

REQUEST FOR REVIEW OF DECISION POLICY

PREFACE

We aim to be an effective organisation. Responding to requests for reviews of our decisions gives us an opportunity to identify any weaknesses in our decision-making processes and in the way we communicate our decisions. It also gives us a chance to reconsider a matter in light of further information or a contrary interpretation of available information. Through this policy we show our commitment to use constructive complainant feedback to improve the way we do things.

Sometimes complainants will still be dissatisfied even after we have reviewed our decision. Our aim is to make a fair, impartial decision in the public interest, not to satisfy every complainant.

PURPOSE

The purpose of this policy is to outline how our office responds to a request for a review of a decision and to outline the procedures for handling these requests.

RESPONSIBILITY

All staff who deal with review requests must adhere to this policy.

LEGISLATIVE FRAMEWORK

Not applicable.

DEFINITIONS

Not applicable.

POLICY STATEMENT

1. Do complainants have a right to a review?

Complainants have no legal right to have a decision of our office reviewed. However, we will consider a request to review a decision. We will deal with any such request impartially and professionally.

When writing to complainants to finalise a matter, case officers should end the letter by stating that if the complainant wishes to discuss the outcome of their matter, they should contact the case officer. This should include the case officer's office telephone number.

2. When complainants are dissatisfied with us

Sometimes a complainant will contact us after we have sent them a letter telling them we have decided not to pursue their complaint any further (our 'decline letter'). We may have reached this decision on initial assessment of their complaint (eg if the matter is outside our jurisdiction or they have an alternative means of redress) or after having made extensive inquiries.

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Policy originally created:	6 August 2004
Last reviewed / updated:	5 October 2011
Version number:	3
File Reference:	ADM/4986
Related policies:	Compliments and complaints policy, Complainant conduct and visitor access policy.

If a complainant rings or writes after we have declined to investigate their complaint, the call or letter should be handled by the original case officer. Where possible and practical, the case officer should ring the complainant to explain the reasons for the decision and, if relevant, the limits to our jurisdiction and resources. If the complainant is satisfied after speaking with the case officer, no further action is needed.

If not, and the complainant had written a letter, explain to them that their letter will be considered to be a request for a review of the decision.

If the complainant had called to express their dissatisfaction, explain to them:

- they can formally request a review of the decision
- the request must be in writing
- if they have any additional information to support their arguments, they should provide it, and
- they can only request a review once; we will not consider any further requests for a review.

The case officer should refer the complainant to the [information on our website](#) about requesting a review.

3. *Complaints about our office, our policies or our staff*

Review requests also need to be distinguished from complaints. If a complainant contacts us to complain about the way we handled the complaint, the conduct of our staff or about our policies and procedures, rather than about our decision, you should treat the matter as a complaint about us and follow the *Compliments and Complaints Policy*. We will only review a decision if we receive a request in writing. If the complainant's specific concerns were outlined in their response to our decline letter, they need not write again.

4. *Reviewing a decision*

When a request for review is received, a review case entry is created in Resolve and the division manager is to allocate the file to a member of staff who is different from and generally more senior to the staff member who handled the original complaint. The staff member will review the decision in accordance with the procedures supporting this policy.

The staff member who reviews the decision may, after making further inquiries into the matter and/or reviewing the available evidence, decide that the decision was fair, correct and reasonable. The staff member can convey this message to the complainant by telephone.

If the complainant is not satisfied with the decision conveyed by phone or requires written confirmation the staff member is to make a recommendation to the Ombudsman that the complainant be advised of this decision and the reasons for it in writing. Follow the procedures supporting this policy.

5. *Deciding that the original decision to discontinue was inappropriate*

The staff member who reviews the decision may decide that the original decision to discontinue was inappropriate and that instead the matter should be pursued further. If the division manager agrees, the matter will be treated as if it were a new complaint, except as provided below in statement 6.

6. *Only one review is allowed*

Our policy is that we will only review a decision once, unless the complainant provides substantial new evidence that was not available at the time of the first review to support their argument that we should make further inquiries. This means that a fresh decision to discontinue a matter (after being reopened and further inquiries made) will not itself be reviewed.

If the complainant contacts us to complain about the outcome of a review, try to address their concerns on the telephone. If the complainant is still not satisfied, advise them in writing that the matter is concluded. Follow the procedures supporting this policy.

We will not correspond with a complainant who continues to contact us after they receive this advice, unless they provide substantial new evidence to support their argument that we should make further inquiries.

7. Restricting access

Some complainants will not be satisfied with the action we take, are extremely persistent and cannot or will not accept that we are unable to assist them, provide any further assistance than we have already, and/or disagree with action we have taken in relation to their complaint. Our complainant conduct and visitor access policy outlines how we decide to restrict a complainant's access to our office and what procedures to follow.

8. Records should be kept of all telephone conversations and other actions

File notes should be kept of all telephone conversations with the complainant and of any other actions taken to address the complainant's concerns. Follow the procedures supporting this policy for further details about records to be kept.

9. Keeping information relating to requests for a review

Division managers are responsible for ensuring that information is kept about any systemic issues or issues concerning individual staff performance identified by the reviews. They are also responsible for taking steps to improve any systemic failures and addressing any issues concerning poor individual staff performance.

OMBUDSMAN APPROVAL



Bruce Barbour
OMBUDSMAN

REVIEW PROCEDURES

TRY TO RESOLVE THE MATTER INFORMALLY

If a complainant complains about our decision by telephone or in person, they should be referred to the member of staff who dealt with the original complaint. If the complainant refuses to deal with that case officer they should be advised to put their concerns in writing and formally request that the decision be reviewed.

If a complainant complains about our decision by letter, the member of staff who dealt with the original complaint should try to contact the complainant by telephone within three working days.

During that telephone conversation, try to acknowledge the complainant's feelings and address their specific concerns. Clarify and explain the reasons for the decision.

Ask the complainant whether they are satisfied with this further explanation and if they would like any further action to be taken. If the complainant is satisfied, record this fact and tell your division manager. No other action is needed.

If the complainant wants further action to be taken, explain the review process to them. Ask the complainant to write to us with their specific concerns and reasons why we should review our decision. If this is clear from their response to our decline letter, they do not need to write again.

Written requests for review should go to the case officer for an initial assessment of whether additional arguments or new information have been provided.

Once they have completed this review, the case officer should provide the file to their division manager.

REVIEWING A FILE

The division manager is to allocate the file to another member of staff to review the decision.

The reviewing staff member should:

- consider the evidence on the file
- consider any other related files
- consider the complainant's views and any additional information they provide
- where appropriate, discuss the matter with the original case officer
- identify any gaps in evidence or reasoning that would undermine the original decision, and
- decide if the original decision was reasonable and correct.

In order to reach a final conclusion, the reviewing staff member may need to make further telephone or written inquiries to the complainant or the public authority involved.

AFFIRMING THE ORIGINAL DECISION

If the re-assessment confirms that the original decision was fair and reasonable the reviewing officer may contact the complainant by phone in the first instance. In that phone call the reviewing officer should attempt to clarify and explain our decision to the complainant. The emphasis is on clarification rather than persuasion. If the complainant is satisfied at the end of the call, or at least accepts that the office can be of no more assistance, they should be advised that no further correspondence will be sent from our office and their file will be closed.

A telephone review form (2005/041113) needs to be completed by the reviewing officer, one copy is placed on file and the other copy is to be given to the division manager.

If a decision is made not to contact the complainant or if they are not satisfied with the telephone call a response must be provided in writing by the Ombudsman. In this case prepare a review letter for the Ombudsman's signature. The letter should inform the complainant they are entitled to one review, and that future correspondence that does not raise new material will be filed without acknowledgement.

CHANGING OUR ORIGINAL DECISION TO DISCONTINUE

If, after reviewing the file, the reviewing staff member decides that the original decision to discontinue the matter was wrong, they should discuss this with the division manager. If the division manager agrees, they will allocate the matter to be treated as if it were a new complaint.

Contact the complainant to tell them this has happened.

If, after further inquiries are made, a fresh decision is made to discontinue the matter, the reviewing staff member should draft a letter for the Ombudsman's consideration to advise the complainant of this decision and that no further requests for review will be considered.

RECORD-KEEPING

If you resolve a complainant's concerns on the telephone, you must keep the following records:

- put a comment in the summary of the case in our case management system to record this event
- file note the conversation and save it into the appropriate Context container.

When a review is completed, the reviewing staff member must record any systemic issues or issues concerning individual staff performance identified by the review by completing a case review evaluation form (2009/057700). This form must be saved on file, in the appropriate Context container and a copy given to the division manager.

The reviewing staff member must also tell the staff member who originally dealt with the matter and their supervisor of the outcome of the review.

The division manager is to keep records of any action he or she took to improve any systemic failures or address any issues concerning poor individual staff performance that were identified by the review.

WHAT TO DO IF THE COMPLAINANT CONTACTS US AGAIN

If, after we tell the complainant the outcome of our review or of further inquiries that we have made following a review decision to re-open a matter, they contact us again on the same matter without providing significant new evidence, the reviewing staff member will draft a letter for the Ombudsman's consideration advising the complainant of this policy and stating that any further correspondence concerning this matter which does not raise any new issues that we consider warrants action by us will be filed without acknowledgement.

If the original review letter advised that future correspondence would be filed without acknowledgement, the reviewing officer should review the material provided by the complaints, and if it does not contain new material, the letter should be filed without acknowledgement.

A copy of this letter will be kept on the review file and on the most recent complaint file (if a new complaint file has been created). A record should also be kept in our case management system stating that this letter has been sent.

Alternatively we will advise complainants in the letter declining the review that any further correspondence will be filed without response.

WORDS TO USE WHEN DRAFTING LETTERS

Context folder [ADM/1134](#) has examples of sentences that you may want to use when drafting letters referred to in these policy and procedures.