

Complaints about Professional Conduct

This procedure deals with complaints about staff conduct e.g rudeness, a lack of professionalism, delay, failure to reply to letters etc. It is not intended to relate to disagreements about the outcome of an investigation or about decisions on how the investigation should proceed. The latter complaints should be handled according to the investigation handbook (complaints) or other internal guidance on investigation procedure.

It applies to all staff.

Initial receipt of complaint

1. A complaint about staff may be made in a variety of ways: in person, by telephone; or by fax, letter or email.

Note: Some people may need particular help to make a complaint about staff. For example, they may have a disability, or their first language may not be English.

2. If you are the member of staff who initially receives the complaint, you should:
 - Make sure that the complainant is wanting to complain about an individual's behaviour or actions, and not alternatively wishing to discuss the facts or decision in a case or raise an objection to our decision.
 - If the complaint relates to you, and you consider you can resolve it on the spot **to the complainant's satisfaction** e.g. by apologising, do so. You must also note it in the central register of complaints (held by the Ombudsman's SPS). If the complainant is not clearly satisfied with what you have done, and wishes to take it further, you must do so
 - If it cannot be resolved on the spot, and once it is clear that the complaint relates to an individual (including you), refer the complainant / correspondence to that individual's line manager. For telephone calls, where he/she is not available, either take details for the manager to phone back or, if that is impractical, invite the complainant to put it in writing or call back another time.

Informal resolution

3. The line manager of the individual complained of should explore the possibility of dealing with the complaint 'on the spot' e.g. an explanation is needed or, if clearly justified, an apology given.
4. If it proves possible to settle the complaint immediately, the line manager should:
 - a. check that the complainant is fully satisfied;
 - b. make a note of the action taken and place it on the complaint file;

- c. also make a brief note of the complaint and resolution on a central register (held by the Ombudsman's SPS) and
- d. if it seems appropriate, confirm in writing to the complainant any significant action, to avoid any misunderstanding.

Formal investigation and response

- 6. If it is not possible to settle the complaint 'on the spot' and further investigation is required, the line manager should pass the details **immediately** to the Ombudsman's SPS who should:
 - a. record receipt of the complaint on the central complaint register;
 - b. notify the relevant Deputy Ombudsman; and
 - c. acknowledge receipt of the complaint within **two working days** of its receipt, sending the complainant a copy of this procedure. The complainant should be told that a substantive reply will be sent within **28 days** or otherwise an explanation of the delay offered.

The complaint should not be discussed with others.

- 7. The Deputy Ombudsman will decide whether the complaint should be investigated by the line manager of the person complained of or an Assistant Ombudsman or another person. That decision will depend on the potential seriousness of the complaint, the need to maintain, and be seen to maintain, fairness and impartiality, and any other factors seen as relevant in the circumstances of the individual complaint.
- 8. The person investigating should give a copy of the record of complaint to the member of staff who is the subject of the complaint and ask for their comments. The investigator should also consider any other documents or information that might be relevant. If the complaint alleges discrimination, the investigator should discuss with the Deputy Ombudsman whether to seek advice from the Home Office equal opportunities adviser.
- 9. The investigator should produce a draft reply on the complaint and send it to the Deputy Ombudsman with a copy to the member of staff. The member of staff may, if they wish, send their written comments to the Deputy Ombudsman.
- 10. The Deputy Ombudsman may decide that a meeting is needed to discuss the complaint and the investigator's draft reply with the line manager and/or member of staff concerned. The member of staff may, if they wish, be accompanied to the meeting by a friend or trade union representative.
- 11. The Deputy Ombudsman will:
 - a. consider whether further enquiries are necessary;
 - b. if the complaint is justified, determine what action needs to be taken to put matters right, consulting the Ombudsman as appropriate in exceptional cases. The action could be one or more of the following:

- an apology
 - an explanation
 - an assurance that the same thing will not happen again
 - other action to put the matter right
- c. settle the terms and sign the reply to the complainant;
- d. decide whether any disciplinary or other action should be initiated. In this instance, the usual HO disciplinary procedures will apply;
- e. decide whether there are general lessons to be learnt from the complaint and, if there are, arrange for appropriate instructions to be given to those concerned.
- f. prepare a brief note about the investigation, interview and outcome of the complaint for the central complaints file. The outcome for the complainant should also be recorded on the complaint file.

13. If a reply cannot be sent to the complainant within 28 working days, a holding letter should be sent.

Complaints about the Ombudsman and Deputies

14. If the complaint is about a Deputy, the SPS should pass the file to the Ombudsman who will make arrangements for the investigation and decide on the outcome.
15. If the complaint is about the Ombudsman's conduct, the file should be passed to the Head of HR (on behalf of the Home Secretary).