

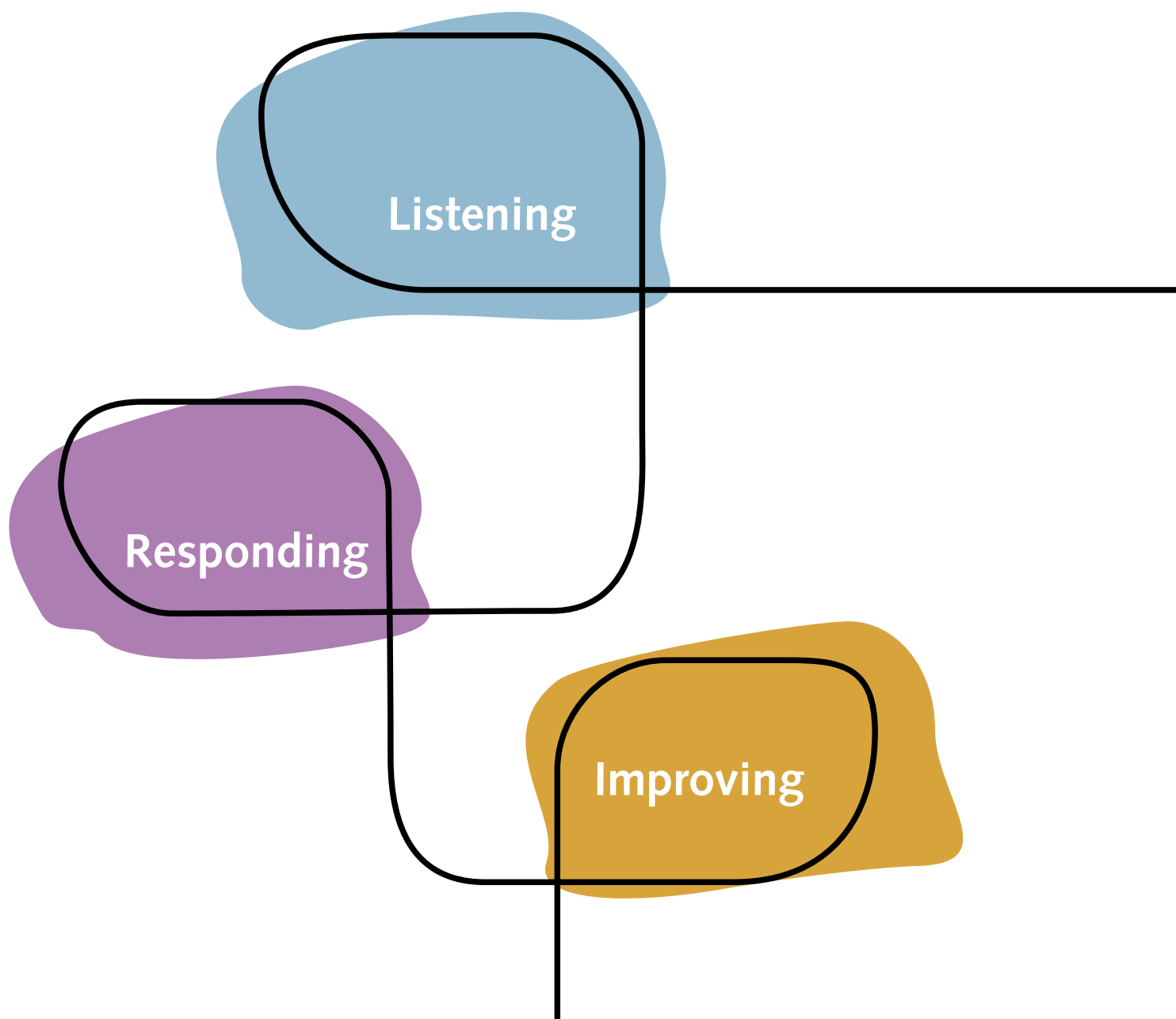
ADVICE SHEET 1:

Investigating complaints

About this resource

When something has gone wrong, it is vital to establish the facts about what happened in a systematic way. For serious complaints, it may be necessary to involve an independent investigator, but most complaints will be looked into by someone from the organisation involved.

Anyone who carries out an investigation should be appropriately trained and independent of the service being complained about. This advice sheet sets out some of the issues you might want to consider if you are involved in investigating a complaint.



BE CLEAR ABOUT YOUR ROLE

The role of the investigator is to ascertain the facts relating to a complaint, assess the evidence and report their findings. You may also be asked to make recommendations. As an investigator, you should always aim to be impartial and examine the facts and evidence logically. It is essential to remember that an investigator is neither an advocate for the complainant, nor a spokesperson for the organisation.

BE CLEAR ABOUT WHAT YOU ARE INVESTIGATING

It is important to be clear from the start about what exactly you are investigating, and to make sure that both the complainant and the service agree.

The following questions can help you define the task:

- a) What should have been provided? What was expected?
- b) What was provided? What actually happened?
- c) Is there a difference between a) and b)?
- d) If the answer to c) is yes, why?
- e) If the answer to c) is no, why does the complainant think otherwise?
- f) What was the impact of d)?
- g) What should be done to put things right?
- h) What should be done to avoid a recurrence?

UNDERSTAND THINGS FROM THE COMPLAINANT'S PERSPECTIVE

It is a good idea to talk to the complainant as soon as possible. An early conversation can:

- help you define the investigation by understanding, from their perspective, the gap between what happened and what should have happened
- provide an opportunity to clarify what they would like to see happen and to manage any unrealistic expectations
- help to obtain any information or documentation you need.

CAN YOU REACH ROBUST CONCLUSIONS?

A key question to ask yourself before beginning any investigation is whether you will be able to reach any robust conclusions. For example, if a complaint is solely about something said in a conversation, and there is no record of it or witnesses, reaching a robust conclusion is unlikely, and another route, such as mediation, may be more appropriate. To help with this, it may be useful to ask yourself some of the following questions:

- Is the complaint based on a reasonable assessment of what should have been provided by the organisation?
- Will it be possible to establish relevant facts?
- Can an investigation and any subsequent actions achieve what the complainant wants?
- Could any immediate action be taken to resolve the complaint?

Put in place a good plan

The key to a good investigation is a good plan. A plan will help you to focus on the key issues and highlight any problems early on that may need to be addressed.

Things to consider when writing a plan include:

- the three key questions that define your investigation: What happened? What should have happened? What are the differences between those two things?
- the background information essential for understanding the complaint, whether this needs to come from the complainant or the organisation. For example, the basis of the action taken by the organisation (legal requirement, policy etc.)
- the quality and completeness of the organisation's response
- any legal or jurisdictional parameters to the investigation that need to be managed. For example:
 - linked cases, either by subject or party
 - precedents such as decisions taken by regulators or Ombudsmen on similar matters
 - legislation applicable at the time of the incident
 - sources that evidence will need to be tested against, such as a code of conduct, guidelines or accepted best practice
 - any pre-agreed timescales.

TIPS ON OBTAINING EVIDENCE

Documentary evidence is usually the main source of information for an investigator.

When analysing this information, it is a good idea to check whether the evidence is complete, relevant and understandable. If you have any doubts about the above, put the onus on the supplier of the evidence to prove completeness, assure relevance and provide an explanation.

When you do get evidence, it is important to acknowledge the fact, log it and keep it secure.

Sometimes it will be necessary to conduct interviews to get the evidence you need.

To conduct a successful interview, it is important to:

- understand the needs of the person and the background to the complaint
- know the questions you want to ask in advance
- know when specialist support is needed
- let the interviewee know in advance what you are likely to ask, so they can prepare, and explain that you would like to record the conversation with their permission
- give the interviewee the option of having a witness of their choice present
- hold the interview in a private place and avoid interruptions.

Sometimes a proper understanding of the issues will require a visit to the location(s) in question. Site visits can be a useful way to understand and put into context the other sources of evidence. As with other forms of evidence, don't forget to make a note of the visit and any interviews/discussions carried out.

PINPOINT THE AREAS OF DISAGREEMENT

Once you have all the evidence, you can review it to identify all points of agreement and disagreement. It can be useful to summarise these for everyone concerned.

It can be very helpful to the process and constructive to issue a statement of agreement early on. This lets all parties know that there is a basis of agreement to build on. This then allows all attention and resources to be focused on the areas of outstanding disagreement.

When areas of contention have been found, most investigators have three basic choices:

1. to uphold the view of one party because this is clearly supported by the evidence
2. to request additional information to explore the matter further
3. to decide that the available evidence will never be conclusive.

The investigator normally works through all the points of contention until they have reached a considered view on every aspect of the complaint.

Reach a conclusion and make recommendations

When reaching a conclusion, it is a good idea to run through the questions you used to define the investigation (see 'Be clear about what you are investigating' on page 2).

When it comes to making any recommendations, it is essential to think about the failures that have led to the complaint. Potential failures include:

- human error or inappropriate behaviour by a member/members of staff
- the poor application of resources, e.g. too late, incomplete, insufficient prioritisation
- procedural or administrative problems
- services not able to deliver the requirement
- the organisation failing to understand or accept its responsibilities.

When making recommendations, try to make them practical, proportionate and constructive.

Tips on preparing your report

The purpose of your report is to record and explain the conclusions you have reached. A good report is likely to be:

- **complete:** Does the report cover all the relevant aspects of the complaint and address all the required issues?
- **relevant:** Does everything in the report contribute to an understanding of the conclusions reached by the investigator or explain any recommendations made?
- **logical:** Does the report present a reasoned and understandable progression from complaint to conclusion?
- **balanced:** Does the report appear impartial, rooted in fact and measured in tone? Does the report deal with the issue from the viewpoint of the complainant but also establish the right context for the actions of the organisation?
- **robust:** Does the report make sense and present a coherent argument in support of the investigator's conclusions and recommendations?

A report should not come as a surprise to anyone involved, so it is a good idea to be as open as possible with both parties during the investigation.

Give both parties the chance to give feedback

Before the report is finalised, everyone involved should have the chance to give you their views on what you have said. It is important to correct any factual inaccuracies before publication.

If you change the report in any major way, remember to let all the parties know and give them a chance to comment before the final report is issued.

Common investigation pitfalls

To help you avoid them, here is a list of common investigation pitfalls:

- poor planning
- unclear or unachievable objectives
- a lack of objectivity/impartiality
- a reliance on unproven assumptions and/or unsubstantiated evidence
- not following the proper processes
- a failure to obtain all the relevant evidence available
- poor analysis
- poor investigation documentation and data management
- poor communication, especially in relation to explaining the investigative process and in managing unreasonable expectations
- a failure to ensure appropriate support for the complainant
- a failure to control unacceptable or unreasonable behaviour
- a failure to present conclusions in a clear and logical manner
- making unrealistic recommendations.

Tip for success

At the heart of every successful investigation is the application of a logic that takes the reader on an understandable journey, from the complaint to the conclusion and, where appropriate, on to the recommendations.



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