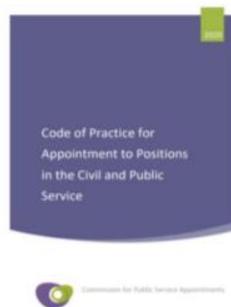


## Reviews and complaints

If a candidate is unhappy following a selection process, the Code of Practice outlines the review and appeal mechanisms open to them.

Candidates can either request a review of a decision made during the process, under Section 7 of the Code, or they can make a complaint about the process itself, under Section 8 of the Code.



### Requests for a review (Informal Section 7)

If a candidate is unhappy with a decision made during a selection process, believes it was made on the basis of incorrect information or that documented procedure was not followed, they can ask for a review under Section 7 of the Code. The decision may be reversed if it is found to have been incorrect.

### Complaints (Section 8)

If a candidate thinks the selection process was unfair and in breach of the Code of Practice, they can make a complaint about the process under Section 8 of the Code. If the selection is found to have been unfair, the decision will not be reversed. However, changes may be made to the process to ensure a breach does not happen again.

### Requests for a review (Section 7)

If a candidate is unhappy with a decision made during a selection process, believes it was made on the basis of incorrect information or that documented procedure was not followed, they can ask for a review under Section 7 of the Code.

Reviews are carried out by the public body making the appointment. There are two stages in the review process, informal and formal. A request for a review will usually be handled informally at first.

A candidate must ask for an informal review within **five working days** of being told of the original decision. If there has been an error, this will give the public body time to take corrective action without delaying the appointment. However, a public body is not obliged to stop a selection process if asked for a review.

On receipt of a request, the public body will appoint an informal reviewer. This should be someone with a connection to, and good understanding of, the whole selection process. This will usually be someone in the HR unit.

The informal review stage may often involve a telephone conversation or a meeting between the reviewer and the candidate. This will give them an opportunity to:

- Discuss in greater detail why they believe the decision was incorrect
- Talk about the procedures followed and the information that was assessed during the process
- Consider whether the candidate thinks the decision was incorrect, having been provided with more information

On foot of a preliminary examination of the available evidence the reviewer will establish whether, in their opinion, the original decision should be upheld. The public body will then decide if any action needs to be taken.

If a candidate is not happy with the outcome of the informal review, they can ask for a formal review. A candidate must make this request within **five working days** of the outcome of the informal review.

A candidate must ask for a formal review within **five working days** of being informed of the original decision. If they have already asked for an informal review, they must request a formal review within **five working days** of the outcome of the informal review.

The public body will then appoint a formal reviewer. This should be someone independent, with no connection to the selection process. They will carry out a thorough examination of all of the information available. They will also meet with members of the selection board, where relevant, to discuss aspects of the process or the decision made.

The formal reviewer will decide if the original decision should be upheld. The decision will be outlined in writing and issued to the HR unit in the first instance. The public body will then decide if any further action needs to be taken.

The candidate should be issued with a copy of the formal reviewer's decision, along with any additional information on the next steps, as required.

### **Timeframes**

The timeframes for asking a public body for a review are as follows:

- Candidates must ask for an informal review within **five working days** of the selection decision
- Candidates must ask for a formal review within **five working days** of the informal review decision, or ten working days of the original selection decision
- The public body should give candidates the formal review decision within **twenty-five working days** of receiving their request

If a candidate makes a complaint outside of these timeframes, they may be refused.

The timelines outlined in the Code are intended as a guidance for public bodies. The Commission accepts and understands that organisations may not be operating to these exact timings and may develop complaint mechanisms and processes that work best for their candidates and business needs. The Commission does however, expect that all candidates have the opportunity of timely access to complaint mechanisms and natural justice.

## **Role of the reviewer (section 7)**

### **Informal reviewer**

When a request for a review is received, the role of the informal reviewer is to determine whether, in their opinion, the original decision was made appropriately, on the basis of correct information and in line with documented procedure.

The role of the reviewer is not to reassess or remark the candidate, but rather to establish whether any errors occurred during any part of the selection process.

The informal reviewer should be someone who had a close connection to, and good knowledge of, the selection process, however was not directly involved in the decision making process. This will normally be a member of the HR unit, who was involved in the organisation of the process.

The informal review is largely a desk-based examination of any readily available information. This should include an examination of the candidate's recruitment file. Depending on the nature of the request, this may include (but is not confined to) consideration of:

- Internal procedures
- Job notice
- Guidance issued to candidates
- Interview notes
- Scoring sheets
- Assessment mechanisms
- Guidance issued to board members
- Application forms
- Marking/feedback sheets

Note - the role of the informal reviewer is not to reassess or remark the candidate. The role of reviewer is to establish, on foot of the available information, whether he/she considers:

1. The procedures set out for the selection process were followed correctly
2. The original decision was made on the basis of correct and full information
3. The original decision was made appropriately

In addition to this, the informal review is considered an avenue for candidates to be provided with additional information and clarification on the decision making process in their case. This is to help them understand the decision reached.

In this regard, the informal stage may often involve a telephone conversation or a meeting between the informal reviewer and the candidate. This gives the reviewer and the candidate an opportunity to:

- Discuss in greater detail why they believe the decision was incorrect
- Talk about the procedures followed and the information that was assessed during the process
- Consider whether they think the decision was still incorrect, having been provided with more information

Following an examination of the relevant information the reviewer will issue a decision on the informal review. The review will make a decision as to whether to uphold the original decision or not. This should be issued in writing and should be supported with a brief explanation as to how it was reached. The reviewer's decision will be considered by the HR unit in the first instance. Where an informal reviewer has decided to not uphold the original decision, a decision must be made by the HR unit on appropriate next steps. Such steps can only be determined on a case by case basis, however may include:

- Correcting administrative/accounting errors
- Correcting marking/panel placement on foot of errors
- Reconvening the selection board on foot of missed information

Following this, a copy of the informal decision should issue to the candidate from the HR unit, including additional information on next steps, where relevant.

### **Formal reviewer**

When a request for a formal review is received, the role of the formal reviewer is to again determine whether they consider the original decision was made appropriately, on the basis of correct information and in line with documented procedure.

Similar to the informal, the role of the formal reviewer is not to reassess or remark the candidate, but rather to establish whether any errors occurred during the selection process. The formal reviewer should be completely independent of the selection process.

This will normally be another person within the organisation, outside of the HR/competitions unit, who has an understanding of recruitment and selection and the requirements of the Code of Practice. In some cases, the formal reviewers will be an individual outside of the organisation.

The formal review will be a more thorough examination of all relevant available information. While the particular examination will vary from case to case, formal reviews are likely to include:

- Meeting with the complainant
- Meeting with selection board members
- Meeting with relevant members of the HR unit
- An examination of the candidate's recruitment file
- An examination of the procedures in place supporting the process

Depending on the nature of the request, the documentation considered may include (but is not confined to):

- Internal procedures
- Job notice
- Guidance issued to candidates
- Interview notes
- Scoring sheets
- Assessment mechanisms
- Guidance issued to board members
- Application forms
- Marking/feedback sheets

Note - the role of the formal reviewer is not to reassess or remark the candidate. The role of reviewer is to establish, on foot of the available information, whether they consider:

1. The procedures set out for the selection process were followed correctly
2. The original decision was made on the basis of correct and full information
3. The original decision was made appropriately

Following an examination of all relevant information the reviewer will issue a decision on the formal review. The reviewer will make a decision as to whether to uphold the original decision or not.

The formal review decision should be issued in writing and should be supported by detailed information outlining:

- The basis of the review request
- How the review process was carried out
- All relevant information taken into account
- The formal decision
- The basis on which the decision was reached

The reviewer's decision will be considered by the HR unit in the first instance. Where a formal reviewer has decided to not uphold the original decision, a decision must be made by the HR unit on appropriate next steps. Such steps can only be determined on a case by case basis, however may include:

- Correcting administrative/accounting errors
- Correcting marking/panel placement on foot of errors
- Reconvening the selection board on foot of missed information

Following this, a copy of the formal decision should issue to the candidate from the HR unit, including additional information on next steps, where relevant.

### **Complaints (Section 8)**

If a candidate thinks the selection process was unfair and in breach of the Code of Practice, they can complain under Section 8 of the Code.

If it is found to have been unfair, **the decision will not be reversed**. However, changes may be made to the process to ensure future appointments are fair, consistent and transparent.

There are three stages in the complaint process – informal, formal and appeal to the Commission.

A complaint will usually be handled informally at first. If the candidate is still not satisfied, they can then make a formal complaint. However, in some cases the public body and/or candidate may wish to pursue a formal complaint from the outset. In these cases, both parties should discuss and agree this.

When a candidate makes a complaint, they should say clearly how they believe the appointment process was unfair and identify the part or parts of the Code they believe were breached. Otherwise, their complaint may be dismissed.

#### **1**

### **Informal review**

A candidate should make their complaint to the HR unit within a reasonable timeframe. On receipt of a complaint, the public body will appoint an informal reviewer - someone connected with the selection process.

The informal stage often involves a telephone conversation or a meeting with someone linked to the selection process, usually someone in the HR unit. This will give the reviewer and the candidate an opportunity to:

- Discuss in greater detail why the candidate thinks the selection process was unfair and identify the part or parts of the Code of Practice they believe were breached
- Talk about the procedures followed and the assessment process that led to the public body's decision

- Consider whether the candidate still thinks there was a breach of the Code, having been given more information

The reviewer will make an initial decision about the fairness of the process and whether there was a breach of the Code of Practice. The public body will then decide if any action should be taken. If a candidate is not happy with the outcome of the informal complaint, they can make a formal complaint.

## 2 Formal review

A candidate must make a formal complaint within **five working days** of the outcome of the informal complaint. Candidates should make their complaint to the HR unit.

The public body will appoint an independent reviewer – someone not linked to the selection process. They will examine all of the information available. They may also meet with members of the selection board to discuss aspects of the selection or the assessment processes.

The reviewer will decide if, in their opinion, the selection process was fair or in breach of the Code. If the process is found to have been unfair, they may recommend changes to future processes. The public body will then decide if any action should be taken. Candidates should be told the result of the formal complaint within **twenty-five working days**. The public body should keep candidates informed of any delays. If candidates are not happy with the outcome, they can appeal to the Commission.

## 3 Appeal to CPSA

Candidates must appeal within **ten working days** of the outcome of the formal complaint. On receipt of an appeal, the Commission will examine all relevant information. It will decide if the selection process was fair and in keeping with the Code of Practice. Where a breach is found to have occurred, it will either recommend or direct the public body to amend its' selection processes. The Commission's decision can be challenged only through judicial review.

### Timeframes

The timeframes for making a complaint are as follows:

- Candidates must make an informal complaint within a reasonable timeframe
- Candidates must make a formal complaint within **five working days** of the informal complaint decision
- The public body should give candidates the formal complaint decision within **twenty-five working days** of receiving their request
- Candidates must appeal to the Commission within **ten working days** of the outcome of the formal review

If candidates make a complaint outside of these timeframes, they may be refused.

The timelines outlined in the Code are intended as a guidance for public bodies. The Commission accepts and understands that organisations may not be operating to these exact timings and may develop complaint mechanisms and processes that work best for their candidates and business needs. The Commission does however, expect that all candidates have the opportunity of timely access to complaint mechanisms and natural justice.

## **Role of the reviewer (section 8)**

### **Informal reviewer**

When a complaint is received, the role of the informal reviewer is to determine whether they consider that a breach of the Code of Practice occurred during the selection process. A breach of Code of Practice occurs where the selection process is found not to have been carried out in accordance with the principles and standards set out in section 2 of the Code. This means that the selection process was not carried out fairly.

It is essential that any reviewer appointed has a clear understanding of the principles and standards set out in section 2 of the Code and what these mean in practice. When considering individual allegations, it might be useful for reviewer to consider:

1. What standard does the allegation relate to?
2. What does the standard mean?
3. What actions should the public body have taken?
4. What actions did the public body take?
5. What safeguards/procedures should have been in place?
6. What safeguards/procedures were in place?

The informal reviewer should be someone who had a close connection to the selection process, however was not directly involved in the decision making process. This will normally be a member of the HR unit, involved in the organisation of the process. An

informal review will be a largely desk-based preliminary review of readily available information. This will include an examination of the candidate's recruitment file.

Depending on the nature of the request, this may include (but is not confined to) consideration of:

- Internal procedures
- Job notice
- Guidance issued to candidates
- Interview notes
- Scoring sheets
- Assessment mechanisms
- Guidance issued to board members
- Application forms
- Marking/feedback sheets

The informal review is also considered an avenue for candidates to be provided with additional information and clarification on the decision-making process in their case. This is with a view to helping them better understand the decision reached.

In this regard, the informal stage will often involve a telephone conversation or a meeting between the information reviewer and the candidate. This gives the reviewer and the candidate an opportunity to:

- Discuss in greater detail why they believe a breach of the Code of Practice occurred/the selection process was not fair
- Talk about the procedures followed and the information that was assessed during the process
- Consider whether they still think the selection process was unfair, having been provided with more information

Following an examination of the relevant information (and telephone conversation or meeting) the reviewer will issue a decision on the informal review. The reviewer will make a decision as to whether they consider a breach of the Code of Practice has occurred or not. This should be issued in writing and should be supported with a brief explanation as to how it was reached.

The reviewer's decision will be considered by the HR unit in the first instance. Where an informal reviewer has decided that the selection process was not fair, a decision must be made by the HR unit on appropriate next steps. Such steps can only be determined on a case by case basis, however, will likely include amending its selection processes to make sure a breach of the Code does not reoccur. Following this, a copy of the informal decision will issue to the candidate from the HR unit, including additional information on next steps, where relevant.

## **Formal reviewer**

When a request for a formal review is received, the role of the formal reviewer is to again determine whether, in their opinion, a breach of the Code of Practice occurred during the selection process.

A breach of Code of Practice occurs where the selection process is found not to have been carried out in accordance with the principles and standards set out in section 2 of the Code of Practice. This means that the selection process was not carried out fairly.

The formal review is a more thorough examination of the relevant available information. It is essential that any reviewer appointed has a clear understanding of the principles and standards set out in section 2 of the Code of Practice, and what these mean in practice.

When considering individual allegations, it might be useful for reviewer to consider:

1. What standard does the allegation relate to?
  2. What does the standard mean?
  3. What actions should the public body have taken?
  4. What actions did the public body take?
  5. What safeguards/procedures should the public body have had in place?
  6. What safeguards/procedures were in place
- The formal review should be completely independent of the selection process.

The formal reviewer should therefore be someone not connected to the selection process. This will normally be another person within the organisation, not connected with the selection process, but, who has an understanding of recruitment and selection and the requirements of the Code of Practice.

In some cases, the formal reviewers will be an individual outside of the organisation. While the particular examination will vary from case to case, formal reviews are likely to include:

- Meeting with the complainant
- Meeting with selection board members
- Meeting with relevant members of the HR unit
- An examination of the candidate's recruitment file
- An examination of the procedures in place supporting the process

Depending on the nature of the request, the documentation considered may include, (but is not confined to), consideration of:

- Internal procedures
- Job notice
- Guidance issued to candidates

- Interview notes
- Scoring sheets
- Assessment mechanisms
- Guidance issued to board members
- Application forms
- Marking/feedback sheets

Following an examination of the relevant information the reviewer will issue a decision on the formal review. The reviewer will make a decision as to whether a breach of the Code of Practice occurred or not. The formal review decision should be issued in writing and should be supported by detailed information outlining:

- The basis of the complaint
- How the examination process was carried out
- All relevant information taken into account
- The formal decision
- The basis on which the decision was reached

The reviewer's decision will be considered by the HR unit in the first instance. Where a formal reviewer has decided that a breach of the Code did occur, a decision must be made by the HR unit on appropriate next steps. Such steps can only be determined on a case by case basis, however, it will likely include amending selection processes to ensure a breach does not reoccur. Following this, a copy of the formal decision should issue to the candidate from the HR unit, including additional information on next steps, where relevant.

### **What's fair?**

A fair selection process will generally include:

- Clear, unambiguous job specifications
- Unrestrictive eligibility criteria
- Differentiation between essential and desirable requirements
- Shortlisting only on essential (and most desirable) requirements
- Ensuring widest possible, appropriate candidate pool
- Assessment criteria only directly related to requirements
- Objective selection criteria
- Agreed performance indicators, understood by selection boards
- Variety of complimentary assessment mechanisms
- Clear information to candidates and boards
- Training provided to selection boards
- Mechanisms to identify and address conflicts of interest/connections
- Specific and meaningful feedback

- Clear information on complaints procedures
- Selection of best candidate for the role

### **What's a breach?**

Examples of breaches of the Code of Practice include:

- Restrictive eligibility criteria
- Selective advertising and marketing
- Ambiguous assessment criteria
- Selection criteria not based on the requirements for the role
- Inconsistent treatment of candidates
- Misleading or incorrect information
- Failure to safeguard against bias or discrimination
- Failure to document the selection/decision making process
- Inadequate training of board members
- Failure to advise on the review mechanisms available
- Feedback not specific and meaningful