

# Substance and Maladministration



# Substance and/or maladministration investigations

This pamphlet explains everything you need to know about the Ombudsman's power to conduct substance (merits) and maladministration investigations.

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## What is a substance investigation?

Substance means what your complaint is about.

If you believe the final decision on your Service Complaint was incorrect, you can ask the Ombudsman to investigate your complaint.

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## What is maladministration?

It means that something was wrong or improper in the way your complaint was handled.

If you believe this has happened, you can ask the Ombudsman to investigate the way your complaint was handled.

Any investigation into maladministration in the handling of your complaint will not look at whether your complaint should have been upheld or not.

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## When can I ask for an investigation?

You can ask the Ombudsman to investigate substance and/or maladministration of your Service Complaint within **6 weeks and 2 days** of the Service's final decision being posted or emailed to you.

If you do not make your application to the Ombudsman within this timeframe, you will need to provide reasons for this and your application might not be accepted.

**Please note:** The Ombudsman is not a third level of appeal. This means that not all applications for investigation are accepted and the Ombudsman can only conduct a new investigation in certain circumstances.

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## How do I ask for an investigation?

You will need to complete the [application for investigation of substance and/or maladministration](#) on our website. The form outlines the information we need from you to process your application, including your consent. For substance and/or maladministration you need to provide:

- Your Annex F form or statement of complaint
- A copy of the decision letters for each level (Decision Body and Appeal Body)

**Please note:** It is important that we can contact you once you have submitted an application. If we can't contact you we may be unable to process your application.

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## What happens once you receive my application?

Once we receive your application form you will be sent an acknowledgement within 2 working days. The Enquiries and Referrals Team will check you have provided all documents needed to process your application before it is passed onto the Investigations Team to conduct initial eligibility and case reviews.

A member of the investigation team will check whether we can accept the matter for investigation against the following requirements:

- The complaint is finally determined
- Whether the application was made in time (and if not, whether there are just and equitable reasons to accept it outside the time limit)
- The application is not deemed frivolous, vexatious or malicious
- For substance applications: There is a reasonable prospect a new investigation would result in a different outcome
- An investigation would be a proportionate use of the Ombudsman's powers
- The redress requested can be achieved
- There is a public interest in conducting an investigation

If the application meets the above requirements it will be accepted for investigation. If the application is not accepted, a letter will be sent to you and your Service to explain why we have reached this decision.

If the complaint is accepted, we will contact the single Service Secretariat to ask for a copy of your complaint file. We ask for this so we can see what the Service investigated and how the investigation was conducted. The investigator responsible for your case will then contact you to clarify the complaint or redress you are seeking. They will send you the terms of reference for your case, explaining what aspects we will be investigating. The investigator will also contact relevant parties involved, including respondents and witnesses (if necessary and proportionate) to seek further information to enable them to conduct the investigation.

The investigator will aim to complete the investigation within **100 working days**, depending on the complexity and nature of the complaint. If the timeframe is not likely to be met, you will be sent regular updates, including a revised timetable, the reason for the delay and when it is expected the investigation will be completed.



## What do I do if I have a question or issue to raise while you are investigating?

Any questions regarding the investigation process should be sent to the investigator handling your complaint. The investigator will always try to respond to your question within a timely manner, but please allow 2 working days for a response.

Similarly, if you have additional information that you would like us to see, which we have not asked for, please do not send it to us as this may slow the investigation process down. You can make the investigator aware of the documents you have, and they will tell you if and when this information is needed.



## If you find that my Service Complaint was well founded, or there was maladministration in the handling of my Service Complaint, what can I expect next?

Following the investigation process, the Ombudsman will decide whether the complaint should be upheld, partially upheld or not upheld. If the complaint is upheld, in whole or in

part, a recommendation for redress may be made to determine what appropriate action should be taken to address the identified wrong. The recommendations that are made will depend on the type of investigation that has been carried out, the specifics of the individual case and the wrong that has been found. For more information read the factsheet [What redress can the Ombudsman recommend?](#)

When the Service Secretariat receives the Ombudsman's decision they will carry out detailed consideration of the final report, including the recommendations and wider learning points and provide an update to the Ombudsman on any action that will be taken. If a recommendation cannot be implemented, the Service is required to explain the reasons for this and provide an alternative proposal for the Ombudsman to agree. Some recommendations are easy to implement and can be done so in a short space of time, whereas others require a longer period to implement. The Ombudsman monitors all recommendations she has made to make sure they are carried out, but the Services will keep the Ombudsman updated until the recommendations have been implemented in full.

**Please note:** The Ombudsman has the power to recommend redress as quantifiable or non-quantifiable consolatory payments to the Services. But the onus will always be placed on the Services to decide the amount of any payment; not the Ombudsman. Further approval of any proposed payments will need to be sought in line with guidance on managing public money. For more information read [SCOAF Financial Remedy Guidelines](#).



### If I don't agree with your decision, can I appeal?

All decisions made by the Ombudsman are final. This means that you cannot appeal the decision or submit a further application on the same grounds. If you disagree with a decision that we have made, the only way to challenge this is by making an application for Judicial Review. There is a time limit for applying for Judicial Review, which is usually within 3 months of the date of our final decision.

Please note that a Judicial Review can be a costly legal process. You may wish to consider seeking legal advice about what the process entails and how much it is likely to cost before making a decision about whether to apply for Judicial Review. For more information read [Judicial Review](#).



### Where can I get more information?

For information on the Ombudsman's role, powers and processes and how to make an application for an investigation of substance and/or maladministration, get in touch at:

☎ 020 7877 3450

✉ [contact@scoaf.org.uk](mailto:contact@scoaf.org.uk)

🌐 [www.scoaf.org.uk](http://www.scoaf.org.uk)

@ [SCOAF\\_UK](#)

For information on the Service Complaints process read [Redress of Individual Grievances: Service Complaints \(JSP831\)](#).

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