Highways England: Corporate complaints process

Introduction

Highways England defines a complaint as: *an expression of dissatisfaction on the service we have provided (whether or not a response is required).*

This guidance is for internal staff and our supply chain, to help our organisation deliver excellent customer service. It does not cover staff grievances, requests made under the Freedom of Information Act, Environmental Information Regulations or Data Protection legislation. Customers can access our complaints process on our website.

Everyone working in our organisation and supply chain has a responsibility to follow the complaints process, to ensure customers receive a consistent and high level of service. At every stage, the customer should be provided with a point of contact and responded to in their preferred method of communication, taking into account any reasonable adjustments such as large text or providing a response over the telephone. Our complaints process follows the principles of good complaint handling promoted by the Parliamentary and Health Service Ombudsman (PHSO).

It is vital that all complaints and correspondence are properly logged and recorded. If a complaint is referred to an Independent Complaints Assessor (ICA), the PHSO or if the customer is deemed unreasonable, a complete case history of the complaint and supporting paperwork will be required.

Compensation Claims

- Customers may request financial compensation for alleged failings on our part. Advice can be sought from the Red Claims Team within Finance and Business Services, who handle the majority of third party claims such as personal injury and vehicle and property damage. Further information is available here.
- The team do not handle claims relating to Part I Land Compensation Act, schemes within major works or claims that service providers deal with as stipulated in their contracts.
- Consolatory payments are less tangible and are for inconvenience, annoyance and distress. Advice on dealing with these and getting them approved should be sought from the Financial Governance Team in Finance and Business Services. More information on the special payments procedure is available here.

Unreasonable customers

Situations may occur where customers enter into long running, repetitive and unproductive rounds of correspondence. It is important to provide details of the complaints process in every response so they can decide if they want to take it further. If the correspondence continues with no new topics or you believe the complainant to be unreasonable, please refer to the unreasonable customer guidance.

General Enquiries

- General enquiries should always be responded to within 15 working days.
- If the timescales for a full response are not going to be met, then an interim response should be sent as soon as possible explaining the reasons for the delay and when a response can be expected.
- If the customer has not received a response within 15 working days, the enquiry should automatically be treated as a stage 1 complaint (unless an interim response has been sent).

Complaints process (see process flows)

Stage 1 – Local resolution.*
Stage 2 – Director review.*
Stage 3 – Review by an Independent Complaints Assessor.

- The majority of complaints come through our Customer Contact Centre (CCC); often the CCC will try to resolve these at the first point of contact.
- If customers are not happy with the response or the CCC is unable to supply an initial response, the complaint will be sent to the relevant Highways England team or service provider to respond as a stage 1 complaint.
- If the complaint is addressed to the Chief Executive, then a response at stage 1 should be sent by the relevant Executive Director.

Stage 1 – Local resolution.

- The Highways England team or service provider directly involved with the issue being complained about will respond within 15 working days.
- **A response from our service providers constitutes a response from Highways England.**
- All responses should include a link to our complaints process, so customers can decide how they want to pursue their complaint if they are unhappy.
- If a customer feels unhappy with our initial attempt at resolving the complaint but does not explicitly ask for it to be escalated, it can still be dealt with at stage 1. In this situation a resolution could be found either through providing more information or taking further action(s). The relevant Highways England team should decide if this is appropriate or if it should be escalated to stage 2.
- The complaint should always be escalated to stage 2 if the customer explicitly requests it after receiving the initial response (this includes responses from service providers), or if a response is not provided within 15 working days.
- Responses are the responsibility of the local teams involved, with the relevant business or service manager given authority to approve them.
- Regular quality checks of responses sent by service providers' and local Highways England teams should be undertaken using the correspondence quality checklist, to ensure initial responses are of sufficient quality to help resolve complaints and reduce the need for escalation.
- Local Highways England teams should ensure that service providers are making them aware of complaints that are not resolved at first contact, to agree the way forward and whether or not escalation is required.
- If a complaint is addressed to the Chief Executive, a response at stage 1 should be provided and sent by the relevant Executive Director.*

Stage 2 – Director review.

- If the complaint has not been resolved in stage 1 it will be investigated, including the manner in which it was handled during previous responses, by the relevant Regional or Divisional Director (or where appropriate the relevant Executive Director or the Chief Executive). A further response will then be provided within 15 working days of the date of escalation to stage 2.
- If a stage 1 response has been sent by an Executive Director, then the response at stage 2 will be sent from the Chief Executive.*
- Stage 2 investigations should be independent of stage 1, specifically the response must be sent by a different and more senior member of staff than the stage 1 response.

- If this fails to resolve the complaint, consideration should be given if any further information or a different channel of communication (such as a phone call or face to face meeting) could help resolve the complaint.
- If the customer remains unhappy, either they or the relevant Director can refer the complaint to an Independent Complaints Assessor.
- The Chief Executive retains the right to review any stage 2 complaints.

Stage 3 – Review by an Independent Complaints Assessor (ICA).

- If customers still do not feel we have handled their complaint properly they can ask for it to be referred to an ICA.
- The ICA is not a civil servant and independent of DfT and Highways England.
- The ICA will look at whether or not we have handled the complaint appropriately and provided a reasonable response and decision.

- The ICA **can** look at complaints about:
  - Bias, discrimination, unfair treatment or inappropriate staff behaviour.
  - Poor or misleading advice.
  - Failure to give information.
  - Mistakes.
  - Poor administration or unreasonable delays.

- An ICA **cannot** look at complaints about:
  - Legislation or government, departmental or business policy.
  - Matters where only a court, tribunal or other body can decide the outcome.
  - An ongoing investigation or enquiry.
  - Personnel and disciplinary decisions or actions as an employer.
  - Any complaint that has been, or is being, investigated by the Parliamentary and Health Service Ombudsman.

- An ICA also cannot usually look at any complaint that:
  - Has not completed all stages of our complaints process.
  - Is more than 6 months old from the date of the final response we provided.

If the complaint falls within either of these categories, the customer will need to explain why they believe it should be reviewed on an exceptional basis.

- The decision to investigate is for the ICA to make and they will make direct contact with the customer to advise of the next steps.
- The ICA will need to see all the letters and emails between us and the customer, usually within 15 working days of the referral.
- The ICA will aim to review the case within 3 months.
- When the ICA has reviewed the complaint, they will write to the customer with details of what they've decided.
- Arrangements for the ICA are made by our complaints team.
- Please see full guidance for the review process to the ICA here.

If at the end of the complaints process, the customer remains unhappy, they can ask a Member of Parliament to refer the complaint to the Parliamentary and Health Service Ombudsman (PHSO). Further information about their services is available on their website.

There is nothing to prevent someone going direct to the PHSO but they will usually be referred back to us if they have not given us the opportunity to resolve their complaint first.

Unreasonable customers

Highways England defines unreasonable customers as: *customers who because of the frequency or nature of their contact may hinder our consideration of their complaint or enquiry, or the service to others.* Excessive contact is defined as: *that which is likely to cause disproportionate or unjustified levels of disruption, irritation or distress.* Please note this policy can apply to enquiries as well as complaints.

If you are thinking of classifying a customer as unreasonable, careful consideration should be given to whether or not they meet one or more of the criteria below:

- Refusing to adhere to the complaints process, whilst insisting that the complaint needs to be resolved; such as setting unrealistic timescales for a response or insisting that only personal contact with the Chief Executive is acceptable.
- Refusing to be specific, continually changing the basis of the complaint (or enquiry) or introducing irrelevant information to make any review or resolution problematic.
- Adopting a 'scattergun' approach by sending the complaint (or enquiry) to numerous people within the organisation. Note this is not the same as the sending a copy of the complaint to someone else legitimately such as their Member of Parliament.
- Making unnecessarily excessive demands on the time and resources of staff while a complaint (or enquiry) is being looked into. For example, numerous phone calls or emails to staff and expecting immediate responses.
- Submitting repeat complaints (enquiries) on the same issue whilst not providing any significant new information or refusing to accept the outcome, even after the full complaints process has been completed.
- Using abusive, threatening or offensive language or behaviour.

Service providers should make Highways England teams aware of any such cases of potentially unreasonable customers, so the process can be followed appropriately.

Before deciding to categorise a customer as unreasonable, the following must take place:

- The complaint is being or has been investigated as fully as possible as per the complaints process.
- Communications with the customer have been fair and adequate.
- The customer has been warned, preferably in writing, allowing an opportunity for them to reflect and change their behaviour.

Possible actions if a customer is deemed unreasonable:

1. Contact with the customer is only accepted via one channel, such as in writing. Other enquiries via telephone will be disregarded or stopped, unless it is of a safety critical nature such as notification of debris.
2. Only new and legitimate enquiries or complaints from the customer will be discussed, contact relating to previous or historic complaints and enquiries will be disregarded or stopped.
3. All communication with the customer is handled by one point of contact only; usually an appropriate member of staff from the relevant team, who will seek to recover the relationship or make recommendations to the Regional Director for what action to take next.
4. In extreme cases and if the customer has been aggressive and abusive, consideration should be given to terminating all contact, regardless of the nature of the enquiry.

Note: Action could include a combination of available options and careful consideration should be given throughout this process to avoid a breakdown in the relationship with the customer where possible. The decision to treat a customer as unreasonable and the subsequent action to be taken (including length of restriction) requires approval by the Regional or Divisional Director.

If the decision is made to apply this policy, the customer is to be informed in writing advising that:

- The decision has been taken to categorise them an unreasonable customer and why.
- What action is to be taken.
- How long any restrictions will last (if the behaviour changes it may be appropriate to review the situation).
- What the customer can do to have the decision reviewed.

Customer review:

- The Regional or Divisional Director will review the restrictions on the customer every 6 months.
- If the customer disagrees with the decision to make them unreasonable or the restrictions placed upon them, they can ask for this to be reviewed by the relevant Executive Director.

Keep records of all contacts with the customer and the decision process such as when:

- The customer is warned about their behaviour.
- A decision is taken to apply the policy, what action is taken and who approved it.
- A decision is taken not to apply the policy.
- A decision is taken not to put a further complaint from the customer through our complaints process for any reason.

If a customer is deemed unreasonable, the relevant team is required to place their name on the unreasonable customers handling plan, so all colleagues can be aware of what action to take when and if receiving enquiries from them.

There is nothing in our complaints process that prejudices or prevents a referral of their complaint to the Parliamentary and Health Service Ombudsman and this should be made clear to the customer.

To discuss this guidance, please contact the Customer Development Team.

Last review: February 2018.
Next review: July 2018.