

Recommendations and Compliance For Service Providers Factsheet

Introduction

This factsheet explains what we expect from bodies in our jurisdiction when we make recommendations in our reports, or when we agree actions with them to resolve a complaint where we have not issued a formal report. It does not cover every detail of our procedures.

General Principles

Our role is to consider whether a complainant has suffered an injustice as a result of maladministration or service failure by a body within our jurisdiction. If we find that the complainant has suffered such an injustice, we can make recommendations aimed at putting matters right.

Our recommendations are not binding on the body. It is generally accepted, however, that bodies will comply with them unless there are exceptional reasons not to.

We can make two types of recommendations. The first type is aimed at addressing the injustice to the complainant. These might involve actions such as an apology, providing a service that the complainant is entitled to, fixing something, or financial redress. The second type is aimed at improving the body's processes so that the problem does not happen again. These might involve actions such as introducing or updating a policy or providing staff training.

Early Resolution

We are pleased to be able to put things right for a complainant at an early stage. If it appears from our initial review of a complaint that something has gone wrong and that there is an obvious solution, the caseworker will often contact the body and ask it to carry out one or more actions to resolve the matter. If the body agrees, then the case will be closed without an investigation. We expect the body to provide evidence that it has done what it has said it would do, and we will follow up the actions agreed.

Investigations

When we investigate a complaint, we will usually conclude the investigation by issuing a report, or by discontinuing it because of the action agreed by the body. In both these cases we will ask the body to provide us with evidence that it has carried out any recommendations made, or actions agreed.

Draft report / settlement proposal

Before issuing a final report or discontinuing an investigation, we will always offer the complainant and the body the opportunity to comment on any proposed recommendations and, in the case of the body, agree to them. This is the body's opportunity to provide any comments on the proposed actions and the timescales for carrying them out, and it is therefore important that the body considers them carefully. It is important that the body shares the proposed recommendations with the staff or teams who will be responsible for implementing them to establish whether the recommendations are likely to be useful and practical to implement. Bodies should also let us know if proposed recommendations duplicate actions that have already been taken or are in the process of being taken. If the body has already taken (or is taking) effective action to resolve a problem, then there may be no value in us making a further recommendation on that point.

We are keen to ensure that our recommendations are effective, so if the body considers that the proposed recommendations can be improved, it should let us know. The caseworker will be happy to discuss any questions or comments the body has about proposed recommendations. Occasionally, if the proposed recommendations are likely to be complex or technical, the caseworker may contact the body before issuing the draft to discuss them and the evidence required.

If the body agrees with the recommendations, it should let the caseworker know within the deadline set. We will then issue the final decision. Bodies should not implement the recommendations before the final decision has been issued, unless otherwise agreed with the caseworker.

If the body does not agree with one or more of the recommendations, it should provide reasons. We will then consider these carefully, together with any comments received from the complainant. We may need to make further enquiries or seek professional advice depending on the comments received. If the recommendations change substantially as a result of comments, it is likely that we will issue a further draft report to both parties to allow an additional opportunity to comment. If,

however, after considering the comments, we believe that the recommendations should stand and if the body still does not agree, then we will consider issuing a public report.

Final report / decision

Once the recommendations have been agreed upon, we will issue a final report or decision letter to the complainant and to the body. This will set out the agreed recommendations/actions and the timescales for informing us that the body has carried out the actions. The timescales stipulated will be for informing us that the actions have been completed, not for actually carrying out the actions.

Notifying us that the recommendations have been completed

The body should provide evidence to us within the timescales set that it has completed each individual action. It is not sufficient to simply state that the recommendations have been implemented; we will need to see evidence to support that the recommendations have been carried out.

Often it will be straightforward to provide evidence that a recommendation has been completed (for example, a copy of an apology letter sent to the complainant, or a copy of an amended policy together with evidence of approval from the

relevant officer or committee). In more complex cases, the caseworker will set out what evidence is required and will be happy to discuss if it is not clear at the draft report stage.

Responses to recommendations should be sent to our dedicated email address caseinfo@ombudsman.wales

If for good reasons the body is unable to provide the evidence within the previously agreed timescales, it should notify the caseworker as soon as possible before the deadline. The caseworker will then decide whether to extend the deadline

If we receive no response from the body within the agreed timescales, then an automatic chase email will be sent.

Recommendations complete

Once the body has provided the evidence relating to each of the recommendations, the caseworker will consider it. If we are satisfied that the recommendations have been met, we will send a letter or email to the complainant and the body confirming that the action taken meets the recommendations and that the matter is now closed. We aim to do this within a reasonable period of time from receipt of the final evidence. This may not be possible, however, if there is a large amount of evidence to be considered.

If the body does not comply with the recommendations

If the evidence provided is unsatisfactory, the caseworker will contact the body and ask it to provide the required evidence. The caseworker will explain what is needed and, if appropriate, agree a new deadline for providing the information.

Very occasionally there will be good reasons why a body cannot comply with the recommendations made: if circumstances change, for example, or if the complainant decides that they do not want the previously agreed actions to take place. In these cases the body should discuss the matter with the caseworker who will decide whether to treat the recommendation as met.

If the body does not carry out one or more of the recommendations and there is no good reason for this, we will consider issuing a special report to which publicity will be given.

Contact us

If you would like more information, please [contact us](tel:03007900203) on 0300 790 0203 or ask@ombudsman.wales

Also available in Welsh.

This document is available in Welsh and English. You can write to us in Welsh and we will reply in Welsh. This will not lead to a delay in responding.

ask@ombudsman.wales

0300 790 0203 Our phone line is open 10am-12:30pm and 1:30pm-4pm Monday – Friday