



COMPLAINTS PROCEDURE

Equality

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1.0 General

- 1.1 The Commission is committed to treating applications fairly, thoroughly and objectively and to dealing with people in a polite and courteous manner. This complaints procedure exists to identify and redress legitimate grievances about the manner in which applications, correspondence and contacts with the Commission are handled. In this regard, references below to action on the part of any Commission Board Member or member of staff may be taken to include references, where appropriate, to alleged inaction on their part.
- 1.2 The complaints procedure is not, however, intended to be a way of generating an examination of the evidence or of questioning the substance, merits or standard operating procedures relating to an application to the Commission for review of a claimed miscarriage of justice. A decision by the Commission on an application cannot be reviewed through the complaints procedure.
- 1.3 The Commission recognises, however, that the complaints procedure may be of assistance in identifying areas for improvement in the Commission's practices and procedures, and that complaints can be an important source of information on the quality of service provided by the Commission.
- 1.4 Board Members and staff, including in particular the Complaints Manager (see below) are aware that it is the Commission's policy that there should always be an attempt to promptly resolve potential complaints informally before the formal complaints procedure is invoked.

1.5 For the purposes of this complaints procedure the Commission has appointed its Director of Corporate Services as the Complaints Manager. His responsibilities are summarised in section 5 below.

2.0 Outline of the Complaints Procedure

2.1 Expressions of dissatisfaction about the way in which some matter has been handled by the Commission or its staff may be received either orally or in writing. At the initial stage, the aim should be to resolve the problem informally. Where this is not possible and it is apparent that a complaint has resulted, it should be confirmed in writing and passed to the Complaints Manager.

2.2 A key aspect of the procedure is impartiality. It is for this reason that, if the problem cannot be resolved informally, it becomes the responsibility of the Complaints Manager (or other nominated member of the organisation) to investigate the complaint and arrive at an objective conclusion.

2.3 If it becomes evident within a reasonable period of time (not more than 2 weeks) to staff dealing with an expression of dissatisfaction that the complainer is unlikely to be satisfied with the response provided, the matter must be referred to the Complaints Manager as indicated in paragraph 2.1 above.

2.4 Once a complaint is referred to the Complaints Manager, as a rule, he will take over all subsequent contact with the complainer.

2.5 There are the following variations from the general rule that the Complaints Manager handles all aspects of a complaint:

- Complaints about actions of the Complaints Manager will be handled by the Chief Executive of the Commission.
- Complaints about actions of the Chief Executive will be handled by the Chairman of the Commission.
- Complaints about actions of Board Members will also be handled by the Chairman.
- Complaints about actions of the Chairman will be handled by the Directorate for Justice as per 3.12 of this procedure.
- In the case of complaints from a member of the UK or Scottish Parliaments: In relation to routine matters, the Complaints Manager will carry out the investigation but the Chief Executive or the Chairman, as appropriate, will sign all letters to the MP or MSP; In relation to more substantial issues, including issues of policy, the Chief Executive will investigate the complaint and the Chairman will sign the substantive reply.

2.6 Having regard to the variations set out in the previous paragraph, references in sections 3 to 5 below to the Complaints Manager may be taken to include references, where appropriate, to the Chief Executive or the Chairman of the Commission.

2.7 Generally speaking, where a complaint is upheld, redress will be by way of rectification of the problem (if practicable) together with an apology. Claims for compensation will be considered

only in exceptional circumstances and must be supported by evidence of actual loss to the complainer.

3.0 Complaint Handling Process

- 3.1 All informal complaints must be logged, by the member of staff who receives the complaint, in the informal complaints register. The Chief Executive and the Director of Corporate Services must be notified that an informal complaint has been logged. The member of staff who receives the complaint will have responsibility to attempt to resolve the complaint unless the Chief Executive decides that the allegations warrant invoking the formal complaints process at the outset. If the member of staff is unable to resolve the complaint informally within two weeks, or considers that it is not suitable for informal resolution, he or she should refer it to the Complaints Manager. Any complaint by an MP or MSP should, however, be referred to the Chief Executive and the Chairman, in the first instance before any action is taken on it.
- 3.2 On receiving the complaint, the Complaints Manager should record it in the Complaints Register and seek confirmation in writing of the request for an investigation of the complaint if this has not already been done.
- 3.3 The Complaints Manager will then assess the issues raised by the complainer and consider the following:
 - Does the matter raised fall within the scope of this complaints procedure?
 - Have attempts to resolve the matter informally been taken as far as practicable?
 - Does the complaint call for formal investigation?
- 3.4 If the Complaints Manager considers that the complaint does not require investigation he should consult the Chief Executive before bringing the matter to a conclusion. He should also consult the Chief Executive if he is doubtful whether the complaint requires investigation or not. The Chairman should be consulted in exceptional circumstances.
- 3.5 If the complaint is to be investigated, the Complaints Manager will: identify the substance of the complaint for the purposes of the investigation; and let the complainer know who will be dealing with the complaint (normally the Complaints Manager), the steps to be taken and the approximate timescale for completion of the investigation.
- 3.6 The Complaints Manager will take whatever steps are necessary to investigate the complaint adequately and, in doing so, will consult with both the complainer and the person who is the subject of the complaint (see also section 4 below).
- 3.7 If at any time during the investigation it appears to the Complaints Manager that the complaint has been resolved to the complainer's satisfaction, the investigation may be terminated at that point (but the Complaints Manager should consult the Chief Executive in case of doubt). When the Complaints Manager completes or otherwise terminates the investigation he should notify the complainer of the outcome by letter.
- 3.8 Thereafter, the Complaints Manager should note the outcome of the complaint on the Complaints Register and complete a brief report for the Chief Executive, with copy for the Chairman, describing the nature of the complaint, how it was investigated, and the conclusion reached, and also identifying any lessons which can be learned for the future.

3.9 Complaints must be acknowledged within 3 working days of receipt and responded to in writing within 10 working days. Where a final response cannot be given within that time, the letter to the complainer should give an estimated timescale for final completion of the investigation. (In the case of complaints or representations by MPs and MSPs, however, in line with the Commission's general policy on the handling of correspondence from MPs and MSPs, at least an interim reply should, wherever possible, be sent within 3 working days of receipt of the correspondence.)

3.10 Most complaints may be expected to be finally resolved by the procedure set out above. However, cases may arise where the complainer remains dissatisfied and requests a further review of the decision on the complaint. Such cases should, as a rule, be referred to the Chief Executive, who will review the further submissions (if any) by the complainer together with the Complaint Manager's report on his investigation and any relevant documents referred to in that report or in the letter sent by the Complaints Manager to the complainer, and will then respond to the complainer's further correspondence. (In the case of complaints or representations by MPs and MSPs the Chairman will sign the substantive reply to the request for a further review.)

3.11 Where the complaint in question was about the actions of the Chief Executive or a Board Member, the complainer's further correspondence should be referred to the Chairman of the Commission who will respond to it personally after carrying out such further enquiries as appear to be appropriate. Such requests for a review of the decision made on a complaint will also be responded to within 10 working days from receipt (again in the case of correspondence from MPs and MSPs, at least an interim reply should, wherever possible, be sent within 3 working days). Where the letter sent to the complainer is not a final response, it should give an estimated timescale for completion of the review requested by the complainer.

3.12 In the event of a complainer remaining dissatisfied after a further review has been conducted, he or she has the right to complain to the Scottish Government's Directorate for Justice, who can consider complaints about:

- Administrative Failures;
- Failure to Provide a Service; and
- Failures in a Service Provided.

Any such complaints should be directed to: Ms Anna Donald, Deputy Director, Justice Directorate, Scottish Government, St Andrew's House, Regent Road, Edinburgh, EH1 3DG.

3.13 In relation to a complaint involving an alleged breach of the code of conduct against a Member of the Board, a complainer has the right to refer the matter to the Standards Commission for Scotland, Forsyth House, Innova Campus, Rosyth Europarc, Rosyth, KY11 2UU; Tel: 01383 428033; www.standardscommissionscotland.org.uk

4.0 The Right of Commission Staff who are the subject of a Complaint

- 4.1 Where a complaint is made about the actions of a member of the Commission's staff, unless there are compelling reasons to the contrary, he or she should be shown a copy of the complaint as soon as practicable and invited to respond to the issues raised.
- 4.2 Any substantive responses to the complaint should also be shown to the member of staff concerned, as should any further submissions from the complainer, and in each case comments should be invited from the staff member.
- 4.3 If a disagreement arises between the Complaints Manager and the member of staff who is the subject of the complaint the matter should be referred to the Chief Executive for resolution.
- 4.4 Any significant departure from the foregoing procedure may be made only with the express authority of the Chief Executive or the Chairman, as appropriate.
- 4.5 The handling of complaints should, wherever possible, maintain the rights of complainers and staff to confidentiality. Accordingly, details of complaints and the handling of them should, as a rule, be stored separately and access to such information should be restricted to the Complaints Manager, the Chief Executive and the Chairman.
- 4.6 The details of a complaint, or the information gathered in the course of the investigation of the complaint, may sometimes be relevant to the review of the case itself. However, wherever possible, such information should be placed on the case file in a format separate from the complaint material.

5.0 Summary of Responsibilities of the Complaints Manager

- 5.1 The Complaints Manager is responsible, subject to general guidance from the Chief Executive, for overseeing all aspects of the complaints procedure, including:
 - Maintaining records of all complaints received, monitoring their progress and noting their outcome;
 - Advising staff and Board Members on any aspect of the complaints procedure, including informal resolution;
 - Investigating complaints where appropriate;
 - Liaising with complainers or their representatives and, where necessary, assisting complainers in formulating their complaints;
 - Advising on possible amendments to Commission policy and procedures in light of experience in dealing with complaints; and
 - Any other matters which contribute to the fair and effective handling of complaints.

Complaints Manager:

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