



Jersey Care
Commission

Complaints Policy

**For the investigation and resolution of
complaints about the Jersey Care
Commission**

May 2022

Version Control

March 2020	Policy approved
March 2021	Policy reviewed. No changes made. Accompanying leaflet developed.
March 2022	Policy reviewed. No changes made.
May 2022	Policy amended to include 'partially upheld' as an outcome

Policy aims and principles

Aim

The aim of this policy is to ensure that a clear framework exists for the investigation and resolution of complaints about the Jersey Care Commission (the Commission), so that:

- both complainants and Commission staff know what to expect and can have confidence in the complaints process
- complaints are investigated and resolved properly and fairly, and as quickly as possible
- lessons are learned from the outcomes of complaints

Principles

- the complaints process should be easy to access, and a complainant should be supported in making their complaint, if necessary
- a complainant will be listened to and taken seriously
- a complainant will have the opportunity to discuss the way the complaint will be handled and know when to expect a response
- complaints will be investigated and reviewed by someone who was not previously involved in the actions complained about
- a complainant will be kept informed of progress and know the outcome of their complaint
- if a complaint is upheld or partially upheld, the complainant will be offered an appropriate remedy, which could include an apology, an explanation and/or remedial action
- the Commission will have systems in place to record, analyse, monitor and report on complaints and the learning from them

2. Scope

This policy relates to complaints about the actions of the Commission, or its staff¹. It also applies to actions of the Commissioners, including the Chair.

The policy does not cover disputes about registration or the outcomes of inspections. Any such disputes will be dealt with separately under the Commission's policy and procedures for registration, inspection, enforcement and escalation.

¹ Including those staff who transferred to the Commission on 1 January 2019 and any other staff appointed by the Commission

3. Who can make a complaint?

A complaint can be made by any person who is affected by the action complained about or by someone acting on their behalf, with that person's consent or authority.

In the case of a child, the Commission will wish to be satisfied that there are reasonable grounds for the complaint being made by a representative of the child and that the representative is making the complaint in the best interests of the child.

If a complaint is made on behalf of someone who is unable to complain because of their physical or mental incapacity, the Commission will wish to be satisfied that the complaint is being made in their best interests.

In the case of a person who has died, the complainant must be their personal representative or acting with the authority of their personal representative.

4. How to make a complaint.

A complaint can be made:

By telephone to: 01534 445801

By email to: enquiries@carecommission.je

By letter to: The Chief Inspector, Jersey Care Commission
1st Floor, Capital House, 8 Church Street, St Helier, Jersey, JE2 3NN

The Commission will make any necessary reasonable adjustments to receive, investigate and respond to any complaint. For people whose first language is not English the Commission can access a translation service. A complaint can also be made in an alternative format such as braille.

5. Timescales

The Commission will not normally consider a complaint made more than one year after the actions complained about occurred, or came to the notice of the complainant, unless there are good reasons for not having made the complaint earlier and it is still possible to investigate the complaint effectively and fairly.

All complaints will be acknowledged, in writing, within three working days of receipt.

Within five working days the Commission will contact the complainant to discuss the handling of the complaint and the anticipated timescales for responding. This conversation with the complainant should also be helpful in clarifying the basis for the complaint and confirming what the complainant is seeking to achieve by way of a satisfactory resolution.

The Commission will not normally investigate historical complaints relating to concerns about the actions or inactions of its predecessor organisations prior to the establishment of the Commission on 1 January 2019. In exceptional circumstances, the Commission may

decide to investigate an historical complaint: for example, where the complaints procedure of the predecessor organisation has not been exhausted; where the complainant can show that they had good reason to delay because of health or personal difficulties; or where there is evidence of ongoing risk of harm to one or more services users.

6. Complaints process

The Commission operates a two-stage complaints process.

At the first stage, the Commission will seek to resolve the complaint informally and, if that is not possible, will undertake a formal investigation and provide a report.

If the complainant remains dissatisfied at the end of the first stage, the Commission will offer a second stage review by someone who was not involved in the initial investigation.

Stage 1 a) - Informal resolution

Responsibility for dealing with a complaint will usually be with the Head of Governance, Policy and Standards, unless for any reason there is a conflict, in which case the Chief Inspector may take responsibility herself/himself or appoint another person. The Commission may in certain circumstances wish to engage the services of an external agency or individual.

The person dealing with the complaint will, in the first instance, attempt to resolve the matter informally and in a timely manner. This will usually be within five days of the complaint being received and in the form of a face to face meeting or a telephone conversation with the complainant.

If it is possible to resolve the complaint informally, the Commission will write to the complainant with details of the complaint and its resolution and, where appropriate, any action taken by way of remedy.

If the matter cannot be resolved by informal means, a formal investigation will be undertaken.

Stage 1 b) - Formal investigation

When a formal investigation is initiated, it will usually be led by the Head of Governance Policy and Standards, unless the Commission determines that it is necessary for someone else to undertake the investigation. The complainant will be advised that a formal investigation has been initiated and of the timescales outlined below.

A formal investigation will consider all relevant information concerning the complaint including any associated correspondence, minutes, notes or other relevant material. The investigation may need to include separate meetings with the complainant, with any staff members involved and any other witnesses to the actions complained about. There will be an agreed note of any such meetings.

At the end of the formal investigation a draft report will be prepared, which will include a summary of the complaint and the outcome sought, the evidence considered, the findings of fact, and the conclusions and recommendations. The draft report will give a clear

indication as to whether, in the opinion of the investigator, the complaint is upheld, partially upheld or not upheld.

The draft report (including the main body, findings of fact, and the conclusions and recommendations) will be shared with the complainant and anyone who has been the subject of the complaint. Any comments will be considered, and the draft report amended, if appropriate.

The draft report will then be presented to the Chief Inspector for approval and formal sign off on behalf of the Commission.

The Chief Inspector will write to the complainant advising them of the outcome of the formal investigation and enclosing a copy of the report.

The Chief Inspector will also write to any person who was the subject of a complaint investigation, advising them of the outcome of the formal investigation and enclosing a copy of the report.

The Commission will aim normally to investigate a complaint and provide a formal response within 25 working days. If for any reason this is not possible, the Commission will contact the complainant to explain the reason for the delay and the anticipated alternative timescale.

If the complainant is dissatisfied with the outcome of a formal investigation they should write to the Commission, normally within 15 working days of receipt of the report, setting out why they are unhappy with the Commission's investigation and requesting a review.

Stage 2 - Review

If a review is requested, it will be undertaken by someone other than the person who carried out the Stage 1 formal investigation. The Commission may in certain circumstances wish to engage the services of an external agency or individual.

The complainant's request for a review will be acknowledged within three working days of receipt and they will be advised of the process to be followed and the anticipated timescale for a review.

The Reviewer will consider whether:

- the formal investigation was carried out in accordance with this policy
- the information and evidence considered during the formal investigation was complete, correct and relevant
- the conclusions reached were based on all the relevant considerations and no irrelevant considerations, and were reasonable
- the overall outcome of the formal investigation, including any recommendations for remedy, was fair, balanced and proportionate

The Reviewer will prepare a report setting out the conclusions of the review for consideration by a Review Panel. The Review Panel will consist of two Commissioners

and will not include any Commissioner who has been involved in the investigation of the complaint or who is the subject of the Complaint. If the minimum quota cannot be achieved, the Commission may consider appointing independent persons with relevant experience of complaints management and resolution to constitute the Review Panel.

The outcomes of the review may include:

- Confirmation of the findings, conclusions and recommendations of the Stage 1 review and no further action
- Identification of any error or omission in the original investigation which the Reviewer has been able to remedy, together with any recommendations for revision to the Stage 1 investigation report
- A recommendation for a second investigation and report due to a significant error or omission in the Stage 1 investigation

The Review Panel will consider the Reviewer's report and confirm the action to be taken.

The complainant will be advised of the Panel's decision and provided with a copy of the Reviewer's report.

If the Review Panel confirms that a second investigation will be undertaken, the complainant will be advised in writing of the name of the person appointed to lead the second investigation and of the likely timeframe for the completion of this investigation. Normally this will be concluded within 25 working days. The complainant will be advised of anything which might impact on the indicative timeframe, causing a delay.

7. Remedy

If a complaint is upheld or partially upheld, the Commission will acknowledge responsibility and offer an appropriate remedy, which could include an apology, an explanation and/or remedial action.

The Commission will take whatever corrective action is necessary and will advise the complainant accordingly.

If a complaint is upheld or partially upheld, and the outcome relates to the actions, attitude or behaviour of an employee, the Commission will consider whether that matter needs to be addressed via the relevant employment code of practice and / or referred to the relevant professional regulatory body.

The Commission has a duty of care to its staff to ensure that any action taken under either the employment code of practice, or that might impact on the individual's professional registration, is dealt with sensitively, in accordance with the relevant policy and procedures and with due regard to the need for confidentiality.

8. Public Services Ombudsman.

In the event of the establishment of an Independent Public Services Ombudsman in Jersey the outcome of any complaint investigation about the Commission may be referred by the complainant to that office for further consideration.

Once a Public Services Ombudsman is established complainants should be informed of their right to bring the outcome of their complaint investigation to that office, if they remain dissatisfied.

In the meantime, should a complainant consider that they have exhausted the Commission's complaints process and remain dissatisfied, they can direct their complaint to the Chief Minister for consideration, via the offices of the Director General, Strategic Policy, Planning and Performance.

9. Nolan Principles

As public office holders, Commission staff and the Director General, Strategic Policy, Planning and Performance must abide by the Nolan Principles.

These are set out below:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Reference:

(gov.uk 31 May 1995) The 7 principles of public life. Accessed 30 January 2020.

<https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2>

10. Policy Review

This policy will be reviewed in September 2020 and thereafter on a two-yearly cycle.

Notes

1. All staff and Commissioners must ensure that they are familiar with this policy.
2. The Chief Inspector will ensure that staff respond to complaints as directed by this policy.
3. The Head of Governance, Policy and Standards will be responsible for conducting complaints investigations and coordinating complaints investigations conducted by others.
4. The Head of Governance, Policy and Standards will be responsible for developing and maintaining the Commission's systems to record, analyse and monitor complaints and for preparing regular reports to the Commission on the volume, nature and outcomes of complaints and the learning from them.
5. Commissioners must ensure that this policy is used effectively and monitored regularly.
6. Commissioners will ensure that learning from the investigation of complaints is taken fully into consideration when this policy is being revised and updated.