure (for example an appeal) to resolve the matter
  - the Commission's failure to follow the appropriate administrative process
6. This list above is not intended to cover every possible type of complaint, which should be handled in accordance with this procedure.
7. A complaint does **not** include:
  - dissatisfaction with a policy the Commission has adopted
  - a routine first-time request for a service or for some action to be carried out
  - a request for compensation only
  - issues that are in court or have already been heard by a court or a tribunal
  - disagreement with a decision where a statutory right of appeal exists
  - an attempt to reopen a previously concluded complaint or to have a complaint reconsidered where we have already given our final decision
  - grievance and employee/ex-employee issues
  - Freedom of Information queries
8. The sorts of issues listed above must not be treated as complaints.

### Who can make a complaint?

9. Anyone can make a complaint. Sometimes a person may be unable or reluctant to make a complaint on their own. The Commission will accept complaints brought by third parties as long as the person they are acting for has given their consent in writing.

### Time limits

10. A complaint should normally be raised with the Commission within three months of the time when the subject matter of the complaint arose, unless there are exceptional circumstances which justify a complaint being raised later.

### Handling anonymous complaints

11. The Commission values all complaints. This means that all complaints, including anonymous complaints, are treated seriously and the Commission will take action to consider them further, wherever this is appropriate and sufficient detail has been provided to enable it to proceed. Generally, the Commission will consider anonymous complaints if there is enough information in the complaint to enable further enquiries to be made. If, however, an anonymous complaint does not provide enough information to enable further action to be taken, the Commission may decide not to pursue it further. Any decision not to pursue an anonymous complaint must be authorised by a Senior Manager, Programme Director or Director. If an anonymous complaint makes serious allegations, it must be referred to a Director or the Chief Executive immediately.
12. If the Commission pursues an anonymous complaint further, the issues will be recorded as an anonymous complaint on the complaints system. This will help to ensure the completeness of the complaints data that is recorded and allows the Commission to take corrective action where appropriate.

### What if a person does not want to complain?

13. The Commission encourages people to submit complaints which allow it to deal with them through the complaints handling procedure, so that the person can be updated on the action taken and receive a response to their complaint.
14. If, however, a person insists they do not wish to complain, the issue will be recorded as an anonymous complaint. This will ensure that the person's details are not recorded on the complaints database and that they receive no further contact about the matter. It will also help to ensure the completeness of the complaints data recorded and will still allow the Commission to fully consider the matter and take corrective action where appropriate.

### The complaints handling process

15. The complaints procedure aims to provide a quick, simple and streamlined process for resolving complaints early by capable, well-trained employees.
16. The complaints process provides two opportunities to resolve complaints internally:
  - **Stage 1 – first instance resolution**, and
  - **Stage 2 - investigation**.
17. 'First instance resolution' refers to the first stage of the complaints process. It does not reflect any specific role or job within the Commission, but means seeking to resolve complaints at the initial point of contact where possible.
18. Complaints concerning the conduct of the Chief Executive or any of the Commissioners will be logged and passed to the Chairman for action.
19. Complaints about the Chairman will be referred to the Department for Culture, Media and Sport (DCMS), who will determine how to proceed.

20. Complaints about a Director will be dealt with by the Chief Executive.

### **Stage one: First instance resolution**

21. First instance resolution aims to quickly resolve straightforward complaints that require little or no investigation. Any employee may deal with a complaint at this stage.
22. The main principle is to seek early resolution by resolving complaints at the earliest opportunity and as close to the point of service delivery, or action, as possible. This may mean a face to face discussion with the person, or asking an appropriate employee to deal directly with the complaint. In either case, the Commission may settle the complaint by providing an on-the-spot apology where appropriate, or explaining why the issue occurred and, where possible, what will be done to stop this happening again. The Commission may also explain that, as an organisation that values complaints, it may use the information given when reviewing the way it works in the future.
23. A person can make a complaint in writing, in person, by telephone, by email or online, or by having someone complain on their behalf. The Commission must always consider first instance resolution, regardless of how it received the person's complaint.

### **What to do when a complaint is received:**

24. On receiving a complaint:
- a. The Commission must first decide whether the issue can indeed be defined as a complaint. The person may express dissatisfaction about more than one issue. This may mean one element is treated as a complaint, while directing the person to pursue another element through an alternative route.
  - b. If the Commission has received and identified a complaint, the Governance Team must be informed so that they can record the details on the complaints recording system.
  - c. Next, it must be decided whether or not the complaint is suitable for first instance resolution. Some complaints will need to be fully investigated before the person can be given a suitable response. These complaints must be escalated immediately to the investigation stage.
  - d. Where it is considered that first instance resolution is appropriate, four key questions must be addressed:
    - i. What exactly is the person's complaint (or complaints)?
    - ii. What does the person want to achieve by complaining?
    - iii. Can this be achieved, or an explanation given as to why not?
    - iv. If this cannot be resolved, who can help with first instance resolution?

### **Timelines**

25. First instance resolution must be completed within **ten working days**, although in practice the Commission would often expect to resolve the complaint much sooner.
26. The Commission may need to get more information from other services to resolve the complaint at this stage. However, it is important to respond to the person within ten working days, either resolving the matter or explaining that their complaint is to be investigated.

## The Commission's disciplinary procedures

27. Where the investigation of a complaint gives rise to concerns about an employee's conduct which merits investigation under the Commission's disciplinary policy, the investigation of the complaint may be suspended whilst the disciplinary investigation is carried out.

### Extension to the timeline

28. Save for complaints that give rise to a disciplinary investigation, in exceptional circumstances, where there are clear and justifiable reasons for doing so, the Commission may agree an extension of no more than five working days with the complainant. This must only happen when an extension will make it more likely that the complaint will be resolved at the first instance resolution stage.
29. When an extension is requested, the Commission employee must get authorisation from the appropriate senior manager, who will decide whether an extension is needed to effectively resolve the complaint. Examples of when this may be appropriate include employees or contractors being temporarily unavailable. If, however, the issues are so complex that they cannot be resolved in five working days, it may be more appropriate to escalate the complaint straight to the investigation stage. The Commission must tell the person about the reasons for the delay, and when they can expect a response.
30. If the person does not agree to an extension but it is unavoidable and reasonable, a senior manager must decide on the extension. The Commission must then tell the person about the delay and explain the reason for the decision to grant the extension.
31. It is important that such extensions do not become the norm. Rather, the timeline at the first instance resolution stage should be extended only rarely. All attempts to resolve the complaint at this stage must take no longer than **fifteen working days** from the date the complaint is received.
32. The proportion of complaints that exceed the ten day limit will be evident from reported statistics. These statistics are reported to the Senior Management Team and the Board on a regular basis.

### Closing the complaint at the first instance resolution stage

33. When the Commission has informed the person of the outcome, it is not obliged to write to the person, although it may choose to do so. The Commission must ensure that its response to the complaint addresses all areas that it is responsible for and explains the reasons for its decision. It is also important to keep a full and accurate record of the decision reached and given to the person. The complaint should then be closed and the complaints system updated accordingly.

### When to escalate to the investigation stage

34. A complaint must be escalated to the investigation stage when:
- First instance resolution was tried but the person remains dissatisfied and requests an investigation into the complaint.
  - The person refuses to take part in the first instance resolution process and wants to go straight to the investigation stage.
  - The issues raised are complex and require detailed investigation.
  - The complaint relates to serious (or matters which become serious), high-risk or high-profile issues.

35. Particular care must be taken to identify complaints that might be considered serious, high risk or high profile, as these may require particular action or raise critical issues that need senior management's direct input. High-risk or high-profile complaints are those that may:
- Involve serious service failure, for example major delays in dealing with a licence application or enquiry.
  - Generate significant and ongoing press interest.
  - Pose a serious risk to the Commission's operations.
  - Present issues of a highly sensitive nature, for example concerning a particularly vulnerable person.

### **Stage two: Investigation**

36. Not all complaints are suitable for first instance resolution and not all complaints will be satisfactorily resolved at that stage. Complaints handled at the investigation stage of the complaints procedure are typically complex or require a detailed examination before the Commission can state its position. These complaints may already have been considered at the first instance resolution stage, or they may have been identified from the start as needing immediate investigation.
37. An investigation aims to establish all the facts relevant to the points made in the complaint and to give the person a full, objective and proportionate response that represents the Commission's final position.

### **What to do when a complaint for investigation is received**

38. It is important to be clear from the start of the investigation stage exactly what the Commission is investigating, and to ensure that both the person and the Commission understand the investigation's scope.
39. It may be helpful to discuss and confirm these points with the person at the outset, to establish why they are dissatisfied and whether the outcome they are looking for sounds realistic. In discussing the complaint with the person, three key questions must be considered:
- What specifically is the person's complaint or complaints?
  - What does the person want to achieve by complaining?
  - Are the person's expectations realistic and achievable?
40. It may be that the person expects more than the Commission can provide. If so, this must be made clear to the person as soon as possible.
41. Where possible the Commission should also clarify what additional information will be needed to investigate the complaint. The person may need to provide more evidence to help the Commission reach a decision.
42. Details of the complaint must be recorded. Where appropriate, this will be done as a continuation of first instance resolution. The details must be updated when the investigation ends.
43. If the investigation stage follows attempted first instance resolution, all case notes and associated information must be handed over to the officer responsible for the investigation, and a record made that this has been done.

### **Timelines**

44. The following deadlines are appropriate to cases at the investigation stage:
- complaints must be acknowledged within **three working days**
  - a full response to the complaint will be sent as soon as possible but not later than **20 working days** from the time the Commission received the complaint for investigation.

**Extension to the timeline**

45. Not all investigations will be able to meet this deadline. For example, some complaints are so complex that they require careful consideration and detailed investigation beyond the 20 day limit. However, these would be the exception and the Commission must always try to deliver a final response to a complaint within 20 working days.
46. If there are clear and justifiable reasons for extending the timescale, senior management will set time limits on any extended investigation, as long as the person agrees. The person must be kept updated on the reason for the delay and provided with a revised timescale for completion. If the person does not agree to an extension but it is unavoidable and reasonable, then senior management must consider and confirm the extension.
47. The reasons for an extension might include the following:
  - a. Essential accounts or statements, crucial to establishing the circumstances of the case, are needed from employees, persons or others who cannot help because of long-term sickness or leave.
  - b. Further essential information cannot be obtained within normal timescales.
  - c. Operations are disrupted by unforeseen or unavoidable operational circumstances, for example industrial action or severe weather conditions.
48. The examples above are not an exhaustive list and the Commission must judge the matter in relation to each complaint. However, an extension would be the exception and the Commission must always try to deliver a final response to the complaint within 20 working days.
49. As with complaints considered at the first instance stage, the proportion of complaints that exceed the 20 working days limit will be evident from reported statistics.

**Closing the complaint at the investigation stage**

50. The Commission must let the person know the outcome of the investigation, in writing or by their preferred method of contact. The response to the complaint must address all areas that the Commission is responsible for and explain the reasons for the decision. The decision must be recorded, and details of how it was communicated to the person, on the system for recording complaints.

**Independent review**

51. The Commission must also make clear to the person that they can ask their local Member of Parliament to refer the matter to the Parliamentary and Health Service Ombudsman, whose address can be found at [www.ombudsman.org.uk](http://www.ombudsman.org.uk).

**Annex 1: Complaints handling flowchart**

