

How we look into complaints

Deciding whether to investigate

We make final decisions about complaints that have not been resolved by the NHS in England, UK government departments and some other UK public organisations.

We have a **three-step process** for dealing with complaints. Not all the complaints that come to us go through our whole process.

Step one

First we do some **initial checks** to make sure we are the right organisation to deal with your complaint and that you've done everything you need to do before coming to us.

Step two

We then take a **closer look** at what's happened, do some other checks and decide if we should carry out an investigation.

Step three

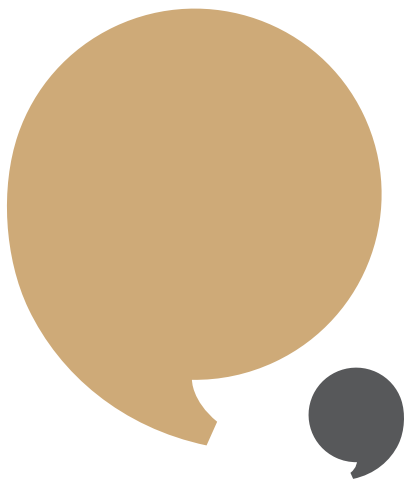
We **investigate** your complaint and give you a report about what we have found.

This guide is about **step two** in our process - how we decide whether to investigate your complaint. For more details about steps one and three, take a look at our website at www.ombudsman.org.uk or call us on 0345 015 4033.

We aim to complete step two, and give you our decision about whether we're going to be investigating your complaint, within 20 working days of receiving it through our website, or by email or letter.

By the end of this step in our process, you will know:

- whether or not we are going to investigate your complaint, and how we reached this decision
- what will happen next if we are investigating your complaint
- what other options you might have if we are not investigating your complaint



What happens during this step

After our initial checks on your complaint at step one, we take a closer look at your complaint to decide if we should carry out an investigation. We will pass your complaint to one of our assessors to do this.

Our assessor will first read the information we have about your complaint. Their job is to make sure we understand in detail what has happened so far, what you remain unhappy about, how this has affected you (or other people), what you want to happen as a result of complaining to us and the kinds of outcomes we can achieve for you.

Our assessor will contact you to introduce themselves and discuss your complaint in detail. They will explain more about our role and the types of issues we can look at during an investigation.

We do this to make sure you have a clear idea about what to expect from us.

Our assessor will also let you know if we need any more information from you (for example, any other documents you may have from when you complained to the organisation) and whether we need to speak to the organisation to get more details.

Occasionally, we may need to get some expert advice, (for example, from a medical professional who is not involved in your complaint) or carry out some research, to make sure we have a detailed understanding of the issues. If we need to do this, our assessor will let you know what they are doing and how long that will take.

Once our assessor has a detailed understanding of your complaint, they will then look carefully at five key questions.

We want to help you with your complaint but we have to apply these **five questions** to help us decide whether we should carry out an investigation.

We look at:

- 1. Who brought the complaint - whether you have been affected personally by what happened, or whether you are making the complaint for someone else.**
- 2. Timings – when you first became aware of the problem.**
- 3. Whether legal action is open to you.**
- 4. Whether there is another organisation that is better placed to deal with your complaint.**
- 5. What led you to complain: what did the organisation do, how did this affect you and what has been done to respond to your concerns.**

These **five questions** are explained in more detail here.

1. We look at who brought the complaint to us

We have to make sure the right person is making the complaint. By law, the person who has been affected should make the complaint to us themselves unless they would prefer somebody else to complain for them or they cannot do so (for example, if they are a young child, can't do it themselves, or if the person affected has died).

If you are complaining because you have been affected personally by what happened then we will move on to the next question. Sometimes people ask somebody else, like an advocate or representative, to make their complaint for them. This is absolutely fine but we will need to check to make sure you are happy with this.

If you are making a complaint for somebody else, we will discuss this with you to make sure they have given you permission to do this.

2. We look at when the problem happened

Your complaint should get to us as soon as possible after you have had a final response from the organisation you're not happy with. This is because there are time limits for making your complaint to us, and these are set out in law:

- If your complaint is about the NHS, make sure you get it to us within a year of when you became aware of the problem.
- If your complaint is about a UK government department or another UK public organisation, you need to make your complaint to an MP within a year. The MP then needs to pass your complaint to us for you.

Normally, if we receive a complaint outside these time limits, we cannot investigate it. However, the law does give some flexibility on this. In some circumstances, we may still be able to investigate even if you complain outside of these time limits.

If you were not able to complain to us in time, our assessor will talk to you about what happened, so we can understand why you did not complain sooner. We will look at how much time has passed, and whether that means it is still possible for us to carry out an investigation.

Our assessor will discuss this with you to make sure we take everything into account. If we think that we cannot investigate because of these time limits, we will clearly explain our decision and how we reached it.





3. We look at whether legal action is open to you

We need to look at whether you could get an answer to your complaint by taking legal action - like going to court or a tribunal about the problem. This is because the law says we cannot investigate a complaint if you have (or had) the option to do this. However, the law also says we can be flexible, and so we will look at what the right option should be to get an answer to your complaint.

If we can see that there is (or was) a possible legal route to answer your complaint, our assessor will talk to you about that as they get a detailed understanding of your concerns and what you want to happen as a result of your complaint. We make sure we take into account factors such as how much it might cost you to take legal action, and how long it might take.

If it looks to us like legal action would fully answer your concerns, or be able to give you all the outcomes you are looking for, we may decide this is a better option for you.

4. We look at whether there is another organisation that is better placed to deal with your complaint

Some complaints can be looked at by us, and also by other organisations. This includes organisations like the General Medical Council, General Dental Council, the Care Quality Commission and the Independent Police Complaints Commission.

If we see that another organisation could also look at your complaint, we look at whether that organisation is better suited to giving you an answer to your complaint and whether it can provide the outcomes you are looking for. We do this to make sure that we can offer you the best possible route to resolving your complaint.

If this applies in your case, our assessor will talk to you about that alongside discussing what concerns you have and what you would want to happen as a result of your complaint. We will clearly explain what the other organisation does, how it works, and how we think it may be able to offer you a more appropriate route to get an answer to your complaint.

We will also speak to the other organisation to get its views on whether it's better placed to look at your concerns.

Following our discussion with you and the other organisation, if we think that it is better placed to look at your complaint, we will help you make your complaint to it.

5. What led you to complain: what did the organisation do, how did this affect you and what has been done to respond to your concerns.

There are three questions we look at here:

Does it look to us like the organisation may have made mistakes or given a poor service?

We are not carrying out an investigation at this stage, so we only need to see some indication that there is something for us to look into. Our assessor will consider all the information we have to decide whether there are indications that the organisation has made mistakes or given a poor service which we need to investigate.

If it looks to us like the organisation may have made a mistake, acted unfairly, or provided a poor service, we would move on to the next question.

If we cannot see any indications of this, we would not investigate and we will clearly explain why and how we reached that conclusion.

Does it look to us like the mistakes or poor service have had a negative effect on you or somebody else?

We also need to look at whether the mistakes or poor service you have complained about have had a negative effect on you or the people involved.

When our assessor talks to you about your complaint, they will make sure that we understand what happened and how it has affected you (or the person you are complaining for). We will look at all the information we have gathered to see whether the potential mistakes or poor service could or have had a negative effect.

If we can see signs that any potential mistakes or poor service might have had a negative effect on you, or the people involved, we move on to the next question.

If it we can't see signs that there has been a negative effect on you, or the people involved, we would not investigate and we will clearly explain why and how we have reached that conclusion.

If there is a potential negative effect, has that been put right already?

Next we look at what the organisation has already done to reply to your complaint, what action it took (if any), and whether this has already put things right.

Our assessor will talk to you about this, to get your view about what the organisation has done to resolve your complaint and why you remain unhappy.

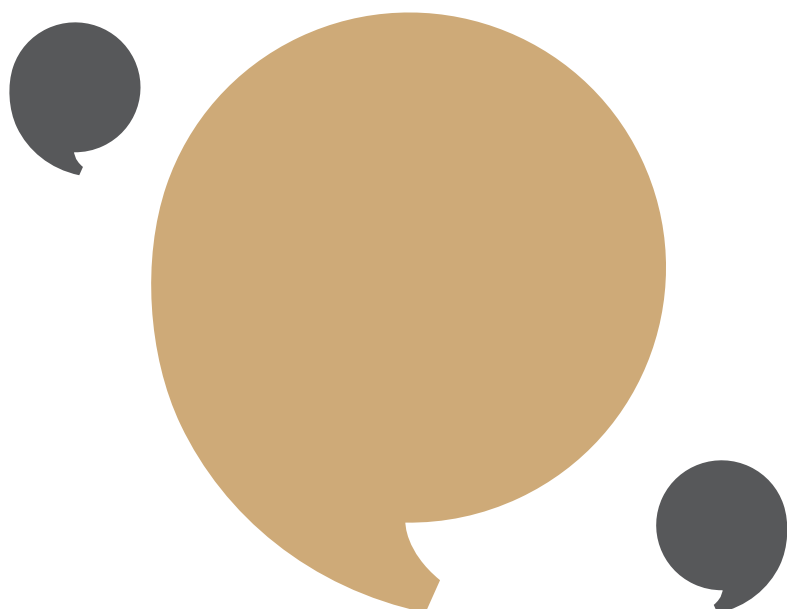
If we can see that what happened has potentially had a negative effect on you, or other people, and that the organisation has not yet put that right, then it's likely we will have good reasons for us to investigate.

If we think that the organisation has already put matters right and has responded appropriately to the issues, we would not investigate and we will clearly explain why and how we reached that conclusion.

Sometimes when we are looking at what's happened, we might see that your complaint has actually not yet been all the way through the organisation's complaints process, or that there is clearly more that the organisation could do to respond to your complaint.

If this is the case, we will talk to both you and the organisation to see what more can be done. If necessary, we won't investigate until the organisation takes more action itself.

If you are not happy after that, you should come back to us and we will look again at the issues.



What happens next?

Before we decide to investigate, we make a **final check** on your complaint. This includes these important practical questions:

Can we resolve your complaint now without the need to investigate?

We always check to see if there is a quicker way to get an answer to your complaint. If we think this is possible, we will speak to you and the organisation about a possible solution.

Are we sure that our proposed investigation will meet your expectations?

We will always make sure that we discuss with you what we can and cannot do in our investigation, and whether this will meet your expectations of what you would like to see at the end.

Are there other issues that mean we cannot carry out an investigation at this time?

We look at whether we could get enough information to help us come to a firm conclusion - for example, if a lot of time has passed, records might have been destroyed. It also includes looking at whether other investigations or hearings are happening that may affect our investigation. For example, if there is a coroner's inquest or if another organisation is looking at something that is linked to your complaint, then we may decide to wait and see if this deals with your concerns.

We will discuss these possible issues with you, so you can see what we are thinking.

Our decision



If we decide to investigate your complaint

We will let you know and the organisation too, so it has the opportunity to comment on the issues you have raised. We will explain what will happen next and how long things should take. We will also let you know if there is any part of your complaint that we have decided we will not look at during our investigation. If there is anyone specifically named in your complaint, we will make sure they are aware of our investigation as well.



If we decide not to investigate your complaint

We will explain why and what information we used to reach that decision.

We will contact you to go through our decision in the way you have asked us to, and we will send you our decision in writing too.

We will also let you know how you can give us feedback about our service. This includes what you can do if you think we have got something wrong - for example, if you think we missed some important information when we were making our decision.