

Legal Services Agency NI - Complaints Handling - Policy and Procedures

Version 4.0 February 2019

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Purpose

This policy has been developed to ensure consistency of approach across the Department of Justice in our handling of complaints.

Our Policy on Complaints

The Legal Services Agency NI (LSANI) welcomes comments on the quality of the services we deliver and suggestions on how we can continue to improve, as well as fulfilling our statutory responsibilities.

The Agency encourages service users to tell us if they are unhappy with the quality of our service.

We will endeavour to look at all complaints without prejudice, dealing with them as quickly as possible. If the complaint is accepted as being valid, we will fully and fairly investigate the complaint, keeping the complainant fully informed of progress, and when responding offer an explanation of the circumstances where possible, and, where appropriate, the remedial action we will take.

We also want to know how we can put things right. Therefore the Agency wants to learn from our mistakes so that we can improve the quality of service we provide to service users.

Definitions

For the purpose of this policy:

A **service user** is any person or body external to the Agency to whom we deliver a service or who has an interest in our services.

A **complaint** is an expression of dissatisfaction about a service we provide, whether delivered in writing or verbally, which may require redress. There is no difference between a 'formal' and an 'informal' complaint; both are expressions of dissatisfaction and the Agency deals with all complaints via the same procedure.

An **enquiry** is a question, request for service or suggestion that does not satisfy the definition of complaint. This can include the reporting of a fault (e.g. on-line portal unavailable) or a suggestion for improvements to our service, and can be made in writing or verbally.

A **complainant** is any person or external body who has expressed dissatisfaction about a service we provide.

Types of Complaints NOT covered by this Policy	Further Information
Any complaint relating to a Freedom of Information (FOI) Request.	enquiries@lsani.gov.uk
Any complaint relating to a Data Protection Request.	enquiries@lsani.gov.uk
If you have been refused a Civil Legal Aid Certificate, your solicitor will be able to advise you on the merits of appealing the decision to the Appeals Panel or on the legal remedies open to you.	
If you are dissatisfied with the amount which the Agency has determined you should pay towards the cost of your case, you should write to the Agency and we will review the assessment of your means.	

Types of Complaints NOT covered by this Policy	Further Information
If you think a Certificate has been given to someone not entitled to it, you may contact our dedicated counter-fraud hotline to report your concerns.	Freephone: 0800 328 7360 Email: counterfraud@lsani.gov.uk
If you are having concerns about the service being provided by your solicitor then you should write to your solicitor. However, if you are not happy with the firm's response, you can write to the following: The Law Society of Northern Ireland, Law Society House, 96 Victoria Street, Belfast, BT1 3GN.	www.lawsoc-ni.org
If your complaint is about your barrister, you should write to: The Bar Council, 91 Chichester Street, Belfast, BT1 3JQ.	www.barofni.com

Our Commitment

We are committed to providing our service users with high quality standards of service. We aim to acknowledge receipt of a complaint within 3 working days, and investigate and respond to 95% of all accepted Stage 1 complaints within 15 working days (or at the earliest opportunity) of receipt.

When a complainant contacts the Agency they should be treated with courtesy and respect at all times. Officials should give their names, over the telephone and in correspondence when dealing with the complainant.

Timescales for Response

All complaints will be acknowledged within **3 working days**.

The acknowledgement will inform you how long you should expect to wait for a response. We will aim to complete an investigation and issue a reply to all accepted complaints **within 15 working days of receipt of the complaint**.

Verbal complaints should be responded to in the same way as if it was received by email or in writing.

Complaints requiring Clarification

If a complaint is overly complicated, or the nature of the complaint means that it cannot reasonably be responded to within the given timescale, we will make contact with the complainant and update you on the progress. It may be appropriate to ask you to provide more information on the specifics of their complaint in writing, or by email. This information will be requested from you at the earliest opportunity, as we will still make every effort to ensure the 15 day deadline is met.

When an **Anonymous Complaint** is received by email or in writing it should be treated the same way as any other complaint. However, if the **Anonymous Complaint** is received verbally it cannot be escalated beyond Stage 1, and while a response cannot be issued, the complaint will still be recorded.

Investigating and Responding to a Complaint

Not all investigations and responses will be the same, and there is no blueprint that can be provided to suit every eventuality. However, the guidelines below will be helpful in all cases:

- the investigation should resolve factual issues and consider options for complaint resolution;
- the response will be in written format, unless you have requested the response in an alternative format or it is clear that a written response would be unsuitable;
- the response should be clear and informative, explaining the outcome of the complaint and providing reasons for any decisions made or remedies offered; and
- we will remember that technical information may be difficult to understand – we will try to avoid jargon, and take care to make any technical information accessible as well as accurate;
- **If we are at fault the response should explain what has gone wrong, apologise for our mistake and take appropriate action to put things right;**
- the response will **always include information about the next stage, in the event that you are not satisfied; and**
- if the complaint has wider implications or identifies any systemic problems it will be highlighted (through Agency line management structure if appropriate), considered and acted on.

Escalation

Most complaints will be resolved after the initial investigation and response. However, in some cases where a complainant is not satisfied, it may need to be escalated as below. If a complaint is escalated the same timescales set out above apply to each stage in the process i.e. we will acknowledge within 3 working days, and respond within 15 working days.

Stage 1 – Initial Complaint - On receipt of the complaint, it will be forwarded to the Head of the appropriate Unit within the Agency who will conduct an investigation into the particular circumstances of your complaint and provide a substantive response on completion of same.

Stage 2 – Complaint Review – If, following our investigation and response at Stage 1 of the process, you remain dissatisfied your complaint will be escalated to Stage 2 of the process. This will be handled by either the Director with responsibility for the business area or, if appropriate, the Chief Executive. The Director or Chief Executive will oversee a further investigation of the complaint and review all previous actions and responses.

Completion of Stage 2 exhausts the Agency's internal complaints procedure. If you remain unsatisfied following the decision of the Stage 2, then you have the option to contact the Northern Ireland Public Services Ombudsman (NIPSO). Contact details for the NIPSO will be provided on the Stage 2 response.

Analysis of Complaints

Information about complaints can provide an insight into our policies, procedures and services that may not be working as well as they might in relation to:

- highlighting service failings that may need to be remedied; and / or
- revealing problems and trends that can be acted on by management.

Learning from Complaints

It is vitally important that any endemic or systemic issues uncovered are acted upon. Depending on the nature of the problem, it may be necessary to introduce/amend policy, procedures or working practices. This is the Agency's opportunity to ensure that the incident/cause for complaint does not occur again, learn from our mistakes and improve how we deliver our services to the public.

Managing Vexatious Complaints

A complaint is vexatious if it is possible to demonstrate it is without basis

And

It would tend to, or is being made with an intention to cause worry, upset, annoyance or embarrassment.

It is important to note that it is the complaint allegation itself which must be vexatious; it is not an assessment of the person making the complaint. This means that there is a distinction between a vexatious complaint and a persistent complainant. While there may be similarities to both, it is not simply the case that an individual making a high volume of complaints will be considered to be doing so in order to be vexatious.

Agency staff will not be expected to tolerate unacceptable behaviour by complainants and in some cases it may be necessary to treat a complainant's complaint as vexatious in order to protect staff. This may not relate to a single incident, such as verbal or physical abuse, but may be a combination of persistent behaviours over a period of time.

Before taking action regarding a complainant acting in a potentially vexatious manner, there will be careful consideration of the circumstances by the person investigating the complaint and their line manager. Wherever possible, the complainant will be given the

opportunity to modify their behaviour or actions to a reasonable position and be informed of action to be taken if their behaviour is not modified.

When a complainant has been considered vexatious they will be informed, in writing, by Chief Executive:

- why the decision was taken;
- what action is being taken;
- the duration of that action; and
- the right of the complainant to contact the NIPSO about the fact that they have been treated as a vexatious complainant.

Complainants, whose behaviour is considered **unreasonable, or unreasonably persistent**, are those who because of the nature or frequency of their contact with Agency hinder our consideration of their or other people's complaints.

It is important to distinguish between 'persistent' and 'unreasonably persistent' complainants. Most complainants act responsibly but some can be difficult to satisfy and, occasionally, the conduct of some complainants can be challenging because of:

- unreasonable persistence and frequency;
- unreasonable demands and expectations;
- a personal grudge or malicious intent;
- the use of improper, offensive or inappropriate language;
- making further complaints without allowing a response to previous ones;
- repetitive contact on a matter that has already been resolved (as far as possible);
- argumentative or unreasonable behaviour; or
- a lack of co-operation.

It is important to remember that even **where a person's conduct may be unreasonable, they could still have a valid complaint and that complaint should be handled appropriately**. The key to managing unreasonable complainant conduct is to give fair consideration to the complaint.

A vexatious complaint, or a complaint or pattern of complaints deemed unreasonable or unmanageable, will be reported to Standards Unit in the Department of Justice, and where necessary referred to the NIPSO for further advice.

Managing Vulnerable Complainants

On occasion the Agency may be required to deal with complainants requiring additional assistance. For example, some people who might make complaints may require adjustments to be made to our policy and procedures in order that they are not obstructed from doing so. It might be that:

- the complainant has learning difficulties;
- the complainant has – or is perceived to have mental health difficulties;
- the complainant is a young person under 16;
- English is not the complainant’s first language;
- effective communication is through the spoken not the written word; or
- The complainant’s effective means of communication is sign language.

Additional steps will be taken in such cases to enable a person’s access to the complaints handling policy. This may mean for example signposting or facilitating access to appropriate support services, or obtaining the assistance of a person’s relative, carer or other representative to enable the complainant to express their wishes sufficiently for the complaint and intentions to be made clear.

If a complainant has been identified with mental health difficulties or learning disability, it will always be presumed that the person who wishes to make a complaint possesses the requisite capacity to do so unless it is established that he or she does not. The fact that the person has been diagnosed as having a mental illness or learning disability does not mean that he or she will lack capacity to make a complaint.

While we do not expect the Agency staff to tolerate abusive or inappropriate behaviour, we are mindful of how different illnesses, disabilities or experiences, which leave complainants feeling vulnerable, can affect people and occasionally their behaviour.

Where a complaint has been made by young person, appropriate support can be provided and all safeguarding arrangements taken into consideration, when taking forward the complaint.

There is no single model that will be appropriate for every circumstance. Ultimately, all complaints will be considered and complainants' needs identified and responded to on an individual basis.