

COMPLAINTS FROM THE GENERAL PUBLIC

STANDARDISED PROCEDURE FOR RESPONDING

Introduction

1. In November 1989, the Report of the Select Committee on the Appointment of an Ombudsman was received by Tynwald and the recommendations contained therein were adopted.
2. The recommendations in the Select Committee's Report were as follows: -
 - 1.1 At present, we believe there is insufficient evidence to determine whether it is necessary to establish an independent authority to consider complaints of maladministration and to assess administrative procedures operating on the Island.
 - 1.2 As an interim measure, we make two recommendations.

The first is that there should be introduced a standardised procedure within the Isle of Man Government for responding to complaints from the general public. This procedure should contain three elements. First, each department of Government should keep a central record of complaints received from members of the public and the action taken on the complaint. Secondly, the procedure should indicate clearly the level of seniority of the officer who should investigate complaints received. Thirdly, the complainant should receive a prompt acknowledgement of the complaint and be kept fully informed of the progress of the investigation of the complaint.

Our second recommendation is that the Chief Secretary should make an annual report to Tynwald, based on the central records of complaints received which would indicate by department the volume and nature of complaints received during the previous year and the action taken to rectify inadequate administrative procedures which have led to complaints. We would also recommend that the annual report from the Chief Secretary should contain, as appendices, similar reports from the Chief Executives of the Statutory Boards."

3. The Select Committee's recommendations clearly envisage a standardised complaint recordal procedure which will apply to all Departments, Boards and Offices, the annual results from which can be analysed to assess, inter alia, the number of complaints which might legitimately have been referred to an Ombudsman so that conclusions can be drawn as to whether the appointment of an Ombudsman would be justified.
4. The following proposals are aimed at meeting the requirements agreed by Tynwald and are intended to come into operation on the 1st January 1991.

General Principles

5. Because of organisational differences between individual Departments, guidelines on complaints procedures must allow for some flexibility and the responsibility for devising detailed complaints procedures suitable for each Department must rest with the relevant Chief Officer. Nevertheless, the following guidelines are offered to assist Chief Officers and to facilitate as great a standardisation across Government as possible.

6. Any organisation providing services will receive complaints, some well founded, others not. (For a definition of "complaint", see Appendix 1.). Chief Officers should examine attitudes within their organisation towards complaints, which should be accepted and dealt with positively, particularly as showing ways in which performance might be improved. A negative, defensive attitude should always be avoided. Staff at all levels should be encouraged: -
- a) to seek to deal with complaints with understanding, swiftly and fairly;
 - b) to regard well-founded complaints as a means of showing up weaknesses and improving performance in the future. Even complaints without substance may be useful as showing a need to work for better understanding of what a Department is trying to do.
7. There are five principles which should be kept in mind in devising a complaints procedure: -
- i) Accessibility
It should be easy for the complainant to find out how and where to complain. The procedures adopted should ensure that those making complaints are not unnecessarily passed from one place or person to another and that they are dealt with as quickly and conveniently as possible.
 - ii) Simplicity
There should be simple systems for recording complaints other than those which can be fully and successfully dealt with on the spot. The procedure should have as few steps as possible and should be described clearly and concisely.
 - iii) Speed
Complaints should be dealt with promptly and time limits should be built into the procedure.
 - iv) Independence
The procedure should involve provision for the investigation of a complaint by someone not directly involved in the matter complained of.
 - v) Confidentiality
The complainant should be assured that his or her complaint will be treated in confidence as far as possible.

A Standard Complaints Procedure

8. Based on the foregoing general principles, Departmental complaints procedures within the Isle of Man Government should exhibit the following characteristics: -
- i) The availability of a complaints mechanism should be made known to those dissatisfied with service received or decisions made. In particular, a leaflet explaining the Departmental procedure should be available to anyone wishing to complain and, where appropriate, standard forms, brochures, invoices, etc., should refer to the availability of the leaflet in the event of complaint.
 - ii) Clear responsibility for dealing with complaints in various areas of activity should be allocated to appropriate line managers within each Department. Where complaints remain unresolved, the Departmental procedure should allow for reference to the Chief Officer and ultimately to the Minister.
 - iii) Where a complaint is made in writing, it should be acknowledged immediately and, if necessary, the nature of the complaint should be clarified. The complainant should be kept informed of developments and/or be advised of any decision taken as soon as possible. Ordinarily, no stage should take longer than seven days. When a decision is notified to a complainant, it should include advice as to what further procedures, if any, are available. Responsibility for this work will rest with the designated line manager or Chief Officer as appropriate.
 - iv) Enquiry into a complaint should be undertaken by staff appointed for the task who are independent of those originally involved and, where possible, they should be of more senior rank. In the event of serious complaint, where a Department is unable to appoint such an officer, the Chief Secretary may be approached and he will nominate a senior officer from another Department to consider the matter.
 - v) The procedure should, so far as possible, reflect the need for confidentiality and protect both the complainant and any staff who may be the subject of the complaint.
 - vi) A Member of Tynwald will always be deemed to have a sufficient interest in any complaint that is brought to his attention. Where a complaint is lodged on behalf of a complainant by a Member of Tynwald, the standard procedure should be applied subject to the following additions: -
 - a) the Member concerned should be advised of developments in addition to the complainant;
 - b) the Chief Officer and the Minister should be advised of any complaint lodged by a Member and should be advised of developments.
 - vii) As well as recording and investigating complaints, Departments should monitor complaints by: -
 - 1) considering them at appropriate management levels to decide what action, if any, is required to prevent reoccurrence; and identifying trends and particular problem areas.

Staff Implications

9. (i) There may be merit in having a Complaints Officer, i.e. a single officer responsible for dealing with complaints received by a Department. Such an officer would require to be of sufficient seniority and standing to have the respect of senior officers and Members.
- (ii) Care should be taken in investigating complaints that the distinction between investigation and disciplinary procedures are explained to staff. (It has to be accepted that a complaint may, in certain instances, lead to disciplinary action).
- (iii) The institution of a complaints procedure does not relieve staff on the ground of responsibility for initially processing complaints and, if possible, resolving them. As such, all staff must be familiar with the complaints procedure and their role in it. It would be appropriate for staff to draw the attention of a member of the public whose problem has not been resolved when discussed orally, to the complaints procedure.
- (iv) Staff must be appropriately trained or prepared to deal with complaints.

There are three key staff training elements: -

- a) All staff must be familiar with the procedures and this requires the preparation of detailed Departmental instructions and the opportunity for staff to familiarise themselves with them (through a seminar/workshop/teach-in);
- b) Some staff may not immediately support the concepts underlying the complaints procedure. Particular attention needs to be made to ensure that staff have the right attitude to dealing with complaints;
- c) Training must be repeated at regular intervals not only to ensure that new staff know the procedures but also to remind existing staff.

Complaints Register

10. A central Complaints Register is to be maintained within each Department.
11. The form of the central register should be such that it records the following particulars in a form compatible with the annual return to the Chief Secretary (see 13 below): -
 - (1) the date of the complaint and its acknowledgement;
 - (2) the nature of the complaint;
 - (3) the actions taken in respect of the complaint;
 - (4) whether the complaint was upheld, partially upheld or rejected;
 - (5) whether any change in procedures was considered necessary arising from consideration of the complaint;
 - (6) the rank of the most senior officer involved in dealing with the complaint.

It would be sensible for just the basic data sufficient for the annual return to be kept in the register itself with supporting documentation kept in appropriate secure files.

12. Access to the Register must be afforded to: -
 - (i) the Minister or Chairman and any Member of the Department or Board;
 - (ii) any Member of Tynwald with the authority of the Minister or Chairman (in the case of an Office, authority will be vested in the appropriate Chief Officer);

- (iii) in relation to any particular entry in the Register, any officer referred to in the complaint;
- (iv) the Chief Secretary or his nominee.

Annual Return to the Chief Secretary

- 13. It is a requirement from the Tynwald Resolution of November 1989, that the Chief Secretary shall make an annual report based on the central records maintained. Accordingly, all Departments will be required to make a return to Government Office and the format of the return proposed is shown in Appendix 2. This return will cover the year ended at the 31st December and should be submitted to Government Office by the following 31st January.
- 14. The occasion of the annual return should be taken to review the Departmental complaints register to see if any lessons can be learned.

Note

Government is made up of Departments, Boards and Offices not forming parts of larger Departments. For the sake of simplicity, the foregoing guidelines refer only to Departments. They should, however, be applied with appropriate modifications to Boards and to Offices. In the case of an Office where there is no immediate political supervision, responsibility vests with the Chief Officer.

WHAT CONSTITUTES A COMPLAINT?

1. This question is central to the establishment of a uniform complaints procedure as the word "complaint" can be used to describe a very wide range of customer representations. It is important to avoid too close a definition. Any problem or concern should be regarded as a potential complaint. For the purpose of this exercise, it is proposed that complaints be divided between those that should be recorded and those that should not: -

Complaints which do not warrant recordal in the Central Register kept by the Department, Board or Office

- (1) A complaint about a matter outside the competence of the Department, Board or Office;
- (2) A complaint where it is obvious that there is no prima facie case to answer or that the complaint is frivolous, malicious, trivial or vexatious;
- (3) A complaint where the complainant is not involved in the matter forming the subject of the complaint or has no direct interest therein;
- (4) A complaint which is made more than twelve months after the action has been taken which has led to the complaint being made.
- (5) A complaint which is successfully dealt with on the spot.
- (6) A complaint about a failure of service which is rectified within a reasonable timescale (e.g. failure of water or electricity supply);
- (7) A complaint solely regarding the attitude/behaviour of a member of staff (this is the subject of normal disciplinary enquiry);
- (8) A complaint solely against a decision which is the subject of an independent appeal mechanism or where the mechanisms available for further review and appeal have not been exhausted;
- (9) A complaint solely concerning the application of professional judgement.

Complaints which warrant being in the Central Register

These would include the following which should be submitted in writing by the aggrieved party or by their authorised agent (which might include a Member of Tynwald): -

- (C1) A complaint concerning a decision by the Department, Board or Office where there is no independent appeal mechanism;
 - (C2) A complaint concerning any failure by a Department, Board or Office to make a decision;
 - (C3) A complaint concerning a failure of service which is not corrected or is not corrected within a reasonable time-scale;
 - (C4) A complaint concerning the failure of administrative arrangements or an over-restrictive or narrow interpretation of such arrangements;
 - (C5) A complaint concerning the application of inappropriate or unfair remedies;
 - (C6) A complaint concerning breach of confidentiality;
 - (C7) Any other substantial complaint not falling within any of the foregoing definitions.
2. Where, in any particular case, there is a doubt about whether the complaint should be recorded, it should be recorded.

COMPLAINTS PROCEDURE

ANNUAL RETURN TO CHIEF SECRETARY FOR YEAR ENDED 31/12/?

1. **Summary of Complaints Processed**

Number of complaints outstanding at beginning of the year	_____
<u>Plus</u> Number of complaints made during the year	_____
<u>Less</u> Number of complaints outstanding at end of the year	_____
Number of complaints disposed of during the year	_____

2. **Analysis of Complaints Outstanding at Year End**

Complaints outstanding for less than 1 month	_____
Complaints outstanding for more than 1 month	_____
Complaints outstanding for more than 3 months	_____
Complaints outstanding for more than 6 months	_____
Complaints outstanding for more than 12 months	_____
Total	_____

3. **Analysis of Complaints Disposed of During the Year**

(See table attached)

The categories of complaint set out in the table are as follows: -

- (C1) A complaint concerning a decision by the Department, Board or Office where there is no independent appeal mechanism;
- (C2) A complaint concerning any failure by a Department, Board or Office to make a decision;
- (C3) A complaint concerning a failure of service which is not corrected or is not corrected within a reasonable time-scale;
- (C4) A complaint concerning the failure of administrative arrangements or an over-restrictive or narrow interpretation of such arrangements;
- (C5) A complaint concerning the application of inappropriate or unfair remedies;
- (C6) A complaint concerning breach of confidentiality;
- (C7) Any other substantial complaint not falling within any of the foregoing definitions.

4. For each case where a complaint revealed inadequate administrative procedures, indicate the action taken to rectify the position :-

ANALYSIS OF COMPLAINTS DISPOSED OF DURING THE YEAR

CATEGORIES OF COMPLAINT

	C1	C2	C3	C4	C5	C6	C7	Total
Recorded Written Complaints								
Resolved at the level of -								
(1) Line Manager								
(2) Chief Officer								
(3) Minister/ Chairman								
Total								

Unresolved complaints: -

Number of complaints where complainant
remained dissatisfied :-

Number of complaints which revealed inadequate administrative provisions: -
