

Statement of Reasons Manual

Version

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April 2013	6	Final version for publication
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1. Introduction

- 1.1. The aim of this manual is to provide in one place all the guidance Investigators need about how to communicate our decisions on complaints that do not go to report.
- 1.2. From time to time, we will need to update the guidance. Meanwhile, if you have any suggestions for improving the guidance, please send them to the Professional Practice Co-ordinator.

2. What is a decision statement?

- 2.1. In cases where we do not issue a report, our final decision is communicated in a decision statement. This is the case for decisions taken at both Assessment and Investigation stages. In most cases, a final decision statement will have been preceded by a draft decision statement. Comments made by the complainant and the Body in Jurisdiction (BinJ) will have been taken into account and, where appropriate, incorporated into the final decision statement. The decision statement will be sent with a covering letter. The covering letter is not part of the decision statement, which is a stand-alone document. Investigators can include extra detail or commentary in covering letters if it is not pertinent to the final decision, or where they wish to include other information or express sympathy for the complainant due to the circumstances of the complaint.

3. What decision statements will be published?

- 3.1. The statutory basis of our power to publish decision statements is:
 - Section 31B(1)(a) and (d) of Part 3 of the Local Government Act 1974, and
 - Section 34J(1)(a) and (c) of Part 3A of the Local Government Act 1974 (privately arranged and funded adult social care).
- 3.2. We publish every decision made on complaints received from 1 April 2013, unless any of the reasons below apply. Publication will happen no sooner than three months after the final decision is made. We will publish decisions taken at both Assessment and Investigation stages.
- 3.3. We will not publish decisions in the following limited circumstances – when:
 - a. the decision is that the complaint is premature
 - b. a review of the decision is underway
 - c. we consider that it is not in the interests of the person affected to publish the decision, for example, where:
 - the issues are sensitive, unusual or controversial and publication runs a risk that the person affected or others may be identifiable
 - we agree to a request from the person affected that we should not publish.
 - d. The complaint refers to an adult social care provider who is a sole trader/proprietor and we consider it is not in the public interest to publish their identity.

- e. where we have carried out a joint investigation with PHSO and we were not the lead organisation.
 - f. The complaint decision is that it is an employment or personnel matter ([see Appendix 2](#)).
- 3.4. Exception (c) (at 3.4 above) is intended to allow exemption from publication of any decision statement which cannot be written in a way which protects the complainant's or another person's anonymity. Where Investigators consider that this exception applies, they must obtain the express approval of their AO and record this in Notes and Analysis.
- 3.5. With regard to exception (d) (at 3.4 above), the fact that a BinJ in Part 3A cases may be a sole trader is not enough for us to decide not to publish a decision statement. The Ombudsman has a responsibility to ensure that we give an accurate picture of the decisions we make. In doing so, we are contributing to the public accountability of care provision and helping to support informed choice of providers for the public. We must however consider whether it is in the public interest to publish these cases. Separate guidance is available as a Casework Guidance Statement [available on the intranet for Ombudsman staff] but for all Part 3A decisions, the question of whether or not to publish must be discussed between the investigator and the Assistant Ombudsman and a note made in Notes and Analysis.
- 3.6 If we decide that a decision statement should not be published after it appears on the website, it can be removed by contacting the External Communications Officer with the following details:
- the case reference number
 - the reason for removal from the website
 - whether you have approval from your line manager (AO/ATL)
 - whether the decision will be republished at a later date.
- 3.7 If we decide that a decision statement needs amending after it appears on the website, it can be amended by contacting the External Communications Officer with the following details:
- the case reference number
 - the paragraph number of the text which needs amending
 - the changes you wish to be made.
- 3.8 Sometimes we need to change the publication flag from 'yes' to 'no' after a case has been closed. There have been a handful of cases where the flag has been changed to 'no' but the decision statement has already been exported to the website. If you need to change a publication flag, and there is information in the Exported field on the screen, this means the decision statement has already published. You should contact the External Communications Officer as set out in [3.6](#) so she can arrange for the decision statement to be removed from the website and the data in the publication screen to be reset. The graphic below shows an example of the screen where the exported field has been filled in.

For publication	Yes
Reason not published	
Details	
Ready for publication	18/03/2014
Date Exported	Mar 19 2014 9:14AM

3.9 Decision statements will remain on the website for five years.

4. How to deal with queries about publication of decision statements

- 4.1. We give information about our intention to publish to all new complainants by:
 - a statement on our website
 - a fact sheet (G7) sent to those complainants whose complaints are passed from Intake to Assessment
 - a covering letter sent with final decisions taken at the Assessment stage (if a draft decision has not been sent)
 - a covering letter sent with draft decisions sent either at Assessment stage or at Investigation stage.
- 4.2. The Ombudsman is independent and does not require anyone's permission to publish. We should take care not to convey the impression that a complainant or an authority can 'opt out'.
- 4.3. Complainants and BinJs may tell us that they do not want a statement published. We should ask them to give reasons and it may be that we can provide assurances that allay their concerns. For example, we should be open to suggestions as to how the draft decision statement might be changed in order to better protect their anonymity.
- 4.4. Where, exceptionally, an Investigator considers that in view of such a request, publication is not appropriate, the matter should be discussed with an AO. With the AO's express consent, recorded in Notes and Analysis, publication may be suppressed. A note of the reason why should be recorded on the publication screen.
- 4.5. If we decide not to publish, the complainant and the BinJ should be notified in writing (usually in the covering letter attached to the final decision statement). If we have decided that the complainant's objections to publishing are not sufficient to stop us publishing, the complainant should be notified of the decision taken.

5. Publication and how to use ECHO

- 5.1. ECHO contains an option to publish or not publish the statement.

- 5.2. The default position in ECHO is that all decisions will be published. It will not be possible to close a complaint on the system until the final statement is placed in the publication folder. But where one of the exceptions apply (see 3.3), publication will be suppressed. This will happen as follows:
- a. ECHO will not publish decisions where the decision reason is premature
 - b. ECHO will not publish decisions where the case is open. When a review is requested, the case is reopened. Once the review is over, the case is closed and the original decision date will apply. If a new statement is issued as a result of a review, the new decision date will apply.
 - c. Where an Investigator obtains the agreement of the AO that a statement should not be published, the 'not publish' option can be selected. The final decision should then be saved in the decision folder rather than the publication folder. The investigator should include an explanation of why the statement should not be published in the freetext box on the publication screen.
- 5.3. The statement for publication folder should only have one document in it – the final decision statement. All other documents relevant to the final decision should be saved in the decision folder. If previous versions of the final decision are in the publication folder, the oldest version will publish therefore it is vital that previous versions are moved out of the publication folder and into the decision folder.
- 5.4. If we receive a letter before claim under the pre-action protocol, or a notice of application for judicial review, the Assistant Ombudsman should consider whether publication of the decision statement is appropriate. They may wish to amend the publication flag to 'no' if it has not already been published, or request the decision statement is withdrawn from the website if it has been published. See sections [3.6](#) and [3.7](#) for getting the decision statement removed from the website and the publication screen reset.

5.5. Multiple complaints

If there is a complaint where there are multiple complainants against the same BinJ, the investigator should ensure that each ECHO record has a copy of the decision statement in it.

Where a complaint is against multiple bodies in jurisdiction, for example a joint working complaint, it is acceptable to produce one decision statement which covers the multiple BinJs involved in a complaint.

5.6. Withdrawn complaints

If a complainant wishes to withdraw their complaint, and our consideration of it is at a very early stage, we can close the complaint by sending a letter, rather than have to create a full decision statement. When drafting your letter, you will also need to consider whether it would be inappropriate to inform the BinJ of any information other than the category and the fact an investigation was not initiated at the request of a complainant. These might include cases where, having explained that we are precluded in law from considering the issue, a complainant may seek to withdraw. Other cases may include those where, once we explain the process and the fact we are obliged to inform the BinJ of the name and address of the complainant and our decision, people decide not to proceed. In such cases, the letter would not contain any information about the complainant. In all cases, where we decide to issue a letter to close a withdrawn complaint, the publication flag should be marked as 'no'.

However, if a complainant wishes to withdraw their complaint because we have not found in their favour, we should still issue a decision statement and publish it. It would be unfair for the BinJ if we did not publish a statement where we found it had done nothing wrong.

6. Decision standards

There are seven specific decision standards.

Principle	Standard	Measure
Satisfying complainants	1 Complaint heard and understood	Complaint stated succinctly. States what has been investigated and explains any difference from the original complaint.
	2 Accurate	All facts are accurate. No typos in the summary.
Legally sound	3 Easy to defend in court	Reasoning clear, sound and logical Relevant law and guidance applied correctly. Decision statement states all the essential points, including the test for whether the BinJ's actions were wrong. Correct standard paragraphs have been used.
	4 Confidentiality	No names. No details identifying people, unless needed to explain the decision.
Clear	5 Structure	Decision statement follows the standard structure. Any events listed are in date order, unless another way is clearer.
	6 Easy to read	Written in Plain English. Avoids jargon.
	7 Focussed	Include only the material information needed to explain the decision. No extraneous detail.

Typing and grammatical mistakes should be kept to a minimum. There is no set criteria as to why a statement may fail the standard because of typing errors. For example a ten page decision statement may have four typing errors in and still be considered acceptable, but another ten page decision statement may only have one typing error, but because of its significance, this may be seen as not meeting the standard.

Stylewriter

Stylewriter is a tool to support investigators when writing decision statements. It gives suggestions where to improve, but as with any tool, you should think about whether to accept the suggestions it makes. While there are target scores to achieve, there will be occasions where achieving these is impossible, for example because of the subject matter of the complaint, such as planning.

The Stylewriter target scores are:

- Style 40
- Sentence length 20
- Passive verbs 20

7. The structure and content of decision statements

The template in ECHO should be used in all cases. Guidance on each of the headings in the template is set out sections 7.2 to 7.11. Joint working cases follow a slightly different template – a copy of which is available at [Appendix Four](#). Reference is also made at the beginning of each section to the relevant decisions standards, which are set out in full at section 6. [Appendix One](#) is a summary of the headings which need altering between draft decision and final decision.

7.1. The Ombudsman's draft decision/final decision

This is the heading for the entire document.

7.2. Summary:

This is a headline summary only – it is not the decision itself. It is a summary of the subject of the complaint, our finding (fault/no fault), the claimed injustice and reference to any remedy obtained.

It should -

- **be written in the third person (The Ombudsman/We);**
- **be only one paragraph long, and ideally no more than four sentences;**
- **not contain abbreviations; and**
- **not contain bullet points**

For the complainant and the BinJ it should be a quick answer to the complaint. For other readers, it should give them a quick idea of what the decision says, to help them decide whether to read it – in a similar way to a newspaper headline.

If there are multiple strands to the complaint, the summary does not need to contain the decisions about all of them, but only the main or key points. Similarly, where a remedy is multi-faceted, you may wish to provide a general description of the remedy, rather than detail each of the specific items.

For Assessment Cases (and some Investigation cases such as discontinuations) the summary should include –

- **The Decision** – that we cannot or will not investigate
- **The Complaint** – a brief description
- **Why** – The jurisdictional reason / no evidence of fault / insufficient injustice / authority already remedied

For Investigation cases (and Assessment cases where we have obtained a remedy) the summary should include –

- **The complaint** – brief details of relevant issues.
- **Fault** – whether or not we found fault / service failure (if not the summary ends there);
- **Injustice** – what the resulting injustice was (if any); and
- **Remedy** – how we proposed to remedy the injustice (if necessary).

At the draft decision stage the summary should be worded tentatively, to show it is based on current information and to indicate it may change in the light of any comments received. Phrases such as “*The evidence currently suggests...*” “*On the evidence the Ombudsman has seen so far...*” “*At this stage the Ombudsman proposes to complete ...*” should be used. The summary will need to be reworded in a more authoritative tone for the final decision. Examples of summaries, including summaries for draft decisions which must be phrased tentatively, can be found in [Appendix Three](#).

7.3. The complaint

The relevant decision standard measure is:

- ***State the complaint succinctly.***

Our statement of the allegation(s) made to us initially. This could be the complainant’s wording, but we may need to rephrase it for clarity and/or brevity. It may contain information about matters we cannot or will not investigate. Where appropriate, concisely provide some context so the reader is in no doubt about what the complaint is about.

Include reference to any injustice claimed.

For example:

- *The complainant, whom I shall refer to as Mr S, complains about the way the Council granted planning permission for a new house next to his property. Mr S is concerned that:*
 - *the Council gave inappropriate advice to the developer before the planning application was considered*
 - *the Council did not properly publicise the application*
 - *the Planning Officer’s report and comments misled the Committee that granted the planning approval.*
- *The complainant, whom I shall refer to as Miss P, complains that the Council did not take proper action to deal with antisocial behaviour in the street where she lives. She says her property has been damaged and that she has been fearful for her own safety. She is also unhappy with how the Police dealt with her when she reported children playing football on the street.*
- *The complainant, whom I shall refer to as Mr S, complains that the Council’s decision to refuse his renewal application for a disabled parking badge was unfair and did not properly take into account his medical condition. He says that he has had to pay extra parking fees and ask for extra help from family and friends when he goes out.*
- *The complainant, whom I shall refer to as Mrs G, complains that the Council has not properly assessed her needs for social care support. She says she cannot live independently without this support and is fearful she may have to go into a care home. She*

is also unhappy that the Council did not give her housing priority when she applied for rehousing five years ago.

The following are not suitable ways of expressing the complaint:

- The Council did not properly assess Mrs B for a disabled parking badge.
- That the Council failed to consider whether enforcement action should be taken against the factory near to where Mr D lived.

7.4. What I have investigated

The relevant decision standard measure is:

- **State the complaint succinctly.**

This heading should be used only in those cases where we have started an investigation **but not into the entire complaint**. Provide a statement of the allegation(s) we have investigated.

And then add:

- *The final section of this statement contains my reason(s) for not investigating the rest of the complaint.* (Although these reasons are part of the decision, they can be put at the end so that the main focus of the statement is about what we have investigated. And, at the end, they logically follow the **Draft decision/Final decision**).

Delete this heading if we have not started an investigation.

Delete this heading if we have started an investigation into the entire complaint (as there is no need to repeat what is already set out in **The complaint**).

Example:

- *I have investigated that part of Miss P's complaint about how the Council dealt with her complaints of antisocial behaviour in the street where she lives. The final section of this statement contains my reasons for not investigating the rest of the complaint.*
- *I have investigated that part of Mrs G's complaint about how the Council has assessed her social care needs. The final section of this statement contains my reasons for not investigating the rest of the complaint.*

7.5. The Ombudsman's role and powers

The relevant decision standard measures are:

- **Is there an absolute bar to jurisdiction?**
- **Is there a discretionary bar? Have I exercised discretion, and why?**

Always use the relevant standard paragraphs [available on the intranet for Ombudsman staff] to explain our role and the powers under which we have made this draft decision/final decision.

So, EITHER

- the powers under which we have decided *not to investigate* the complaint (on grounds of jurisdiction or ombudsman discretion or both)

OR

- our powers to *complete* or *discontinue* the investigation

Where more than one standard paragraph is relevant, it may be necessary to merge them in order to avoid repetition. Where there is a jurisdictional discretion, mention it here.

Where we have completed the investigation we should *always* use standard paragraph PV23. The draft decision template for investigation automatically includes this paragraph. In the relatively few cases where we discontinue the investigation we need to delete this paragraph and replace it with PV17.

An explanation of our reasons for using/not using the jurisdictional discretion may appear here or, if better, under **What I found**. If you decide not to exercise discretion, there is no need to go in to the detail of the substantive matters.

Further information about the law and how it applies can be found in the [Guidance on Jurisdiction](#).

Where there is an absolute bar or no discretion, go straight to Draft decision/Final decision.

7.6. How I considered this complaint

Describe what information we used to reach the draft decision/final decision. Explain how and from where/whom we obtained it. (For complaints we have not investigated, this may just be the complaint form and a telephone conversation with the complainant.) If we have issued a draft decision, you must include the details of that in this section so it is clear that the complainant (and BinJ) were given the opportunity to submit any comments before issuing a final decision. You can use standard paragraphs DD1, DD2 or DD3 when issuing the final decision.

Example:

- *I read the papers submitted by Mr S and discussed the complaint with him.*
- *I considered the Council's comments about the complaint and the supporting documents it provided.*
- *I have explained my draft decision to Mr S and the Council and considered their responses.*

7.7. What I found

The relevant decision standard measures are:

- ***Identify the points to consider.***
- ***State the decision on each point considered.***
- ***What (if anything) did the BinJ do wrong (and state the test for this).***
- ***Provide the reasoning for the decision.***
- ***What injustice did the fault cause?***

If there is a jurisdictional discretion, explain your reasons for either exercising or not exercising discretion. If you decide not to exercise discretion, there is no need to go in to the detail of the substantive matters. Otherwise, describe:

a. ***What should have happened?***

Refer to the BinJ's procedures, the law, guidance, good practice etc. It is helpful to specifically refer to guidance, where appropriate. For example:

The Homelessness (Suitability of Accommodation) (England) Order 2003 and the Government's Homelessness Code of Guidance for Local Authorities say bed and breakfast accommodation is not suitable for pregnant women and families with dependent children.

b. **What did happen?**

The events and issues that are relevant to the allegation.

A chronological account is good, but a detailed chronology can be too much.

Avoid supposition.

c. **Was there fault by the BinJ?**

Consider the reasons for any difference between a) and b). Decide whether the BinJ did anything wrong. If the BinJ has already accepted that it was at fault, you may not need to provide much detail under a) and b).

Do not introduce new factual information in your analysis. Relevant facts should appear under a) and b).

d. **Did the fault cause injustice?**

What position would the complainant be in if there had been no fault? Was the complainant disadvantaged?

Sub-headings a) to d) are not mandatory. They are there to encourage you to think about the 'test' for maladministration – comparing what should have happened with what did happen. Different sub-headings, or a different order, are acceptable. And if the complaint is complex, you could take this approach for each allegation in turn.

Where you need to refer to individual views that have been expressed, you should do so in an evenhanded way, for example when exploring conflicts of evidence. You should also ensure that where something is a supposition, it is accurately expressed as such, rather than as a known fact. For example, if a council says it sent a debt letter on 10 June 2014 but provides no evidence to prove this, you would say:

- The Council says it sent Mrs C a letter on 14 June 2014 explaining the debt.

However, if the Council provided satisfactory evidence to prove it sent the letter, you could say:

- The Council sent Mrs C a letter on 14 June 2014 explaining the debt.

You should also say whether you have seen evidence to support the conclusions you make. For example:

- *The Council has provided evidence that service users were consulted.....*
- *The Council's records show.....*

Remember that the finding should flow naturally from what has gone before. Ideally the narrative will lead the reader to reach the same finding as the Investigator.

7.8. Recommended/agreed action

The relevant decision standard measures are

- **Has the injustice been put right? How?**
- **What remedy should I now recommend, if any?**

Describe what the BinJ should do to remedy any injustice. You might also want to use some of the content of this section within your summary.

The decision on what constitutes an acceptable remedy is ours. ([see Guidance on Remedies](#)). Having recommended a remedy we should be open to comments from both the PA and the BinJ. If in the light of those comments we change our view on the remedy, we should explain why (if not here, then in the covering letter).

Delete this heading if there is no recommended/agreed action.

Remember to alter the heading and the wording when you change from a draft decision to a final decision.

Example:

Recommended action (in a draft decision statement)

- *I recommend the Council pays Mr T £500 for the injustice he was caused by its six month delay in assessing his social care needs.*

Changes to

Agreed action (in a final decision statement)

- *I recommended the Council pays Mr T £500 for the injustice he was caused by its six month delay in assessing his care needs. The Council has accepted my recommendation.*

7.9. Draft decision/Final decision

The relevant decision standard measures are:

- **State the decision on each point identified.**
- **What remedy should I now recommend, if any?**

Be clear about what the decision is, using language which is consistent with:

- what we have written under **The Ombudsman's role and powers**; and
- the decision reason we will use in ECHO for this complaint.

Guidance on decision reasons can be found here [available on the intranet for Ombudsman staff]. Remember that for draft decisions we must make clear the decision is based on currently available information and that this will need to be amended for the final decision.

Make sure that your findings are in relation to the complaint as set out under '**The complaint**' or '**What I have investigated**'. But where there are multiple allegations which have been clearly dealt with under the 'What I found' section, it is acceptable to cross refer, for example:

- For the reasons given in paragraphs x, y and z, I have completed my investigation and uphold parts a, b and d of his complaint.

However, if there are a significant number of paragraphs that you would need to refer to, it would be better to quote the sub-heading title instead, for example:

For the reasons explained in the Analysis section, I have completed my investigation and do not uphold Mr B's complaint.

If you have decided that the complaint should not be investigated, it should confirm why. If you are finding fault causing injustice, you need to refer to both parts.

In some Part 3A decisions, the recommendations for remedy may be part of the final decision.

Examples:

- *An outside jurisdiction complaint*
 - *Mr B has a right of appeal about his parking ticket to the Parking and Traffic Appeals Service. It is reasonable for him to use that right and therefore I will not investigate his complaint.*
- *a part 3A complaint with an SOCR decision-*
 - *I have completed my investigation and uphold Mr X's complaint. Mr X has been caused an injustice by the actions of the service provider and I have recommended it take action to remedy that injustice.*
- *An Assessment decision of insufficient maladministration*
 - *There is no evidence of fault by the Council in how it decided the planning application. I will therefore not investigate Mr B's complaint.*
- *a discontinuation with no injustice-*
 - *I have stopped investigating this complaint. No further action is needed as the injustice caused to Mr X by the alleged fault is not so significant that the Ombudsman would recommend a remedy.*
- *a completed mal and inj decision-*
 - *I have completed my investigation and uphold Mr X's complaint. There was fault by the Council which caused injustice to Mr X. Although Mr X does not agree with my decision, I am satisfied the action the Council will take is sufficient to remedy his injustice.*
- *a discontinued outside jurisdiction-*
 - *I have stopped investigating this complaint. No further action is needed because the issue is not one the Ombudsman can deal with.*
- *a completed mal no inj decision-*
 - *I have completed my investigation and uphold Mr B's complaint. There was fault by the Council, however it did not cause Mr B an injustice which would need the Council to take any action.*

Further examples of how you might word the decision section can be found here

7.10. Parts of the complaint that I did not investigate

The relevant decision standard measure is:

- **Explain why other parts of the original complaint were not investigated.**

Making use of any relevant 'standard paragraphs', explain the powers under which you have decided to not investigate parts of this complaint (on grounds of either jurisdiction or ombudsman's discretion or both). Where there is a jurisdictional discretion, mention it and briefly explain your reasons for not using it.

Delete this heading if you have also deleted **What I have investigated**

Example:

- *I have not investigated Miss P's complaint about how the Police dealt with her when she reported children vandalising a sign on the street. The Ombudsman cannot look at complaints about how the Police dealt with criminal matters.*
- *I have not investigated Mrs G's complaint that the Council did not give her housing priority when she applied for rehousing five years ago. Mrs G has not complained about this issue until now to either the Council or the Ombudsman. This is a late complaint and I have seen no good reason to accept it for investigation now.*

7.11. Signature line

For a final decision, the signature line should say **Investigator's decision on behalf of the Ombudsman**

8. Anonymity – how to avoid people being identified in decision statements

The Information Commissioner has produced detailed guidance about the issues to be considered when publishing information to ensure that personal data is not disclosed. A copy of the full guidance can be found [here](#).

8.1. The complainant

Do not use the real initial for the complainant or anyone else involved in the complaint or the matters complained about.

Avoid using Mr/Mrs A as it can cause problems with spellchecker. You could use B for the first person you mention, C for the second and so on. Where the individual is a child or young person, just use an initial – no title is required. We should refer to all adults using their title (Mr/Ms/Miss/Mrs etc). Examples:

'Mrs B complains that the council did not assess her mother's social care needs. She says her mother, Mrs C, struggles to get up and down the stairs. The Council says that Mrs C already has grab rails installed and that these are adequate for Mrs C's needs.'

Or:

'The Council interviewed Mr B and his son, C. During the interview, C said that he had been with his mother, Mrs D and her partner, Mr E, when the window was broken at the house. The Council met with Mrs D and Mr E to discuss what they had seen.'

If the complainant comes from someone who is representing a local community interest or campaign group, we should not name that group. You could say something like:

“Mr B represents a community interest group and complains that.....”

The standard draft decision cover letter includes a sentence about anonymity:

“The Ombudsman may publish the final decision so I have referred to you as @ in the statement. Please tell me if I need to make any other changes to protect your anonymity.”

8.2. The Body in Jurisdiction

The Body in Jurisdiction is always named in the statement. But where you write a statement under Part 3A about a private/independent sector care provider, the statement should name the provider body (i.e. the high level legal entity) as the BinJ e.g. BUPA, Worldwide Care etc but you should also name the ‘location’ where the care was delivered (i.e. the name of the care home or the trading name of the home care agency e.g. Sunny Bank Care Home, King’s Home Care Services). This will ensure that the correct legal entity is identified as the body in jurisdiction, as the legislation requires. You will then need to consider whether the statement should be published. Further guidance can be found here [available on the intranet for Ombudsman staff]. This guidance has been approved by Casework Policy Forum and should be discussed with your manager before making a decision about whether to publish. Where the Council commissions the care, and we identify fault in the actions of the care provider we should name the provider and location in the statement even though the BinJ is the Council.

Where the body in jurisdiction is the local authority and the complaint relates to a specific school, we should not name the school. If more than one school is involved, use School 1, School 2 etc.

Where the action complained of is by a trust which is acting on behalf of a council, you can name it within the body of the decision statement but should not amend the name of the BinJ at the top of the statement.

8.3. Officers

We should not generally use council officers’ job titles to describe them in our decision statements, unless they are at a senior level, for example the Chief Executive, or Head of Planning. You could use Officer J, Officer K, Officer L, for example, but do not use the correct initial. If you need to, where there is more than one council department involved, you can associate the officer with the department. For example:

“Officer J from the Housing department met with Mr B in July. The following month, Officer K, from the Council’s Social Care team visited Mr B at his home to talk about help Mr B needed to wash and bathe himself.”

Or

Housing Officer J met with Mr B in July. The following month, Social Worker K visited Mr B at his home to talk about help Mr B needed to wash and bathe himself.”

We should not name organisations which are providing services on behalf of the body in jurisdiction. This includes commercial firms, voluntary organisations, registered social landlords and local and national charities. You may refer to them as ‘the contractor’, the agent or similar.

8.4. Councillors and MPs

We should not name councillors or MPs in our decision statements. If the complainant is represented by their councillor or MP, or you need to comment on a councillor or MP involvement, you should just refer to “the local Councillor” or “their MP”. If there is more than one councillor involved refer to them as Councillor B, Councillor C etc.

8.5. Other bodies and third parties

When deciding to name either third parties or contractors (such as bailiffs firms or waste / recycling companies etc.) we should be more cautious in our approach. Usually it would not be considered to be in the ‘public interest’ to do so, as it may have the effect of undermining our default position that the ultimate accountability always rests with the commissioning body. Whilst a local authority may decide to contract out the provision of a statutory function, it cannot abrogate its responsibility for it.

Notwithstanding this, we could choose to name a third party or contractor where we felt it was in the public interest to do so and the body to be named fell within the jurisdiction of either the LGSCO or another Ombudsman scheme in its own right. Some examples would include:

- a. A County Council
 - i. providing a schools admissions service
 - ii. as the Highways Authority on a planning case
- b. The Highways / Environment Agency
- c. Child and Adolescent Mental Health Service
- d. Anyone providing a ‘Health’ function

In every case where we are considering naming a 3rd party or contractor – other than a Care Provider – the Ombudsman should be consulted prior to the decision being made.

Please refer to the Casework Policy Forum guidance note on Naming care provider, care locations and third party in statements and reports [available on the intranet for Ombudsman staff].

8.6. Addresses

We should not use abbreviated versions of street names. If you need to refer to a number of different properties in your decision statement, please use Property 1, Property 2 and so on. Or for a number of different streets, use Street 1, Street 2 etc.

If the complaint is about a specific development in an area that is being developed privately, we should not name it. You could say something like:

“Mrs B complains about a housing development in the area where she lives”

If it is a publicly funded development, you can name it. For example:

“Mr and Mrs B complain about how the Council approved planning permission for Leeds Arena.”

9. Language and style

The decision statement needs to be written so that it is clear and understandable for the complainant, the BinJ and interested members of the public.

Remember that you are writing a statement of the reasons for your decision on the complaint. The language you use should be assured and authoritative. Avoid emotive language, mitigated speech and tentative expressions.

Take care to avoid jargon. If you have to use it, explain what it means. Abbreviations can be used but not in the summary section. Too many abbreviations in one statement can be confusing. If you decide to use abbreviations, ensure you have provided the full description first.

9.1. Draft and final decision wording

Remember that you are writing a statement of the reasons for your decision on the complaint. Avoid emotive language, mitigated speech and tentative expressions.

The language you use should generally be authoritative, with firm findings. In the case of draft decisions, however, the summary and draft decision sections should be more tentative, making clear that the views expressed are based on current information. This makes more transparent any changes to our decisions in the light of responses to the draft: the draft is not a done deal. At the final decision stage the summary and decision should be assured and authoritative.

9.2. Stylewriter

The full Stylewriter guide is available here [on the intranet for Ombudsman staff]. You should use Stylewriter to check your draft decision and final decision statement before you send it out. An AO has produced a set of words which are 'exceptions' within Stylewriter. 'Exceptions' are words we tell Stylewriter to ignore. If you have any suggestions for more, please send them to him.

The target scores for investigators are:

Style	40
Sentence length	20
Passive verbs	20

9.3. Plain English

Plain English is the clearest way to put your message across.

Plain English means writing in a way that communicates best with your readers. It is highly professional and effective. It does not mean being patronising or over simple. It does not mean reducing the length or meaning of your message. It is not about banning new words, killing off long words or letting grammar slip. Full guidance about using Plain English can be found here [available on the intranet for Ombudsman staff].

9.4. Proof reading for accuracy and professionalism

A check on your own work, as soon as it is finished will not reveal your errors; the eye sees what it expects to see. To improve your chances of spotting a mistake:

- Ask another person to proof-read for you (and you can do the same for them)
- Leave the work overnight before checking
- Leave the work for as long as you can, while you do something else
- Read it aloud
- Read it, word by word, from the end to the beginning (this takes a long time but can achieve 100% accuracy).

And because it is hard to focus on more than one thing at a time:

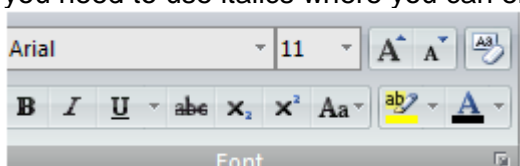
- Check headings separately from text
- Check numbers and calculations separately from words
- Check paragraph numbering separately.


10. Technical aspects of using the template

The draft decision template has been set up in a specific way to ensure that all our decision statements are produced in the same format and that they transfer onto the web in a consistent way.

Some dos and don'ts:

- The summary should consist of one paragraph only. Do not use paragraph breaks.
- Do not use bullets in the summary.
- Do not use the **font tab** in the Word banner to edit how your text looks, apart from where you need to use italics where you can either use the *I* button or press Ctrl I.



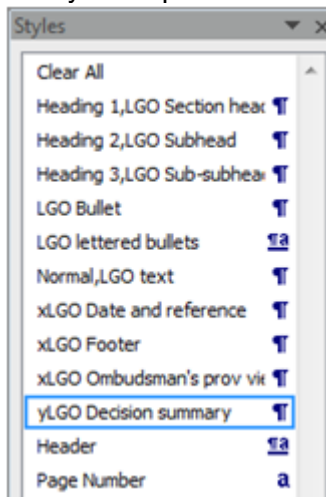
- Do not use the **bullet creation buttons**  in the Word banner to create bullets, lettered bullets or numbered bullets. If you want to create bullets, use the tab key on your keyboard or the 'Increase indent' button on the Word banner. If you want to create lettered bullets, either press the tab key or 'increase indent' button twice, or select 'LGO lettered bullets' from the style template.
- If you find that a paragraph does not have a paragraph number to it, select the LGO normal text style and this will create the paragraph number for you.
- If you need to use both types of bullets in one paragraph, they should be used in the following order – lettered bullets, followed by standard bullets. For example:

The complaint

Mr X complains the Council failed to provide him with the social care services he asked for. He says that the Council did not:

- a) Assess his needs properly;
- b) Tell him what its decision was;
- c) Consider the information he provided from medical professionals who work with him, including;
 - A letter from his GP dated 1 March 2012
 - The psychiatric report prepared for the court case; and
 - Three letters of support written by the neurology team at his local hospital.

- If you need to make a piece of text into a **sub-heading or sub sub-heading**, do so from the style template. Do not use sub sub-headings before sub-headings.



- You can insert **block quotes** into a decision statement. You should ensure the text is indented, without any bullets or numbering (you can use the bullet creation banner to remove any bullets or numbering), that it is in italics and is in inverted commas. For example:

“40 Closure of noisy premises

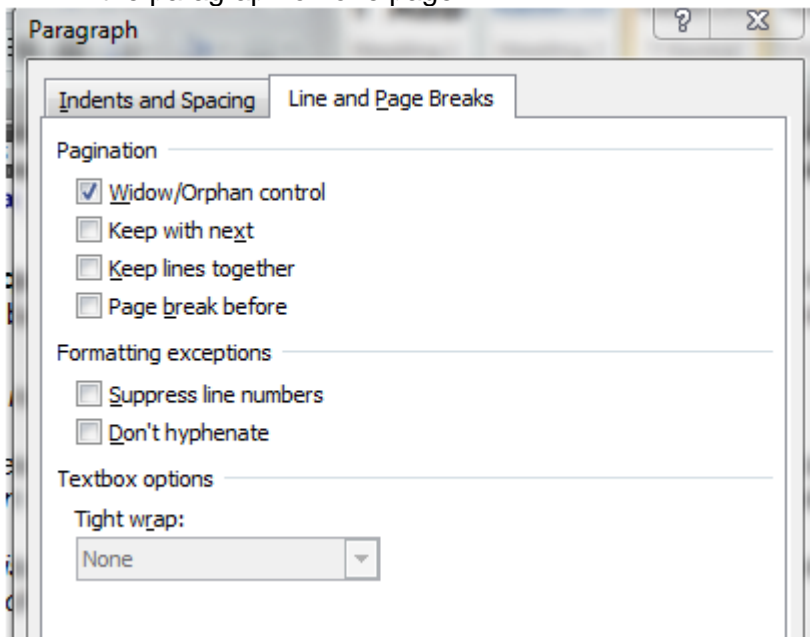
(1) The chief executive officer of the relevant local authority may make a closure order in relation to premises to which this section applies if he reasonably believes that—

(a) a public nuisance is being caused by noise coming from the premises, and
(b) the closure of the premises is necessary to prevent that nuisance.

(2) This section applies to premises if—

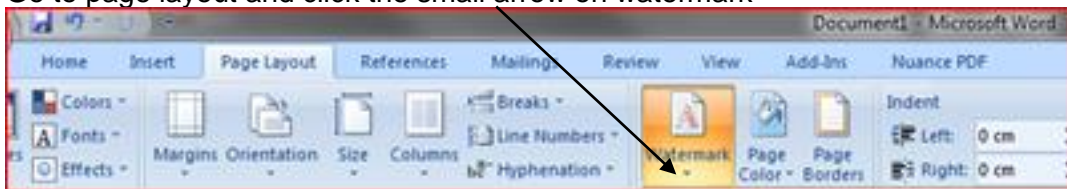
(a) a premises licence has effect in respect of them, or
(b) a temporary event notice has effect in respect of them.”

- If part of a paragraph appears on one page, and the rest on the next page, highlight the relevant text and use the 'keep lines together' option in the paragraph format box to keep the paragraph on one page



- If, when you are typing the summary or a paragraph, the complainant's title and initial end up on separate line, use a soft space to keep them together. To do this, delete the space between the two words you want to keep together, then (with your cursor at the point you want a space to appear) press Ctrl+Shift+Space bar at the same time. This means a paragraph break is not created so will not affect how the published document appears.
- Removing the watermark.

Go to page layout and click the small arrow on watermark



Click on remove watermark



- You can use **tables** in your decision statements. However, you should not amend the margins of the document to fit extra columns or rows in. For example:

2009 and 2012 assessments

- When the Council assessed Mrs W in 2009 and 2012, it identified needs within the areas listed in the table below. In each year the Council's Resource Allocator

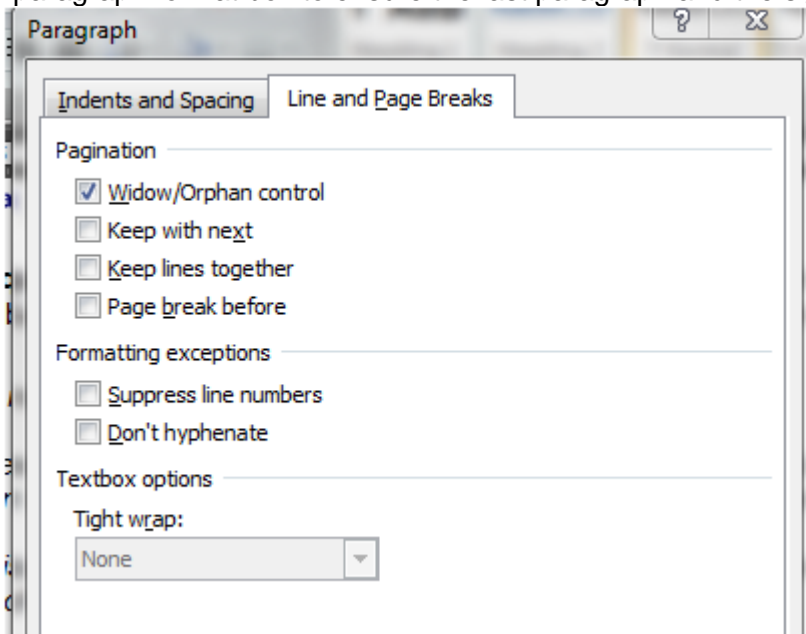
1



System (RAS) awarded points for Mrs W's needs, based on the answers to specific questions. The RAS then translated the points into a personal budget.

	2009		2012	
Personal care (day)	16	£98.16	16	£98.16
Personal care (night)	6	£86.81	6	£36.81
Food & drink	4	£24.54	4	£24.54
Practical aspects of daily living	3	£18.41	2	£12.27
Social contacts	3	£18.41	2	£12.27
Leisure	3	£18.41	2	£12.27
Choice & control	1	£6.14	1	£6.14
Keeping safe	8	£49.08	6	£36.81
Total points/personal budget	44	£319.94	39	£239.37

- If the signature line appears on a page on its own, use the 'keep with next' option in the paragraph format box to ensure the last paragraph and the signature line stay together.



11. Other do's and don'ts

11.1. Footnotes

Do not use footnotes. They do not transfer to the web.

11.2. Footers

Remember to change the footer when you convert your draft decision into your final decision. The correct wording is 'Final decision'.

11.3. Images

You should not insert images in to your decision statement.

11.4. Statement for publication folder

You should only save one document in this folder – your final decision statement.

11.5. Hyperlinks

Hyperlinks work when inserted into the document, both when converted to pdf and on the webpage.

11.6. Summary

Do not copy and paste text over the word 'Summary'. This skews the format when the SOR is published on the website and prevents the weekly news letters for that subject area from being to sent to those who have signed up to receive them. It is better to avoid copying and pasting text in the summary section and type the text instead.

Appendix One – differences between draft decision & final decisions

	Draft decision stage	Final decision stage
Summary heading	The Ombudsman's draft decision (tentative)	The Ombudsman's final decision (authoritative)
How I considered this complaint		Use either standard paragraphs DD1, DD2 or DD3 or your own description of how you shared the draft decision.
Remedy heading	Recommended action	Agreed Action
Final heading in main body of letter	Draft decision (tentative)	Final decision (authoritative)
Sign off	Investigator's draft decision on behalf of the Ombudsman	Investigator's decision on behalf of the Ombudsman
Footer	Draft decision for your comments	Final decision
Watermark	DRAFT	

Appendix Two – procedure for closing personnel & employment decisions

Personnel and employment decisions

Assistant Ombudsman and Assessment Team Leaders have agreed that when Assessment or Investigation close a case because it is a 'personnel or employment matter' (in other words Schedule 5.4/Schedule 5A.4) we will follow a different procedure.

What will we do?

- We will send the decision statement to the complainant **only**;
- We will **not** publish the decision statement;
- We will tell the complainant we have not published the statement or sent it to the body in jurisdiction;
- We will not tell the body in jurisdiction the name and address of the complainant, or provide a the copy of the complaint and the decision statement; and
- We will send the body in jurisdiction a decision letter telling it we have received a complaint about a personnel or employment matter, we are not investigating it and that we do not disclose details of such complaints and we are telling them for statistical purposes.

It is the **closure reason** that decides the action we take, not the category or subcategory of the complaint.

Standard letter templates for this type of decision will be uploaded on to ECHO

Why treat these complaints differently?

We have no control over what may happen to any information we send to a council. If information about the identity of the complainant is shared with a council's HR Department (bearing in mind that standard practice is for all complaints to be shared with the relevant department) possibly something within it – or the fact of the complaint – might prejudice or cause harm to a complainant's grievance and prospects with their employer. Also the complainant may not have yet raised the issues with their employer and by sending details of the complaint we may have 'outed' them against their wishes.

We do not send decision statements on these complaints to the body in jurisdiction or publish them because there is a significant risk of HR departments identifying the complainant, which would defeat the aim of withholding the person's name and detail. In addition a meaningful statement, if published, gives clues to the identity of the complainant such that they would be recognisable to work colleagues. When statements are rendered so lacking in detail that the complainant cannot be identified, they become meaningless and unhelpful to the complainant and public.

Exceptions

There are 2 exceptions to this policy:

- If the complainant was not and is not a council employee – such as a member of the public complaining about the appointment of a Chief Executive – then there is no danger of compromising the relationship between the complainant and the body in jurisdiction. In those circumstances it may be appropriate to treat this as a normal complaint – publishing the decision statement and telling the body in jurisdiction in the usual way. In such cases the Investigator must make it clear in Notes and Analysis and on the publication screen why they have taken this decision.

- It the complaint is under Part 3A against a care provider, no notification is to be sent to the body in jurisdiction. There is a high likelihood of the complainant being recognisable, and the body in jurisdiction does not need telling about a complaint as it does not have to collect statistics as councils do. Nor do we send annual statistics to care providers individually.

Appendix Three – examples of summaries

Draft decision summaries

- Mr and Mrs Y complain about the way the Council dealt with a planning application. They are also unhappy with the Council's planning committee procedures. At this stage the Ombudsman proposes to complete his investigation because he finds no fault in the way the Council made its decision or in the planning committee procedure followed.
- Mrs X says that she suffered confusion, disappointment and uncertainty because the Council took too long to decide who was responsible for repairs to prevent damp damaging her property. On the evidence the Ombudsman has seen so far, he accepts this and asks the Council to apologise to her.
- The evidence currently suggests Council gave a landlord wrong advice about how much local housing allowance his tenant could claim, and its apology would be an adequate remedy as he did not suffer financial loss as a result of the bad advice.

Assessment final decision summaries

- Ms X complains the Council failed to tell her about changes to her council tax liability so she had to pay enforcement costs. The Ombudsman will not investigate her complaint as an investigation is unlikely to identify any evidence of fault.
- Mr B complained about the Council's decision on his application for housing and council tax benefit. The Ombudsman decided not to investigate the complaint because it is reasonable to expect Mr B to have appealed to the tribunal that considers benefits appeals.
- The Council's decision to move from weekly to fortnightly collections of domestic refuse affects all or most of its residents. The Ombudsman has no power to investigate decisions which affect all or most of the residents of an authority's area.
- The Ombudsman will not investigate Mrs B's complaint about the Council's grass cutting programme as an investigation will add nothing more to the Council's consideration of her complaint.

Investigation final decision summaries

- Mr E complains about the Council's approval of a planning application of an extension to a nearby property, the bricks used to build the extension were not suitable and about how the Council dealt with his enforcement complaint. The Ombudsman has found no evidence of fault in the way the Council considered these matters.
- Mr F complains the Council was at fault in handling applications he made to join its housing register and the level of medical priority awarded to his household. The Ombudsman found fault because the Council awarded Mr F child in need points without taking into account all the criteria required for the priority. But this fault did not cause Mr F an injustice and so we have completed the investigation.
- Mrs G complains the Council was at fault in how it reassessed her care needs. The Ombudsman finds the Council was not at fault in the way it assessed Mrs G's needs under

the Care Act 2014. We do find the Council was at fault in not conducting annual reviews of Mrs G's care needs. The Council has agreed to apologise to Mrs G for the uncertainty caused by this.

- Mrs H complains the Council did not tell her the outcome of the safeguarding investigation about her late father-in-law, Mr J, despite her repeated requests and failed to give her sufficient information and support before a deferred payment application was declined. The Council has accepted it was at fault. It has already apologised and offered a payment in recognition of the distress caused. It accepts our recommendation it should make an additional payment to acknowledge the injustice which Mrs H suffered.
- Mr X complains about the behaviour of his neighbour, the way the Council dealt with two planning applications and the way the Council dealt with his complaint. The Ombudsman did not investigate the complaints about Mr X's neighbour as Mr X could take these matters to court. We did not find fault in the way the Council dealt with the planning applications. We found fault in the way the Council dealt with Mr X's complaints. This led to unnecessary time and trouble for Mr X and the Ombudsman recommends the Council provides an apology and a response to Mr X's final complaint.

Complicated complaints

This summary:

- *There was no fault by the Council in how it applied its policy and decided to place restrictions on Mr X's contact with officers. The Council's limits on Mr X's communications struck the appropriate balance of allowing him to contact the Council while protecting Council staff and resources. The Council should have told Mr X it was channelling his emails to one officer. But this did not cause him significant injustice. It was not fault for the Council to decide not to accept Mr X as a formal advocate.*

Was written in response to this statement of complaint:

1. Mr X complains:
 - a. the Council unreasonably placed restrictions on his contact with its officers;
 - b. the Council will not accept him as an advocate even if people choose him, because he has not had training, a disclosure and barring service check, and does not have insurance;
 - c. the Council failed to properly investigate his complaints;
 - d. the Council wrongly accused him of verbally abusing an elderly female councillor;
 - e. Council officers were aggressive towards him, in front of small children who had been victims of aggressive behaviour;
 - f. disclosed his personal information to a third party without his permission.
2. Mr X says these restrictions affected him and the people he tries to help because it makes contact with the Council difficult. He considers he has been disadvantaged when he has needed to contact the Council about his own concerns. Mr X says the Council has forced him to spend hundreds of hours complaining on behalf of others about what he describes as its unlawful practices.

This summary:

- *There were numerous faults in the way the Council dealt with Ms B after she applied to be considered as a prospective adopter. Those faults led to raised expectations for Ms B and*

uncertainty about whether the outcome might have been different had those faults not occurred.

Was written in response to this statement of complaint:

1. The complainant, whom I shall refer to as Ms B, complains the Council in its dealings with her as a prospective adopter:
 - a. breached the stage 1 adoption plan (agreement) in which it had agreed to work with her in partnership in an open and honest exchange, with the opportunity to discuss and resolve any concerns that may arise during stage 1;
 - b. discriminated against her as a single person, showing a lack of sensitivity and empathy and unkind behaviour;
 - c. made personal, offensive and unprofessional judgements and comments about her character, leading to her being misrepresented in her application; and
 - d. provided a poor administrative service, including poor communications.

Some alternative ways to write summaries

The following examples are where the management review group thought the original summary could be improved.

Original version

The Ombudsman will not investigate Mr W's complaint about action taken by the Council over the condition of properties he used to own. The Ombudsman cannot look at why the Council prosecuted Mr W as she cannot investigate court action. Mr W had a right to appeal the orders the Council made and Mr W's complaint is late.

This could be re-written as:

The Ombudsman cannot investigate court prosecutions taken against Mr W over the condition of properties he previously owned. Mr W also had a right of appeal against the enforcement orders the Council made which would have been reasonable for him to use .

Original version

The Council did not handle Ms J's homelessness application correctly, so she suffered the avoidable distress of being street homeless, and was at times without suitable accommodation while she waited for the outcome of the Council's review. The Council should apologise and pay Ms J £1600 to acknowledge the impact on her of its faults. The Council should also apologise to her sons and pay them £200 each to acknowledge the opportunity they lost to make an informed decision about their future.

This could be re-written as:

Ms J was street homeless because the Council failed to deal with her homeless application properly. The Council has agreed to apologise and pay her and her family £2000 in total to acknowledge the impact on them because of its failures.

Original version

Following Mrs B's house move there was some delay in securing a permanent suitable school place for C. However, this delay was not the fault of the Council. C has access to her original school place, and was then given a place at Z Pupil Referral Unit. C's assessment for a statement of SEN was completed without delay. C was therefore not left by the Council without suitable educational provision. The actions of X School are outside my jurisdiction.

This could be re-written as:

There was no fault by the Council in how it arranged a school place for Mrs C's daughter following a house move. The Ombudsman cannot investigate complaints about the actions of the school involved.

Appendix Four – joint working SOR template

Enter Date

Complaint reference:

14 000 001

PHSO reference

Complaint against:

Ex London Residuary Body

NHS Organisation

The Ombudsmen's decision

Summary: Summary of our decision

The complaint

Summary of the complaint to the Ombudsmen/investigation scope.

The Ombudsman's role and powers

LGO's role and powers.

PHSO's role and powers.

How we considered this complaint

Details of evidence used to consider complaint, including papers from complainant, the bodies and clinical advice.

Key facts

The facts of the case.

What we found

Explanation of reasons for our draft decision – refer to relevant standards, guidance etc., detail any failings and whether these caused an injustice. Investigators can use whatever subheadings they wish, including, for example, having a 'conclusions' section at the end.

Recommendations

If recommendations have been made, detail them here. Include timeframes for compliance.

Investigators' decision on behalf of the Ombudsmen