



Office of the
**HEALTH
OMBUDSMAN**

Listen. Respond. Resolve.

Internal Review Policy

Office of the Health Ombudsman

Internal Review Policy

Commitment

The Office of the Health Ombudsman (OHO) is committed to managing complaints in a transparent, accountable and fair manner. The OHO is also committed to protecting the health and safety of the public, providing exceptional service to stakeholders, and to identifying ways to improve our business processes. To this end, the OHO provides all stakeholders (complainants and providers) with a pathway to seek an internal review of the administrative decisions made by OHO decision makers.

Scope

This policy applies to certain statutory decisions made by the Health Ombudsman, or his/her delegate, under the *Health Ombudsman Act 2013* (the Act).

Power to amend or repeal decisions

Where there is no express power in the Act to vary or change decisions made under the Act, section 24AA of the *Acts Interpretation Act 1954* provides a source of power to amend or repeal decisions. The power to amend or repeal a decision can be exercised in the same way and subject to the same conditions as the power to make the decision.

What to do if you are dissatisfied with a decision

If you are of the view that a decision made by an OHO decision maker is not correct, you are encouraged to initially contact the original decision-maker to discuss your concerns. It may be that the original decision-maker can provide you with a further explanation or answer any queries you may have.

If after this contact, you still believe the decision is not correct, you may make a written request for internal review of the decision in accordance with the requirements set out below.

Time to request an internal review

Requests for internal review of a decision must be made in writing within 28 calendar days of the date of the decision letter. Any request for an extension of time must be justified by a satisfactory explanation for the delay.

How to make a request for internal review

Requests for internal review must be:

- In writing¹
- Refer to the relevant case reference number
- Provide a concise summary of the reasons or grounds for internal review

¹ If you are unable to make your request in writing, please telephone this office on 133 646 and we will assist you.

- Provide your preferred contact information

You may lodge your request for internal review:

By email: reviews@oho.qld.gov.au.

OR

By post: Internal Reviews
Office of the Health Ombudsman
PO Box 13281 George Street
BRISBANE QLD 4003

Grounds for internal review

A request for internal review must specify clear reasons why you believe the decision is not correct. This is referred to as your 'grounds for internal review'.

You may also provide new information or material which was not available at the time the original decision was made. Any new information or material, however, must be relevant to the decision that is subject of review. In relation to new information not relevant to the decision under review, consideration will be given to whether the new information constitutes a new complaint.

You will be informed in writing about the decision in relation to your request for internal review. Your request for internal review may be refused on the basis that you have not identified any grounds for internal review.

What decisions can be reviewed?

- A decision that the complaint is not within the jurisdiction of the Health Ombudsman.
- A decision to not accept a complaint.
- A decision to take no further action, at any stage of the complaint management process, under section 44 of the Act.
- A decision to not facilitate local resolution under section 43A, following receipt of a mandatory report from a state entity under section 93 of the Act.

What decisions are excluded from this policy?

The following decisions are excluded from the operation of this policy because they are not final and operative decisions that end the complaint management process. The unavailability of internal review in these circumstances does not affect the right to make a service delivery complaint in relation to way the office has managed a particular matter.

- **A decision to accept a complaint and take particular relevant action to deal with the matter of the complaint**

A decision to accept a complaint is a preliminary decision and the decision to take a relevant action is not a final and operative decision which will interfere with the rights of any person.

- **A decision to assess under part 5 of the Act**

A decision to assess is a preliminary decision. Once the assessment process is in progress, there is no legislative power to stay the assessment, pending the outcome of an internal review process. The assessment process is an analysis of information gathered to determine the most appropriate way to further deal with the complaint.

- **A decision to facilitate local resolution under part 6 of the Act**

A decision to facilitate local resolution is a preliminary decision. Once the local resolution process is in progress, there is no legislative power to stay local resolution, pending the outcome of an internal review process. The local resolution process is voluntary and either party can elect to not participate in the local resolution process.

- **A decision to conciliate under part 11 of the Act**

The decision to conciliate is a preliminary decision. Once the conciliation process is in progress, there is no legislative power to stay the conciliation, pending the outcome of an internal review process. The conciliation process is voluntary and either party can elect to not participate in the conciliation process.

- **A decision to refer to the National Agency under section 91 of the Act**

The decision to refer to AHPRA is a preliminary decision made within the co-regulatory environment. The referral commences the AHPRA process and the Health Ombudsman has no legislative power to stay/stop or amend/repeal a decision made by AHPRA. Procedural fairness/natural justice will be provided within the AHPRA process.

- **A decision to refer to another government entity under section 92 of the Act**

The decision to refer to another government entity is a preliminary decision. The referral commences the process of the government entity and the Health Ombudsman has no legislative power to stay/stop or amend/repeal a decision made by the government entity. Procedural fairness/natural justice should be provided within the process of the government entity.

- **A decision to take immediate action under Part 7 of the Act**

There is a show cause natural justice process (either before or after the immediate action proposed) and a clear right of review exists through the Queensland Civil and Administrative Tribunal (QCAT).

- **A decision to investigate the complaint under part 8 of the Act**

The decision to investigate is not a final and operative decision that interferes with the rights of a person. Whilst the investigation is in progress, there is no legislative power to stay the investigation, pending the outcome of an internal review. Investigation provides, among other things, opportunities for the parties to be interviewed and for evidence to be examined.

- **A decision by the Health Ombudsman to refer a matter to the Director of Proceedings (DOP)**

The decision to refer to the DOP is not a final and operative decision that interferes with the rights of a person. There is no legislative power to stay the consideration of the matter by the DOP pending the outcome of an internal review process.

- **A decision by the Director of Proceedings to refer a matter to the Queensland Civil and Administrative Tribunal (QCAT) under section 103 of the Act**

A clear right of review exists through the QCAT process. There is no legislative power to stay a QCAT proceeding pending the outcome of an internal review process.

- **Any decision made under Part 12 of the Act in relation to an Inquiry**

The Inquiry process is the commencement of a process with clear obligations to observe natural justice in the Act. There is no legislative power to stay an Inquiry pending the outcome of an internal review process.

The internal review process

Your request for internal review will be considered independently, by a delegate who is of equal or more senior level to the officer who made the original decision. To ensure an objective approach free of bias, your request will not be considered by the original decision-maker. Delegates aim to be consistent in their approach and will act independently, exercising their own judgment within the confines of the Act.

You may withdraw your request for internal review at any time before a decision is made.

What types of decisions can be made on internal review?

An internal review is what is known as a 'merits review', which means the delegate will 'stand in the shoes' of the original decision-maker. The delegate will consider all the information and material which was before the original decision-maker, and any additional relevant information or material provided as part of the request for internal review.

The delegate may make any of the following decisions:

- Uphold the original decision
- Amend the original decision
- Repeal the original decision and substitute a new decision.

The outcome of internal review

Depending on operational demands and the complexity of the issues raised, the internal review process aims to be completed within 60 days. You will be informed of the internal review decision in writing.

What if I am not satisfied with the internal review decision?

If you are not satisfied with the decision made on internal review, or any part of the internal review process, you may make a complaint to the Office of the Queensland Ombudsman.

You may wish to visit their website at www.ombudsman.qld.gov.au to see how they can assist you.

The contact details for the Office of the Queensland Ombudsman are as follows:

Address: Level 17, 53 Albert Street
Brisbane QLD 4000

OR

GPO Box 3314
Brisbane QLD 4001

Telephone: 07 3005 7000 or Free call 1800 068 908

Email: ombudsman@ombudsman.qld.gov.au

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