



Service Model Policy and Guidance: Review and feedback Guidance 14.0

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Version control and sign off

Date	Version	Details
30/8/2024	14.0	Signed off by Emily Sills (Head of Ombudsman Assurance) Minor updates to wording and insertion of guidance on handling complaints about senior staff

Our review and feedback process

1. When someone is unhappy with the decision we have made on their case, or the service they have experienced, we expect them to initially raise their concerns with the original case owner, or if a service complaint, their manager. This is because the person who handled the case is normally best placed to resolve any concerns and answer questions about it.
2. We usually require the service user (including organisations) to raise any concerns about decision or service they received with the original case owner (or their manager) within one month of the decision complained about. We may otherwise decide not to consider the feedback or challenge.
3. If the original case owner is unable to resolve a complaint about our decision, we will ask the person or organisation complaining to explain what they think went wrong in our decision making. This option is not available when we have closed a case on the basis it relates to a low-level injustice or impact as these decisions are not subject to the usual review process.
4. Once we have received a complaint about our decision the original caseworker and/or manager will determine if any further action needs to be taken to resolve the complaint. Or if it needs to be passed onto the Ombudsman Assurance Team (OAT) because an argument or evidence explaining why the service user thinks our final decision is wrong has been presented. OAT will decide whether the case meets the criteria for review and oversee the review process. In addition to putting things right for service users, this will gather insight and learning from complaints about us to improve our service.
5. A review is not the same as looking at a decision again. When we look at a review request, we consider whether anything went wrong, and if so, what impact it had on our decision. If we find we did something wrong, we will either look to put things right, or offer another form of remedy if we cannot do this. We will only review a decision once, except in exceptional circumstances.
6. Our decisions are final and can only be challenged by Judicial Review. We recognise though that this is a technical and expensive process, so we will review a decision we have made on a case if there is information that shows we got something wrong in a way that could change the decision. There is no automatic right to a review, and we will not review a case just because someone is unhappy or disagrees with what we have done.

Positive feedback

7. All positive emails, pieces of physical feedback, or notes of telephone calls should be saved to the relevant case on Dynamics 365 in a timely way after it is received. **(Policy requirement)**
8. Once this contact is saved, the caseworker who received the feedback should set a task on Dynamics 365 for their manager to review it. This task should include the main contents of the feedback received and should be sent with

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the subject 'positive feedback received'. The email should then be linked to the relevant record. **(Policy requirements)**

9. Upon review the manager should consider the feedback and provide any comments to the caseworker, copying them to the Director of Operations, Legal & Clinical and the Chief Executive. The manager should then close the task on Dynamics 365. **(Policy requirements)**

Complaints about our service

10. A service complaint can cover any dissatisfaction with the level of customer service we provide. For example, treating someone without courtesy or respect, causing unnecessary delays or not explaining our processes or decision clearly. These complaints can relate to any aspect of our service and anyone working for us, not just the case owner.

11. Service complaints should usually be addressed by the line manager of the person complained about (e.g. Operations Managers (OM) for caseworkers or Assistant Director (AD) if an OM), and should be escalated up the management chain beyond that only in rare circumstances, if required. For example, if the risk profile of the case changes.

12. ADs are part of our Senior Leadership Team (SLT) and as such represent the leadership of PHSO. Service complaints will not usually be addressed by anyone senior to that grade. A service complaint will not be subject to a review.

13. Occasionally a complaint will be made about our service, but the feedback is essentially about our casework decision. In these cases, the caseworker should treat the complaint as being about a decision. **(Policy requirement)**

Complaints about senior colleagues

14. If we receive a complaint about a senior member of staff¹, either in their current capacity, or their actions at another organisation they worked at previously, this should be discussed in the first instance and as soon as possible with OAT to decide if action is required. Examples may include:

- Them being named in a complaint to us about an organisation we investigate (including in their capacity in a previous executive role).
- Something which might be considered a whistleblowing² complaint.
- A complaint about their conduct whilst in their role at PHSO (within or outside of work) which raises concerns relevant to our organisational values.

¹ Executive Team: Ombudsman, Chief Executive Officer (CEO), Chief Operating Officer (COO), Director of Operations, Legal and Clinical, Director of Strategy, Chief Digital and Information Officer, and Chief of Staff.

² Whistleblowing is the term used when a worker passes on information concerning wrongdoing in their organisation.

15. OAT will advise on next steps including whether we need to refer to our Conflict of Interest policy in terms of managing an investigation ([Conflict of Interest Policy & Procedure](#)) or whether a governance or whistleblowing matter needs to be raised to the Chief of Staff & Director of Operations, Legal and Clinical or to the Board.

Handling a service complaint

16. Complaints about the service being provided by an individual member of staff or team should be considered by or passed to the relevant line manager. **(Policy requirement)**
17. The manager should attempt to resolve these concerns. **(Policy requirement)** If there has been a failing, this could involve apologising for a delay, arranging contact with the caseworker or showing how improvements will be made.
18. If the manager involved in the case is unable to resolve the complaint to the service user's satisfaction, they can decide to close the case, or escalate it up the management chain as appropriate. This will be considered on a case-by-case basis. OAT can give advice on handling a service complaint if needed.

Time limit for service complaints

19. If a service complaint has been received more than a month after the matter complained about, the case owner/manager should give the service user the opportunity to explain why. The case owner / manager can exercise discretion on whether the reasons for a delay are reasonable or if there are other reasons they should address the complaint. Their decision and the reason for it should be recorded on Dynamics 365. **(Policy requirement)**

Considering service complaints

20. Most service complaints can be resolved promptly and effectively at the initial point of contact. For example, where the individual complains about a delay in the allocation of the case, and this is addressed by explanations or priority allocation.
21. When a service complaint cannot be easily resolved it should be recorded as a service review case (R reference case) on Dynamics 365. The manager should consider what action to take on a case-by-case basis. This should reflect our way of handling complaints about other organisations under our Service Model. For example, considering what happened, what should have happened, and what the difference was.
22. If a service complaint is upheld, the manager (with guidance from OAT as needed) should offer an appropriate remedy to resolve the impact of our failing on the service user. **(Policy requirement)** This could include further

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explanations, apologies, service improvements or a financial remedy (made in line with the Severity of injustice scale and precedent cases, as we apply when making recommendations to organisations we investigate). These cases should be recorded as upheld service reviews on Dynamics 365 and any financial remedies documented on the service case.

23. Ordinarily, any financial remedy to put right the impact of our service must be approved by the Chief of Staff. In their absence, financial remedies under £500 can be approved by the Head of OAT, and those over £500 can be approved by the CEO. Guidance on how to seek approval can be found on the [Review](#) page on OmbudsHub.
24. When good practice or learning points for an individual are identified on a case, these should be shared with the individual, their line manager, and AD³. **(Policy requirement)**. Where organisation learning for PHSO is identified this should be shared with the wider organisation as appropriate.

Complaints about our decision

25. These are complaints about a decision we have reached, usually following a primary or detailed investigation. This is usually the final decision that is given when the case is closed. However, it could sometimes be on an open case where we have decided not to investigate certain parts of the complaint, for example, because they are out of remit or out of time.
26. This section does not apply when we have closed a case because it relates to a low-level injustice or impact. These cases do not carry the option of a review.
27. In exceptional circumstances we may decline access to a review of our decision or service because of the behaviour of the service user bringing the complaint to us. This should be recorded and acted on under our unacceptable behaviour policy.

Handling complaints about our decision

Case owner consideration of a complaint about our decision

28. On receipt of a complaint, the case owner should consider if they can resolve it themselves. This will usually be by providing more information about how and why the decision was reached or providing further clarity about our processes.
29. If, following their intervention, the service user considers the matter resolved, the case owner should note this on the relevant case record. The challenge to our decision can then be considered closed.

Issuing an amended version of a decision or report

³ See [Review casework page](#)

30. If the case owner is told about minor issues in a report which would not have any impact on our decision, they may decide to send out an amended version of our report. This will only be for inconsequential mistakes, for example, a misspelt name or an unimportant date. The revised report should keep the original issue date.

Seeking advice from OAT

31. If the case owner cannot resolve the complaint they should consider if they need to seek advice from OAT before taking further action. The cases, which will usually be ones OAT should consider, include complaints where:

- the original case was medium risk (for high risk please see the section below)
- an MP supports or is involved in a challenge to our decision,
- there is a credible threat of JR or reasonable allegation that PHSO has acted unlawfully,
- an organisation is bringing the challenge. Please consider if this is a compliance issue that should be dealt with under that escalation process first,
- a further complaint has been set up following an upheld review (whether or not a further review is needed is at OAT's discretion),
- the challenge comes from an individual or group that we have decided should have complaints reviewed first within OAT, or
- the challenge is complicated as the substantive case required some sort of specialist knowledge, such as in relation to an organisation we receive few complaints about.

32. Where a case meets any of these criteria, the case owner should contact OAT and ask for advice.

High risk / High Impact cases

33. In most instances, decisions on our high-risk casework have already been subject to additional assurance by the Ombudsman or their deputies. We are therefore confident we would be unlikely to change our overall decision as part of a review. OAT will provide assurance on high-risk cases as required by the Ombudsman and their deputies.

34. If a complaint is made on a high-risk case, the case owner should request a discussion with OAT to decide if we should undertake a review. In the instances where we decide this is not appropriate, the case owner will be advised by OAT on next steps. This may include providing assurance to the service user that we are satisfied with our response to the complaint and explaining to them that they can consider a Judicial Review if they are still unhappy with our decision.

Confirming grounds for review

35. The case owner should ask the service user to set out in writing their complaint and provide any supporting evidence. This should include asking the service user to set out:

- Why they think our decision is wrong,
- What they would like to happen now,
- Any supporting or new evidence to support their complaint.

36. Some suggested template wording to share with service users is available ⁴

37. If the case owner is aware the service user requires reasonable adjustments in order to provide the relevant information or evidence to us, they must ensure these are recorded and followed. For example, writing down a challenge of our decision over the phone.

38. The case owner should provide a deadline to the service user for the grounds of complaint to be submitted. This should usually be within one month of the case owner's decision. This can be extended with the agreement of the Operations Manager when it is reasonable to do so. Any deadline or extension should be documented on Dynamics 365.

Time limit for review

39. Once the review request is received, the case owner should determine if the complaint has been received within the deadline provided. If a review request has been received outside of this timeframe, the case owner should give the service user the opportunity to explain why.

40. The case owner can decide to put this one-month time limit to one side (and consider the complaint about our decision) where there are good reasons to do so. Some reasons we may consider a complaint outside the one-month time limit include:

- an illness or bereavement;
- where additional support was needed to help make the review request from an advocate or MP, particularly if this was a reasonable adjustment;
- problems obtaining relevant evidence essential to the review request;
- the time the case owner has taken to try to resolve the issue means it would be difficult to return the form within one month; or,
- if it would have been difficult for the service user to have returned the form to us within one month of the decision, and the form has still been returned reasonably promptly.

41. Where there is no reasonable explanation for the review request being received outside the time limit, the case owner should decline the case as out of time for review and record the reasons why on Dynamics 365. **(Policy requirement)**

⁴ See [Review casework page](#)

42. Where there is a reasonable explanation for the review request being received outside the time limit, the case owner should consider the review request.
(Policy requirement)

43. If OAT has previously requested the complaint is passed directly to them once received, the case owner should pass this on to them without making a decision about the time limit.

If a challenge to our decision has been received in time

44. The case owner should ensure they attach the grounds for review to Dynamics 365 and mark this as a 'Challenge to our decision'. They should complete an analysis of the challenge to the decision in line with the review request pro-forma ⁵.

45. The case owner should consider if the feedback shared with us sets out any challenge to our final decision, and whether the service user has provided any evidence or explanations for why they think the final decision is wrong.

46. We will not consider reviews where a service user only states they are unhappy with the decision, or is unspecific in what they would like us to consider. We will also not consider a straightforward repeat of the original complaint as a review request. In these instances the case owner should explain to the service user that no further action can be taken to consider their complaint. Where appropriate the case owner can signpost to Judicial Review if the service user has not set out a challenge to our final decision.

47. If it is unclear to the caseworker whether the feedback constitutes a challenge to the decision, they should discuss the matter with OAT.

48. Where the caseworker has received a challenge that does set out grounds for disputing our final decision, they should first consider if anything further can be done to resolve the complaint. Where there is an opportunity to provide further clarity to the service user about our decision, this should be completed before referring to OAT.

49. If on reflection the caseworker accepts that the challenge to our decision has merit and our decision on a **primary investigation** was wrong, they should arrange for the case to be reconsidered, usually within their team. This does not need to be referred to OAT as the caseworker has taken action to put things right themselves.

50. If the caseworker accepts that the challenge to our decision has merit and our decision on a **detailed investigation** decision is incorrect, the case owner should contact OAT to determine next steps as there are legal factors to consider with detailed investigations.

⁵ See [Review casework page](#)

51. If the case owner does not accept our decision is flawed and the matter has not been resolved by proportionate further clarification, they should refer the challenge to OAT via the specialist advice tab. Further information is available in the Dynamics Manual and on the [Review](#) page of OmbudsHub.

OAT case review

52. The OAT Assurance Officer should assign a referral to themselves and consider it. The OAT Assurance Officer will complete the advice section with the relevant next steps and outcome of their consideration.

53. The following outcomes should be used:

- Returned to caseworker - more information needed - When the caseworker has not provided enough information for OAT to make a decision.
- Returned to caseworker - further work required - When OAT consider the caseworker can undertake further action to resolve the complaint.
- Returned to caseworker - Not for OAT - service complaint - When the case relates to a service complaint that should be handled by the manager of the case owner.
- Returned to caseworker - Not for OAT - review criteria not met - When OAT has considered the case in more detail and decided the review criteria have not been met. OAT will communicate outcome to service user. (Any follow-up questions about the original decision will be referred to the original caseworker)
- Returned to caseworker - Not for OAT - Other
- Accepted by OAT

54. The case owner should action the directions provided by OAT on the case as required, including informing the service user of what is happening with their complaint.

When a case is accepted for review by OAT

55. Once a case is accepted for review by OAT the Assurance Officer allocated the case will take overall responsibility for communicating any next steps to the service user, requesting any further information or evidence needed and sharing their decision with the service user.

56. The OAT Assurance Officer should consider the most appropriate route to handle the case, including deciding to offer a financial remedy, requesting a fresh primary investigation, or in exceptional circumstances a new detailed investigation.

57. The OAT Assurance Officer can decide to only contact the service user at the end of their consideration of a case, but must take into account any reasonable adjustments or particular communication requirements needed, or already agreed, by the case owner.

58. When the OAT Assurance Officer has made a decision on a complaint, they should inform the case owner (and their manager if the case was supervised) of the outcome of the review. **(Policy requirements)**
59. The OAT Assurance Officer should provide feedback to the case owner about their consideration of the challenge to the decision, and whether they undertook a proportionate amount of work prior to referring the case to OAT.
60. If it is identified that we could have done something better, either in the decision we have made or the service we have provided, the OAT Assurance Officer should provide feedback detailing the learning points from the review (see Annex A). If the reviewer identifies good practice in the review, this should also be highlighted and shared. **(Policy requirements)**
61. Once the learning and insight has been identified, this should be recorded on the review case and fed back to the relevant case owner's manager and the relevant AD. **(Policy requirements)**

Approving review decisions

62. All review proposals and OAT responses should be made and agreed in line with the relevant delegated authority (Senior Ombudsman Assurance Officers can approve their own low risk decisions and those of the Ombudsman Assurance Officers. Medium and high-risk case decisions should be authorised by the Head of Ombudsman Assurance, Chief of Staff or the most appropriate member of SLT or ET).
63. All decisions to open a new detailed investigation following an upheld review must be shared and approved by the Ombudsman or Deputy Ombudsmen. **(Policy requirements)**

Possible actions following a review

Creating a new primary investigation

64. Where a new primary investigation is required, OAT will complete the pro-forma and arrange for a new case to be created by shared services and provide advice required about allocation.

Remedy

65. If OAT considers a complaint should be upheld, then their analysis should include relevant consideration to an appropriate remedy and clearly explain what remedy, if any, is being proposed. **(Policy requirement)**
66. The OAT Assurance Officer should use our Principles for Remedy and the service model guidance in determining what types of redress may be appropriate. **(Policy requirement)** The OAT Assurance Officer should also consider:

- the specific impact on the service user;

- if the remedy proposed is proportionate to the injustice sustained; and
- whether the payment will put the service user back into the position they would have been in if not for the poor service.

Compensation for our poor service

67. In cases where an injustice cannot be put right, we may consider making a financial payment. Any proposal that includes a payment for our poor service should be considered in line with our Principles for Remedy and checked for consistency using our [Typology of Injustice](#) and severity of injustice scale.

Opening a new detailed investigation

68. If, having carried out the review, OAT considers that we got an investigation decision wrong, we can decide to open a new case and have the complaint looked at again, either fully or in part.

69. This should only happen in exceptional circumstances and will usually be because the evidence we have used was flawed, we were unfair in the way we undertook the investigation, or we have received new information which would have had a significant impact on the decision made.

70. If a new detailed investigation is proposed, OAT should write to the service user and the organisation complained about to inform them of the proposal to open a new case. They should set out a summary of the complaint we propose to investigate. **(Policy requirement)** This will give the parties to the complaint the opportunity to comment on the proposal. This must be agreed in line with the Delegation Scheme. **(Legal requirement)**

71. OAT or the new case owner handling the case should consider any comments to decide if we should proceed with the proposal. If they decide to do so, a new case can be opened on Dynamics 365 and the details of the case (and the case file if appropriate) should be sent to shared services explaining that it should be allocated as a priority. **(Policy requirements)**

72. All cases where a new detailed investigation is opened should be treated as a priority and the risk level should be reconsidered. **(Policy requirements)**

Quashing of reports or decisions

73. In considering a suitable way to remedy a complaint about a decision, we can consider quashing our own report or decision. This means that we would treat the report as invalid (and we would make that clear to all affected parties).

74. We will only quash a report or decision we have made in exceptional circumstances given the strong public interest in certainty around our decisions and where we are unable to complete a new detailed investigation. These circumstances are:

- We have missed significant material evidence which we should have considered, or significant new evidence has come to light; and/or,
- Our decision is incontrovertibly and significantly wrong for some other reason; and,
- There is no other way to resolve the matter; and,
- It is in the public interest for the report to be quashed, for example because the existence of the report and its findings are having a demonstrable adverse impact.

75. If OAT consider a report or decision should be quashed, they must raise this request with the Legal Team. They should provide details to the Legal Team of the case and the reasons they believe it meets the circumstances listed above. **(Policy requirements)**

76. The final decision to whether a report should be quashed can only be made by the Ombudsman, or their deputies. **(Policy requirement)**

Judicial Review

77. If an individual or organisation requests a review while also considering issuing Judicial Review proceedings against us, OAT will seek advice from the Legal team before considering the review request.

78. Judicial Review applications need to be submitted promptly and usually no later than three months after a decision being made. We therefore will not usually challenge an application made to the courts on the basis of delay if we received an application for a review within our one-month timescale, and we took more than three months to reach a decision.

Follow up contact regarding decision or service complaint

79. After we have completed a review or decided a review is not needed, the reviewer should inform the service user in their review or review request decision letter that they have reached the end of our internal complaints process. **(Policy requirement)**

80. Consideration of a review request and/or a review is the end of our internal process and the decision to respond to follow-up contact will be considered on a case-by-case basis and in line with our acceptable behaviour policy.

Joint Working with the Local Government and Social Care Ombudsman

81. Any joint decisions made by PHSO and the LGSCO are for the LGSCO not OAT to consider. If these are received, they should be directed to the Joint working Team to be considered in line with the LGSCO process. **(Policy requirement)**

Risk Assessment

82. Case handlers should be mindful of casework risk throughout their contact with a person providing feedback.

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83. A risk assessment should be carried out '*When we decide to do further work following a complaint about our service or decision*'. For more detail on the risk categories and how to carry out a formal risk assessment please refer to our risk guidance.

Annex A: Capturing and feeding back learning points from a review

It is important for us to learn from complaints about our service and decisions to improve our service and share good practice. We do this by identifying and feeding back learning points to the people involved in the original decision-making process and by identifying any general learning points for the wider organisation. We also capture any good practice or positive points identified from the case handling to feedback to the individual or share with the wider organisation.

If OAT or an OM peer reviewer see something has gone wrong when looking at a review request, they should record it on the review case so it can be fed back to the individuals concerned and the wider organisation where appropriate. In addition, to ensure objectivity and consistency, the reviewer must link what went wrong to the relevant guidance/process in the Service Model (page 2) and also to the corresponding commitment under our Service Charter (page 3). As well as recording the learning point on the feedback case the reviewer should provide feedback by email to the relevant line manager (OM for senior/caseworkers and AD for OMs).

Example - individual learning points

Say we overlooked/misunderstood an issue the service user brought to us because the case owner did not talk to them to check their understanding of the complaint. In this case the learning point might be:

The case owner did not contact the service user to discuss the complaint in more detail as required by the Service Model Section 2 *Can we look into your complaint - Contacting the complainant (para 2.140)*. We have not met our Service Charter commitment to follow an open and fair process, specifically commitment 5: *We will listen to you to make sure we understand your complaint.*

Example - organisation learning points

Learning points for the wider organisation might be about a gap in our internal guidance, for example, the guidance on exceptional circumstances for looking at out of time complaints needs to be clearer.

Example - what went well

When recording and feeding back good practice or other positive points you just need to say what went well. For example;

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The decision letter was well written and clearly explained the reasons why we had decided not to put the time limit to one side.

If you are not sure about what part of our guidance or which Service Charter commitment(s) applies, please speak to a member of OAT.