



Office of the Ombudsman
Oifig an Ombudsman

practice standards standards practice

Public Bodies and the Citizen

The Ombudsman's Guide to Standards
of Best Practice for Public Servants

Public bodies should strive for the highest standards of administration in their dealings with people. And public servants should ensure that people are dealt with properly, fairly, openly and impartially. The following checklist, although not exhaustive, is a guide to standards of best practice for public servants. I hope that public bodies will find it useful in their efforts to provide a better service to their clients.

Dealing "properly" with people means dealing with them -

- promptly, without undue delay and in accordance with published time limits;
- correctly, in accordance with the law or other rules governing their entitlements and published quality standards;
- sensitively and by giving reasonable assistance, having regard to their age, to their capacity to understand often complex rules, to any disability they may have and to their feelings, privacy and convenience;
- helpfully, by simplifying procedures, forms and information on entitlements and services, maintaining proper records, and providing clear and precise details on time limits or conditions which might result in disqualification;
- carefully, where more than one public body is concerned, by ensuring proper communications between the bodies to prevent a person's needs being overlooked;

- courteously, including communicating in Irish (both written and oral) where it is clear a person wishes to do so;
- responsibly, by not adopting an adversarial approach as a matter of course where there may be a fear of litigation and by being prepared to explain why an adverse decision has been given.

Dealing "fairly" with people means -

- treating people in similar circumstances in like manner;
- accepting that rules and regulations, while important in ensuring fairness, should not be applied so rigidly or inflexibly as to create inequity;
- avoiding penalties which are out of proportion to what is necessary to ensure compliance with the rules;
- being prepared to review rules and procedures and change them if necessary;
- giving adequate notice before changing rules in a way which adversely affects a person's entitlements;
- having an internal review system so that adverse decisions can be looked at again and reviewed by someone not involved in the first decision;
- informing people of how they can appeal, co-operating fully in any such appeal and being open to proposals for redress including apologies, explanations and payment of appropriate compensation;

- making appropriate redress which puts the person back into the position he/she would have been in if the public body had acted properly in the first place;
- adopting a policy for dealing with the small number of people who act in a vexatious manner or in bad faith, which strikes a balance between the interests of the public body, its staff and the person concerned.

Dealing "openly" with people means -

- putting people in contact with the officials of the public body with responsibility for dealing with them and, if appropriate, referring them to alternative sources of assistance;
- making available and keeping up to date, comprehensive information on the rules and practices which govern public schemes and programmes;
- giving people full information on the reasons for a decision which adversely affects them including details of any findings of fact made in the course of the decision;
- ensuring people know what information is available, where to get it and know of their right to access it in accordance with the Freedom of Information Act, 1997 and otherwise;
- assisting people, where necessary, to prepare their requests for access to information;

- providing accessible public offices and using information and communications technologies to ensure maximum access and choice in service delivery.

Finally, dealing "impartially" with people means -

- making decisions based on what is relevant in the rules and law and ignoring what is irrelevant;
- avoiding bias because of a person's gender, marital status, family status, sexual orientation, religious belief, age, disability, race, membership of the Travelling Community, language, attitude or reputation or because of who they are or who they know;
- ensuring, where a service is based on a scheme of priorities, that the scheme is open and transparent;
- being careful that one's prejudices are not factors in a decision;
- declining any involvement with a decision where one has a conflict of interests, a potential conflict of interests, or where there may be a perceived conflict of interests.

(Revised March 2003)

Office of the Ombudsman

18 Lower Leeson Street, Dublin 2.

Tel: (01) 639 5600

Fax: (01) 639 5674

email: ombudsman@ombudsman.gov.ie

Web: www.ombudsman.ie



- **Time and trouble** - where writing letters, making telephone calls, carrying out interviews, research and getting legal or other professional advice are integral parts of the complaint/appeal process, these and other related activities involve time and trouble on the part of the complainant. Where it becomes clear that the complainant had to go to unusual lengths or suffered distress in making his/her case, compensation in the form of payments for time and trouble reasonably expended in pursuing the complaint, and associated vouched costs, should form part of the redress proposals.

Keeping it Right

An effective complaints system which offers a range of timely and appropriate remedies will save the public body time and money in the long run. It will enhance the quality of service to its clients, it will have a positive effect on staff morale and improve the body's relations with the citizen. It will also provide useful feedback to the body and enable it to review procedures and systems which may be giving rise to complaints.

Published by
Office of the Ombudsman
18 Lower Leeson Street
Dublin 2

Tel: +353 1 639 5600
Fax: +353 1 639 5674
Web: www.ombudsman.ie



Office of the Ombudsman
Oifig an Ombudsman

Redress

Getting it wrong and putting it right

The Ombudsman's Guide to the
provision of redress when public
bodies make mistakes in their
dealings with the citizen

Redress - Getting it wrong and putting it right

Where a person has been wronged by a public body, that body should provide appropriate redress. This leaflet gives some very broad guidelines on the provision of redress to help public servants develop a consistent approach towards remedies.

Redress and public administration

Public bodies deliver a vast range of services and benefits to the citizen. Even where people are not entitled to a particular service or benefit, they are entitled to be told the reasons why they do not qualify and be informed of alternative services, where possible. Where they may be entitled to the service or benefit but a delay in the decision cannot be avoided, they should be told when the decision is likely to be made. In cases of need, other possibilities for short-term relief may have to be examined. Public service providers must always bear in mind that citizens usually do not have the option of taking their business elsewhere. Citizens are entitled to proper, fair, impartial and expeditious treatment by public bodies. Where there is a shortfall in these standards, and the fault lies with the public body, it should remedy the shortfall through the provision of redress. The general rule of thumb should be to put the person back into the position he/she would have been in if the public body had acted properly.

Apologies and explanations

When it turns out that the service or benefit has been wrongly denied or delayed, the public body should always give a detailed explanation and/or apology. Explanations and apologies should include the following:

- the reasons why the public body got it wrong;
- an apology for any hurt, inconvenience or hardship caused;
- an acceptance of responsibility for the fault which has occurred;
- an undertaking to make good any loss which may have resulted;
- an acceptance that, where time limits apply, any undue delay on the part of the public body will be discounted where possible.

When should compensation be paid?

In some cases an action (including an inaction) of a public body wrongly taken may affect a person in a manner which can easily be quantified and payment of compensation may be appropriate. Compensation may be considered for:

- **Financial Loss** - where there is a specific amount of money denied to a person as a result of the action, compensation should make good the specific loss which has occurred.
- **Loss of purchasing power** - where refunds or payments of benefits have been delayed or withheld over an unduly extended period of time as a result of an error, misinterpretation, oversight or other similar action on the part of a public body.
- **Loss of a non-monetary benefit or service** - where costs are incurred by a person in securing alternative services for non-monetary benefits or services normally provided by public bodies, e.g., school transport, housing repairs, refuse and water supply, hospital services, facilities for people with disabilities etc. and where these are initially denied or delayed and subsequently restored or granted.
- **Loss of opportunity** - where the action of a public body has the effect of preventing an eligible person from taking advantage of special arrangements or participating in a particular scheme or has resulted in the loss of an opportunity to exercise a right of appeal.
- **Costs incurred** - where a person complains or appeals he/she may need to seek professional advice, for example, from a solicitor, accountant, architect or engineer in order to vindicate his or her position. If, at the end of this process, the decision of the body is reversed or varied, the question of refunding costs incurred in obtaining professional advice should form part of the public body's redress proposals. The key consideration should be whether the costs arose as a result of an unreasonable attitude by the public body.



Settling Complaints

Foreword

Many of the complaints which come to my Office result from a breakdown in communications between public bodies and their clients. Usually these complaints are quickly resolved when the facts, evidence or circumstances are established. In most cases the outcome is either a reversal of the original decision of the public body or an acceptance on the part of the complainant that the decision in respect of his or her case is correct.

Many complaints could and should be easily and swiftly settled at a very early stage by public bodies themselves. The number of relatively uncomplicated complaints which my Office receives could be reduced if public bodies were to establish efficient and credible internal complaints handling systems.

I have statutory authority to examine a complaint only where the complainant has taken reasonable steps to seek redress, and has failed to obtain it. Normally I require a complainant, if he or she has not already done so, to ask the public body in question to review the original decision. In many cases this review is carried out by the same official who made the original decision and the complainant often remains dissatisfied and returns to my Office. However, internal complaints systems have been set up by some public bodies to deal directly with complaints from the public. Most notable of these are the Social Welfare Appeals Office, the Revenue Customer Service Office, the Complaint Appeals Office in the Eastern Health Board and the Headage and Premia Appeals Unit in the Department of Agriculture and Food. In general these complaint systems enable a particular decision to be reviewed by a person other than the original decision maker and provide a readily available and easily accessible means whereby disputes, misunderstandings and mistakes can be resolved. These systems have the added advantage that, if the original decision is upheld, the complainant is informed of his or her right to refer the matter to my Office. This step is not always taken by public bodies generally within my

remit although I would encourage them to do so.

Other public bodies are now considering setting up internal complaints systems under the Government sponsored Strategic Management Initiative with its strong emphasis on citizens and their needs as clients or consumers of public services. Government Departments and Offices are committed to the principles of quality customer care and have agreed to establish well-publicised, accessible, transparent and simple-to-use systems for dealing with complaints about the quality of service provided. They have also agreed to introduce formalised systems of redress for customers who are dissatisfied with decisions.

In my 1996 Annual Report, I published a guide to standards of best practice for public servants in their dealings with the public. I was very pleased by the positive response to the guide from the public service and I am aware that many public bodies have incorporated the standards into their customer service plans. In the guide I suggested that, in order to deal fairly with people, an internal review system was required so that adverse decisions could be looked at again and reviewed by someone not involved in the making of the first decision. Good complaints handling must be accepted as an integral part of customer care. In conjunction with my 1997 report, I am publishing this guide on internal complaints systems. In my report, I illustrate the value and features of such systems by reference to cases which my Office has examined. I hope that this guide will be of assistance to public bodies in their efforts to improve the quality of the service which they provide. The guide is cast in general terms and is intended to be advisory rather than prescriptive. While it contains a number of practical suggestions, each public body should aim to devise a system best suited to its own needs.

Kevin Murphy

Ombudsman

April 1998

Internal Complaints Systems - A Guide

1. The Benefits of having an internal complaints system

In the past, public bodies may have considered complaints as irritants interfering with their normal work and/or as criticisms of their decisions against which they had to defend themselves. While there is greater emphasis nowadays on improving the quality of service, the standards of service provided for the public are usually set by the public bodies themselves and they also devise the systems and procedures for achieving these standards. The effectiveness of these procedures and the relevance of the standards set can, however, be judged or assessed properly only by reference to the very people - the public - for whom the service is provided. A good internal complaints system will provide essential feedback from the public and will benefit the body by:-

- * providing a means through which the public can tell the body how well it is doing in its efforts to provide an improved quality service;
- * serving as a quick and efficient means of resolving difficulties which may arise;
- * avoiding the extra time and cost involved in further appeals;
- * promoting good relations and communications with the public;
- * encouraging a positive attitude towards the administrative system;
- * indicating where problems exist in the provision of services;
- * highlighting shortcomings in the administrative system and areas which might need improvement and
- * helping the public body to avoid unfavourable publicity.

The public will also benefit because the system will:-

- * provide a quick, easy, and cost-effective means of resolving difficulties with public bodies and obtaining redress where necessary;

* foster a greater sense of inclusiveness or partnership on their part with the public service;

* promote a sense of empowerment in the individual by enabling him or her to have a role in contributing to improvements in the public service and

* give them the assurance that their complaints are being taken seriously and that they are being treated properly, fairly and impartially.

2. Preparations for setting up an internal complaints system

Some public bodies may be inclined to view internal complaints systems as an inconvenience and may merely go through the motions in order to be seen to be doing what is deemed to be a "good thing" for their image. This attitude and approach should be seen for what it is - a lost opportunity. There are real and tangible benefits to be gained from having an effective internal complaints system but, for maximum benefit, certain essential conditions have to be met. These include:

Commitment by management

Internal complaints systems will not be effective if they do not have the commitment of the organisation at management level. A commitment to the principle that dealing effectively with complaints from the public is an integral part of the service provided should underpin the body's mission statement. Management should foster a positive and receptive attitude to complaints. The ability to acknowledge that a mistake was made should be seen as a strength rather than a weakness on the part of the body concerned.

Commitment by staff

Commitment by staff within the organisation is vital. All staff, and particularly those in the front line, should be encouraged to take a positive attitude to complaints. Staff are more likely to do so if they know that there is top level commitment to complaints handling and if they are fully involved in the setting up of the system.

Provision of resources

The complaints system will soon lose the confidence of the public if it cannot deliver on what it promises. It must be provided with the resources, both material and human, to enable it to achieve results. Management must ensure that accommodation, equipment and finances are appropriate and that the staff are highly motivated.

Training

In addition to being highly motivated, the staff involved should have specialised training in customer care, interpersonal and communications skills. Initial training in basic skills and techniques should be complemented by in-service training to enable staff to keep up to date with new advances in the area of complaint handling.

Clear objectives

The success of any complaints system usually depends on those involved in its operation being clear as to what it is intended to achieve. It would be useful at the initial stages of setting up a system to define what a complaint is. The term 'complaint' may cover a wide range of items not all of which may be appropriate to the complaints handling system e.g. requests for information or matters for which there is a statutory right of appeal, for example, a planning appeal. In this context a working definition might be that a complaint exists where:-

'a decision or action is taken which relates to the provision of a service or the performance of a function which, it is claimed, is not in accordance with the rules, practice or policy of the organisation or the generally accepted principles of equity and good administrative practice and which adversely affects the person concerned'

This definition is not intended to be comprehensive but public bodies might consider using it as starting point in the context of their own structure and the services they provide. It may also be necessary to review the definition as the complaints system develops.

3. Setting up and operating the complaints system

Structure

Much will depend on the size of the public body, its staffing structure and the nature of the services being provided. Some bodies may find it worthwhile to have identifiable, designated complaint co-ordinators who will refer initial complaints from the public to the head of the unit or section responsible for the original decision. If the complaint is not resolved there the co-ordinator will refer it to the internal complaints handling unit. Either the co-ordinator or the complaints unit should be responsible for monitoring progress and keeping the complainants up-to-date on developments.

The internal complaints unit should be headed by a senior officer in the organisation and should not have any direct working involvement in the areas where the decisions which give rise to complaints are made. The officer should have the authority to alter the original decision if the circumstances suggest that this is warranted, to award redress in appropriate cases and to determine the parameters within which other staff might have the authority to provide redress.

Publicity

The maximum amount of publicity should be given to the setting up of the complaints system. This can be done in a number of ways, for example:-

- advertising the existence and availability of the system in local newspapers and on radio;
- including a reference to the system in all information leaflets, application forms, notification of decision forms etc. relating to the services provided by the organisation;

- arranging information sessions with interest groups and
- making available explanatory leaflets and posters about the system at all the body's public offices.

In particular, the public should feel encouraged to complain; they should believe that it is worthwhile complaining and they should be assured that they will not be victimised as a result of any complaint they make.

Consultation

Complaints arise from the interaction of those providing the service and those for whom the service is being provided. A complaints system will not be effective without prior consultation with these two participants in the system. There should be consultation with staff across the public body and their representative associations or trade unions on the one hand and with the public and specific interest groups on the other. It is important to build up public confidence in the system by guaranteeing fair and impartial treatment.

Review

A good complaints system needs to respond to changing circumstances and events. It needs to be continually reviewed by the person with ultimate responsibility for its organisation and management. The system should be sensitive to factors which can affect its smooth running e.g. maintenance of time schedules for dealing with complaints, staff mobility, morale and the emergence of new sources of complaints of which management may not be aware.

4. The essential features of a good internal complaints system

A good system should be:

Accessible

Simple instructions about how to make a complaint should be available to the public. These should clearly identify the designated complaint handlers and explain how they will operate. The various ways in which a complaint may be made should be stated. Suitable accommodation should be provided for receiving and interviewing of complainants who wish to make a complaint in person. Complainants who wish to pursue their complaints using the Irish language should be catered for and the needs of those, for example, with disabilities and literacy difficulties should be given careful consideration. Accessibility will be improved if FREEFONE and Lo-call numbers and freepost facilities are also available. At all times it should be emphasised that complaints are welcome by the public body as a means of improving the quality of service provided.

Simple

The various stages in the complaint handling process should be kept to a minimum with each stage in the process clearly identified. It is essential that internal disputes about the handling of the complaint do not develop. When the receipt of a complaint is being acknowledged, an outline of the various stages the complaint will go through should be sent to the complainant.

Speedy

Targets should be set for acknowledging receipt of complaints and the completion of their examination. Where it is not possible to meet the target for completion, interim letters updating the complainant on progress should be issued.

Fair and Independent

Complaints which have not been resolved by the original decision maker should be examined objectively by persons not involved with the original decisions or actions. The examination should have regard not only to the rules governing the scheme but also to considerations of equity and good administrative practice. In particular, the principles outlined in the Ombudsman's Guide to Standards of Best Practice for Public Servants (circulated with his 1996 Annual Report) should be taken into account.

Confidential and Impartial

All complaints should be treated in confidence (except where the complainant wishes otherwise). The public should be assured that making a complaint will not adversely affect their future dealings and contacts with the body concerned. Correspondence about the complaint should be filed separately from other information held on the complainant as a client of the body.

Effective

The complaints system should have the authority to address all the issues giving rise to the complaint. Where the examination finds that the fault lies with the public body, the system must have the power to provide appropriate redress. A complainant who remains dissatisfied should be advised of his or her right to refer the case to the Ombudsman where appropriate.

Flexible

While rules are necessary to ensure consistency, too much rigidity should be avoided and there should be a degree of discretion given to those involved in the system to adjust to the changing needs and demands of complainants and to adapt to new situations.

5. Achieving and assessing the benefits

A public body should expect its internal complaints system to:-

- achieve a satisfactory, speedy and low-cost resolution of complaints from service users;
- provide accurate information for management on the quality of the services provided and whether the correct services are being provided and
- enable changes to be made in procedures and systems to ensure that similar complaints do not continue to arise.

Members of the public will expect that they will receive:-

- a fair hearing and a clear explanation of the outcome even if it is not favourable to them;
- an appropriate remedy where it is found that they were not treated fairly or properly and
- an assurance that other people will be spared the adverse affect which complainants may have suffered.

Remedies

The appropriate remedy should aim, in so far as this is possible, to restore the complainant to the position he or she would have been in had things not gone wrong. In many instances, a letter of apology may be sufficient. In some cases a detailed explanation of the basis for the action or decision may be needed. In other cases a change in procedures which would benefit clients generally may be appropriate. Financial compensation may sometimes be warranted in cases, for

example, where specific financial losses have been incurred. If there has been a delay in the receipt of a payment, the payment of interest may arise. Where the complainant has had to spend a considerable amount of time in pursuing the matter, payment in recognition of "time and trouble" may need to be considered. Compensation for exceptional worry, distress or inconvenience caused to the complainant should also be recognised.

To avoid delay in the provision of remedies, public bodies should delegate to staff at appropriate levels the power to award redress within predetermined parameters. Front line staff, in particular, as the first point of contact with the public in service delivery and receipt of complaints, should have some discretion within specified limits to settle complaints.

Changes in procedures

Where a complaint has been resolved in favour of a complainant, the result should be noted for reference in similar cases. If a particular issue becomes a regular source of complaint, a review of the operation of the relevant scheme might be undertaken. The complaints unit should build up data on the operation of different schemes and the volume of complaints so that accurate feedback can be given. The use of computerised complaints databases should be considered.

Reports

To ensure accountability and to enable the benefits to be assessed, complaint handling units should publish reports on their activities at least on an annual basis. These reports should detail how the system performed during the year by reference to set targets. Such reports have a useful role to play in building up public confidence in the system and should be made widely available within the organisation and circulated to user groups and other interested parties.