

NOT PROTECTIVELY MARKED



PBNI Complaints Procedure

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Alternative Formats

This documentation can be made available in alternative formats such as large print, Braille, disk, audio tape or in an ethnic-minority language upon request. Requests for alternative formats can be made to the Probation Board using the following contact information:

Human Resources
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1. Introduction

The Probation Board for Northern Ireland (PBNI) values complaints because we believe dealing with complaints effectively can help us to improve our service to the public. This Complaints Procedure, which the Board has approved, is consistent with best practice complaints handling across the Public Sector in Northern Ireland. The procedure aims to help us 'get it right first time' resolving complaints as quickly as possible and as close as possible to the point where our service is delivered. For those complaints that can't be resolved quickly the procedure commits to conducting thorough, impartial and fair investigations. By adopting this approach, we can identify and address any defective service issues raised by complainants with the objective of ensuring that if practice was not at the appropriate standard, it can be rectified. This procedure deals with external complaints from service users or members of the public. There are separate PBNI policies and procedures for staff to raise concerns or complaints about their work. (PBNI Grievance Policy and Procedures). There are also separate procedures for complaints in relation to complaints about Board members (Board Code of Conduct).

2. What is a complaint?

A complaint is defined as: 'any communication, which expresses dissatisfaction, by any person about the service, actions or inactions of a body or its staff which requires a response'. This definition has been provided by the NI Public Services Ombudsman in its document for public bodies 'A Framework for Effective Complaint Handling'.

Such complaints may relate to:

- the standard of service provided by PBNI.
- The alleged behaviour of PBNI staff in delivering that service or interacting with any member of the public.
- any action, or lack of action, by our staff or others engaged on PBNI business for example consultants or contractors working on behalf of PBNI.

The list above is not exhaustive.

There may be occasions where a person expresses dissatisfaction about an element of service delivery but does not wish to make a complaint under the policy and are content with a response not involving a manager. If this is the case this will not be treated as a complaint, and therefore does not need to be recorded. If they remain dissatisfied, they should be referred to the manager to initiate these procedures.

PBNI will not accept complaints where:

- The subject matter of the complaint is under criminal investigation.
- The subject matter of the complaint is the decision of others, for example, the Northern Ireland Courts and Tribunal Service, Statutory Tribunal, Parole Commissioners, the Public Prosecution Service or the Northern Ireland Prison Service or it is a matter currently before the court.
- If the complaint relates to an issue/incident that PBNI is not responsible for.
- It is more than 6 months since the incident/issue that is the subject of the complaint has occurred. If there is however a good reason why the complaint was not raised within 6 months, for example due to ill health of the Complainant, the Complaints Officer may accept the complaint.
- The complaint has already been investigated by PBNI and no new significant information or factors have been submitted. In these instances the complainant will be notified that no investigation is being conducted and the reason why.

3. Who can make a Complaint?

Any person who has had contact with PBNI can make a complaint. A complaint can be made directly by an individual or through a third party, for example, a family member, or solicitor. If a third party is making a complaint on behalf of an individual PBNI require the consent of the individual in writing that they are content for the third party to act on their behalf.

4. Sources of Information, advice and support for staff

On occasions, parties involved in a complaint may find the situation stressful or difficult. The following are sources of information, advice and support for those staff involved. It should be emphasised however that any discussion with regard to a complaint must be kept confidential.

- Work colleagues – Work colleagues can be an important area of support to those members of staff who have been the subject of a complaint. They can listen to issues or problems and provide help and encouragement.
- Line Management – The Line Manager of those involved in a complaint are an obvious source of support. Discussion with Line Management is encouraged; with effective communication potential issues can be resolved early. Managers may need to take the workload of those involved in the second stage of these procedures into account during the internal investigation of the complaint.
- Staff subject to any complaint will be given reasonable time within working hours to prepare for any meetings or required input during the complaints process.
- Trade Union – A Trade Union member can provide help, support and guidance for staff members.

- Complaints staff – the complaints co-ordinator can provide advice and guidance on the operation of the policy and procedures. The co-ordinator is the first point of contact for staff with any queries regarding complaints.
- INSPIRE – Staff may want to discuss their concerns in confidence with a professionally trained counsellor. Such support and counselling is available through the Employee Assisted Programme (EAP). This provides free, independent and confidential counselling support.
- If at any point in the complaints process staff involved in the complaint, or their union representative, are concerned about the process they can raise those concerns with the Complaints Officer.

5. Registering and acknowledging a complaint

When a complaint is received the matter will be registered on PBNl's Complaints Register by the Complaints Co-ordinator. The Complaints Co-ordinator will acknowledge the correspondence within three working days, and the complainant will be provided with a copy of PBNl's Complaints Policy and Procedure. All complaints will be dealt with in confidence, impartially and with appropriate sensitivity, taking account of both Freedom of Information and Data Protection requirements.

6. Complaints Process

6.1 Stage One

- a) Complaints may be accepted verbally or in writing. When accepting a complaint, it is important that the local manager **gathers as much information as possible** including concise details of the nature and circumstances of the complaint and any supporting evidence and witness details where appropriate. **The Complainant should also set out their desired outcome.**
- b) PBNl seeks to deal with complaints as expeditiously as possible. All complaints being dealt with at this stage should be managed and co-ordinated by the appropriate local Area Manager/Middle Manager responsible for the relevant area of work or staff member complained of unless an exemption applies – see section 9.
- c) If the Complainant directly contacts the Complaints Unit, the complaint will be acknowledged and logged by the Complaints Co-ordinator who will then send the Complainant the Complaints Policy and Procedure. The Complaint will then be forwarded to the relevant local manager by the Complaints Co-

ordinator. The manager will be asked to complete stage one of the process within 15 working days of receipt of the complaint. In some exceptional circumstances a complaint may take longer than 15 days and the reasons for this should be agreed with the Complaints Officer and communicated to the Complainant.

If the Complainant directly contacts the local manager, the manager must notify the Complaints Co-ordinator who will log the complaint and the manager should acknowledge the complaint and send the Complainant the Complaints Policy and Procedure. As above the manager should complete stage one of the process within 15 working days of receipt of the complaint.

- d) The local manager should seek to deal with the complaint by contacting and preferably meeting with the Complainant and the member of staff referred to in the complaint (in separate meetings) in an attempt to resolve the complaint. The manager must provide the staff member in advance of speaking/meeting with them all the details of the complaint including the nature and circumstances of the complaint.
- e) Alternative forms of dispute resolution should be considered by local managers where appropriate, including mediation.
- f) Should the individual(s) named as the subject of the complaint accept the allegations without dispute an **agreement of admission** and **advice on consequences** will then be signed by the subject of the complaint and this will be provided to the Complaints Officer.
- g) The local manager must make a typed note of the contact with the complainant and the staff member complained of and the meeting(s) held, both to record any action points, and the outcome of this stage of the process. The Manager must note whether the complaint has been resolved or not. If it is not resolved the manager must note that they have informed the complainant of the next stage of the complaints process. The note must be sent to the Complaints Co-ordinator to retain. A template to be used is attached at appendix 1.
- h) The Complaints Co-ordinator will provide advice and guidance to all staff that are involved in stage one of the process. If the Complaints Officer receives a request to move the complaint to stage two but believes the stage one process has not been adequately met, it may be referred back to the local Manager to deal with.

6.2 Stage Two

Where an agreed resolution has not been possible at stage one then the Complainant may raise a complaint under stage two. The Complainant should invoke stage two within 10 working days of being informed of the outcome of the stage one attempt to resolve the issue(s).

- a) The complaint should be made in writing to the Complaints Officer and should set out clearly:
 - Concise details of the nature of and the circumstances of the complaint, including any supporting evidence and witness details where appropriate.
 - The desired outcome.
 - If a complainant needs assistance to put a complaint in writing they should notify the Complaints Co-ordinator who will be able to assist.
 - The written complaint must be shared with the member of staff who is the subject of the complaint by the Complaints Co-ordinator in conjunction with the staff member's manager.
- b) The Complaints Officer shall appoint the Decision Officer within 5 days of the receipt of the complaint. The Decision Officer will be an Assistant Director or Head of Department who does not have direct line management responsibility for the area under investigation.
- c) If the complaint is against an Assistant Director or Head of Department, it should be forwarded to a Director who will be the Decision Officer. If the complaint is against a Director it should be forwarded to the Chief Executive who will be the Decision Officer. If the complaint is against the Chief Executive it should be forwarded to the Board Secretary who will appoint a Board member to be the Decision Officer. Complaints about Board members or the Board Chair should be dealt with through the Board's Code of Conduct.

6.3 Investigation at Stage Two

- a) The Decision Officer shall appoint an appropriate manager to act as the Investigating Officer. In most circumstances, this appointment shall be made within 5 working days of receipt of the complaint.
- b) The Complaints Co-ordinator will send written notification of the Investigating Officer appointment to the Complainant, and the individual(s) named as the subject of the complaint.
- c) The Decision Officer with the assistance of the Complaints Officer shall define the Terms of Reference for the investigation of the complaint and Terms of Reference will be sent by the Complaints Co-ordinator to both the Complainant and the staff member complained of.

- d) Prior to beginning the investigation, the Investigating Officer must liaise with the Complaints Co-ordinator who will provide guidance and advice on the investigation procedure.
- e) The Investigating Officer will be given a template to use to complete the Investigation Report (see appendix 2) and template letters if necessary.
- f) The Investigating Officer will meet with the Complainant and take a note of all the issues raised.
- g) The Investigation will include separate interviews with the Complainant and the individual(s) named as the subject of the complaint, any witnesses, as well as examination of all relevant documentation.
- h) The Investigating Officer will send a meeting invitation to the PBNI employee who is the subject of the complaint. The invitation should be in writing and inform the employee that he/she may be accompanied to the meeting by a trade union representative or work colleague. Notes taken by the Investigating Officer at the meeting should be shared with the employee for accuracy checks.
- i) Depending on the level of information required the Investigating Officer may decide to address matters with any witnesses by e-mail, telephone, face to face interview or video link.
- j) In carrying out the investigation, the Investigating Officer must consider whether there has been a breach of any PBNI policies or procedures, and if there has, must note it in the report.
- k) While a longer timescale may be agreed between parties, in normal circumstances, the Investigating Officer should aim to complete the investigation and provide a written report to the Decision Officer within 25 working days from their appointment.
- l) It is acknowledged that the length of investigation will depend on the nature and number of allegations being investigated, or other unforeseen circumstances may arise that will impact on the length of the investigation. Therefore, where it is not practicable for the investigation to be concluded within the timescales, all parties should be informed of the delay by the Investigating Officer and the investigation should be concluded as soon as is reasonably practicable and within an agreed timeframe.
- m) The Investigating Officer is responsible for keeping all parties to the complaint, up to date with information relating to the progress of the Investigation.
- n) The role of the Investigating Officer is to present in his/her report to the Decision Officer the facts supported by evidence. It is not the role of the Investigating Officer to decide on the outcome.

6.4 Completion of the Investigation

- a) Once the report is completed in draft form, the Investigating Officer will liaise with the Complaints Co-ordinator and Complaints Officer to satisfy him/herself that procedures have been followed and the report will be quality assured. The member of staff who is the subject of a complaint will have the opportunity to comment on any factual inaccuracies within 2 days of the report being shared.
- b) When the Investigating Officer has completed the report and is assured that procedures have been followed the final report should be sent by the Investigating Officer to the Decision Officer.
- c) Following receipt of the Investigating Officer's report the Decision Officer may request further investigation. Any further investigation required will normally be carried out by the original Investigating Officer.
- d) Following receipt of the final Investigation report the Decision Officer may decide on the balance of probabilities that:
 - There is no case to answer and the matter is not upheld.
 - That the complaint is partially upheld or fully upheld.
- e) The Decision Officer will give his/her decision in a decision letter within 5 working days of receipt of the final report. The letter will:
 - Include a clear statement of the issues raised.
 - Detail the decision and the reason for this.
 - Outline any actions that may be appropriate including for example identifying training needs.
 - The outcome letter should explain that if the complainant is not satisfied with the outcome they may proceed to:
 - a. The Northern Ireland Public Services Ombudsman, or
 - b. The Information Commissioner – For complaints in relation to the Data Protection Act (DPA), Freedom of Information Act (FOI) and Environmental Information Regulations (EIR).

Information relating to a complaint will be held in accordance with the requirements of the Data Protection Act 2018 and PBNI's Data Protection Policy. Complaint information will be retained in accordance with the timescales set out in PBNI's Retention and Disposal Schedule.

6.5 If the Complainant Remains Dissatisfied

If, after following the two internal stages of the complaints procedure, the complainant remains dissatisfied, they will be advised they may wish to consider

submitting their complaint directly to the Northern Ireland Public Services Ombudsman within 6 months of the date of the Decision Letter:

Northern Ireland Public Services Ombudsman
33 Wellington Place
Belfast BT1 6HN

NIPSO Telephone: (028) 9023 3821 Text Phone: (028) 9089 7789 Freephone: 0800 34 34 24
Email: nipso@nipso.org.uk
Web: <https://nipso.org.uk>

7. Post-complaint feedback

PBNI will provide updates to Board and its Committees regarding complaints and ongoing trends or issues.

8. Other ongoing investigations

Where, owing to the nature of the complaint, an investigation is being undertaken by another body (for example the PSNI, the Northern Ireland Social Care Council), the Complaints Officer may decide to defer or suspend any internal investigation, if appropriate, until after this is resolved by the relevant organisation.

9. Exceptions

Immediate referral to stage two is required in certain circumstances. If a complaint involves allegations regarding any of the following, then this should be immediately referred to the Complaints Officer for stage two consideration:

- a. Any allegation of criminal behaviour by a PBNI employee.
- b. A specific allegation of conduct which would constitute potential gross misconduct under PBNI's Disciplinary Policy.
- c. A specific allegation which suggests that a PBNI employee has used his/her position to obtain advantage at the complainant's expense.
- d. A specific allegation of an improper relationship between a PBNI employee and a service user.
- e. A specific allegation which suggests that a service user has suffered some loss or detriment due to the action or inaction of a PBNI employee.
- f. A specific allegation which suggests a breach of statutory duty.
- g. A specific allegation of a breach of the PBNI's Statement of Ethics including its provisions on fair and equal treatment.

- h. All complaints relating to Data Protection and Freedom of Information requests will move directly to Stage Two of the Complaints process.

The above list is not exhaustive and advice should be sought from the Complaints Co-ordinator if there are any concerns.

10. Unacceptable behaviour and actions by complainants

PBNI is committed to dealing with all complaints fairly and impartially and to making our service as accessible as possible.

However, the nature or frequency of some complainants' contact with our service, and complainants' unreasonable behaviour can hinder the consideration of their own, or other's complaints. Unreasonable Complainant behaviour may include one or two isolated incidents, as well as 'unreasonably persistent behaviour', which is usually a build-up of incidents or behaviour over a longer period. Single incidents may also be unacceptable, but more often the difficulty is caused by unreasonably persistent behaviour that is time consuming to manage and interferes with proper consideration of the complaint.

Some of the actions and behaviours which the Probation Service considers unreasonable conduct are:

- Refusing to specify the grounds of a complaint, despite offers of help.
- Refusing to cooperate with the complaints investigation process.
- Refusing to accept that certain issues are not within the scope of a complaints procedure.
- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
- Making unjustified or vexatious complaints about staff who are trying to deal with the issues and seeking to have them replaced.
- Changing the basis of the complaint as the investigation proceeds.
- Raising many detailed but unimportant questions and insisting they are all answered.
- Pursuing parallel complaints on the same issue with various organisations'.
- Making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous Probation staff, or detailed letters every few days, and expecting immediate responses.
- Submitting repeat complaints with minor additions/variations the complainant insists make these 'new' complaints.

PBNI will not tolerate deceitful, abusive, coercive, offensive, threatening or other forms of unacceptable behaviour from complainants. In the event that a complainant fails to respond to contact during the complaint process, they will be offered a reasonable time period (30 days) to respond or make contact. Otherwise, PBNI may make the assumption that the complainant does not wish to pursue the complaint.

Appendix 1

Probation Board for Northern Ireland Complaint Template for Manager to Complete at Stage One Meeting with Complainant & Staff Member

Name of Complainant
Name of Staff Member
Concise Details of Complaint
Witness details
Has Complainant and staff member received Policy and Procedures?
Desired Outcome
Has resolution been reached?
Has Complainant been informed of stage Two of process?
Signed by local manager

Appendix 2

Probation Board for Northern Ireland Complaint Investigation Report

Name of complainant:
Reference Number: <i>Complaints Co-ordinator will confirm</i>
Investigating Officer:
Contents <i>All pages should be numbered, and the contents page should detail where each section of the report, plus any appendices, can be found.</i>
Introduction and Background <i>After reading this section the reader should understand:</i> • <i>Why the investigation was deemed necessary</i> • <i>The remit of the investigation</i> • <i>Why the person carrying out the investigation was selected for the role</i> • <i>Any other factors regarding the organisation or individuals that may be relevant.</i>
Methodology <i>In this section the investigator should detail how they went about the investigation. If this involved interviewing people, a full list of interviewees should be given, together with a brief rationale as to why they were interviewed i.e. their position in the organisation or they were eye witnesses.</i> <i>If the investigation involved activities such as reviewing documentation, or watching videos these should be detailed.</i>
Findings <i>This will be the largest section of the report. Here, the investigator will describe what he/she found, how evidence was evaluated, and what the investigator believes are the contributing factors to the situation. If there are mitigating factors that have contributed in some way to the situation, these should be described in full.</i>

The chosen version of events should be described with supporting reasons and any conflicting views.

Consistencies and inconsistencies should also be commented upon and explanations given if known.

Burden of proof used is the balance of probabilities

Conclusions

The investigator should refer back to the terms of reference of the investigation. Then he/she should state whether, following the findings the investigation is conclusive, and what the conclusions are.

If fault is to be attributed it should be outlined here. If a process or procedure has not been followed or evidence that an individual has behaved inappropriately, this is the ideal place to outline what went wrong and what should have happened instead. After reading this it should be clear exactly what the investigator believed happened.

□

Appendices

These should be clearly labelled, and contain information that is relevant to the investigation, but had no place in the main body of the report. Typical appendices include:

- *Copies of signed witness statements*
- *Copies of documents reviewed during the investigation process*
- *Copies of the interview questions used, and guidance given to interviewees about the investigation process*

Signed: _____ (Investigating Officer)

Date: _____