

Asking for a decision review

Introduction

This leaflet explains how to ask us for a review of our decision.

We make a decision on each whistleblowing complaint we receive. We do this by taking into account the relevant evidence and the views and opinions of both the person making the complaint and the organisation being complained about.

When we consider a complaint, we expect the parties to accept the way we work and our authority to make a decision about the complaint. Not all the complaints we receive can be investigated by us. We will work with complainants and organisations complained about to make sure we have enough information to make a decision and that this information is accurate.

Eligibility

Where we have decided not to investigate, or decided to discontinue an investigation, you may ask for a review of our decision.

Both the complainant and the organisation complained about may request a review.

Not all of our decisions are eligible for review under this process. Towards the end of an investigation, we issue a provisional decision and seek comments from both parties. Following this, and once we have considered the comments, we issue a final decision. This represents our final position. The review process cannot be used to challenge the findings in a provisional or final investigation decision. (See section on **Judicial review** for further details.)

Asking for a review

If you want to ask for a review, we would appreciate you using a **review request form**. We can also send you a copy if you call us on Freephone **0800 008 6112**.

Contact us on this number if you would like to make your review request in a different format, and we will help you to make sure that it covers everything it needs to.

If you are the organisation complained about, it is important that the review request comes from the Chief Executive (or equivalent) or someone authorised to act on their behalf.

The Independent National Whistleblowing Officer (INWO) considers all review requests, except where she has a conflict of interest. She will only change a decision if you:

- send new information, and/or
 - demonstrate information we used was wrong, and/or
 - demonstrate we made a mistake
- AND
- it has an impact on the original decision.

The INWO will not change a decision simply because you disagree with it.

New information

If you have new, readily available information that we have not seen and you feel it could affect our decision, it is your responsibility to send it to us. You must explain why you think the new information changes our decision.

We may share the new information with the organisation complained about, or the complainant if you are the organisation asking for a review. We do this to give both parties the chance to consider it before the INWO makes a final decision on the complaint and issues her response to your review request.

Inaccurate information

If you feel our decision was based on evidence that contains information that is not accurate, you must explain why and send us information to support your view. The information should be readily available, and it is for you to send it.

Mistakes

We are committed to quality, but very occasionally we make a mistake that is down to human error; for example, a mathematical error when working out a time period.

The circumstances of each complaint vary, but if you think we have made a mistake, explain it to us, sending any information you have to support your view and we will take another look at it.

Timescales

You should send us your review request and all the supporting information within six weeks of the date of our decision letter. We will not accept review requests made later than six weeks, unless you can show there were special circumstances that meant you were unable to do so.

If you think you will not be able to meet the timescale for any reason, you should contact us as soon as possible to discuss this with us.

If you are waiting for a response to a Freedom of Information request, or a Subject Access request that you consider is crucial to the review of our decision, do not delay sending your review request. You should send it with any other information you have and tell us:

- when you made your information request,
- to which organisation,
- when you expect a reply, and
- why you think it is relevant to your review request.

If you are unsure about your request for review or how to make it, please contact us to discuss this before you send it.

What happens to your request

The INWO considers all review requests, except where she has a conflict of interest. Her response will tell you whether she upholds the original decision, has changed the decision, or has reopened the complaint for further consideration. This is her final decision on your complaint.

The INWO recognises that some review requests may raise patient/staff safety issues and she will consider such cases as a matter of priority. Overall, she aims to respond to review requests on a timely basis, with:

- 40% being responded to within 50 working days or less, and
- 95% being responded to within 90 working days or less.

The SPSO's Annual Reports contain information about how many review requests we receive. You can view these at: www.spsso.org.uk/annual-reports.

Judicial review

If you want to challenge the INWO's final decision, you will only be able to do this using judicial review proceedings. Judicial review is a form of court proceeding where a judge reviews whether a decision or action by a public body is lawful.

You may want to take legal advice before deciding whether this is appropriate in your case.

Your information

We are committed to protecting your privacy. We use information given to us about you and your complaint (or review) for its intended purpose and in line with the Data Protection Act 2018 and the SPSO Act 2002. For more information about how we handle your privacy and protect your information see our website www.spsso.org.uk/privacy-notice or ask us for a copy.

How to contact the INWO



Review request form

Download a **review request form** or contact us to ask for one



SPSO - INWO Team

Bridgeside House
99 McDonald Road
Edinburgh EH7 4NS

Opening hours: Monday, Wednesday, Thursday, Friday 9am-5pm,
Tuesday 10am-5pm



A freepost envelope can be supplied if this is required.



INWO freephone **0800 008 6112**



Website <https://inwo.spsso.org.uk/>
Online contact form <https://inwo.spsso.org.uk/contact-form>



Email INWO@spsso.gov.scot

INWOReviewLeaflet-0621



Please contact us if you would like this leaflet in another language or format (such as large print, audio, BSL or Braille).