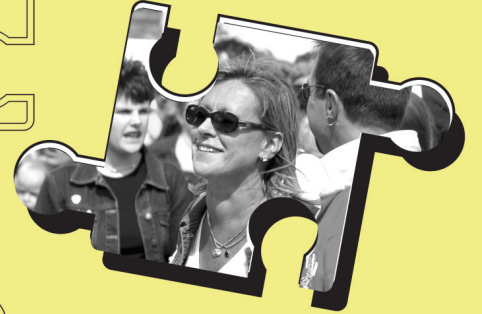


Dover & District Compact

Resolving Disputes Procedure



Resolving Disputes Procedure

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Why have a disputes resolution procedure?

The purpose of Dover & District Compact is to strengthen partnership working between public bodies and the voluntary and community sector. The Compact represents a collective commitment to improve relationships for the benefit of all communities in the district.

Regardless of the success of any partnership, disputes will at times arise that we need to try to resolve.

Disagreements can help identify important issues, and by approaching them in a positive and non-confrontational way, they can help to improve the way we work together.

Unresolved disputes can damage working relationships. The purpose of this dispute resolution procedure is to:

- Encourage good practice
- Promote positive relationships
- Resolve any concerns as quickly and fairly as possible
- Learn from disputes
- Improve the effectiveness of the Dover & District Compact

This guidance explains how any organisation, signed up to the Dover & District Compact, can raise concerns if it feels the Compact is not being followed.

Ideally, outcomes from this procedure will result in a review of, or change in, the issue being disputed but we recognise this is not always possible. Any organisation found to have breached the Dover & District Compact is expected to do whatever it can to right the situation or ensure things change for the future.

The Compact Implementation Group (CIG) will record complaints and seek to share any lessons learnt.

Why do disputes arise?

Compact breaches are rarely deliberate and can occur for various reasons, such as:

- Organisations and individuals not being aware of the Compact principles;
- The breach being unavoidable through a crisis or external causes overriding Compact compliance (but this should be explained); or
- A symptom of wider issues.

Raising, and talking through, an issue with the other party involved can settle many disputes.

Who does this procedure apply to?

The procedure outlined here is for resolving issues related to the Dover & District Compact. We can only consider disputes from organisations that have signed up to the Compact before the dispute arising.

Voluntary and community groups can raise concerns individually or jointly. The same applies to public bodies. An umbrella organisation, forum or network can also raise a concern for one or more of its members.

The Resolving Disputes Procedure runs alongside established procedures and does not replace or undermine existing organisational complaints and appeals procedures.

We can only consider disagreements about the Dover & District Compact. A Compact issue is defined as a situation in which there is a clear breach of the shared principles and promises as set out in the Dover & District Compact and its associated Codes of Practice.

This procedure may not be the best way to deal with all concerns that voluntary and community groups have. Organisations signed up to the Dover & District Compact are expected to try to resolve a dispute between them first. Public bodies have formal complaints procedures for individuals or organisations wishing to complain about a specific service they have received and other non-Compact related disagreements.

For details of Dover District Council's complaints procedure, please see:
www.dover.gov.uk/customerservices/comments.asp;

The details of Eastern and Coastal Kent PCT's complaints procedure, please see:
www.eastkentcoastalpct.nhs.uk/structure_and_organisations/primary_care_trusts/east_kent_coastal_primary_care_trust.asp

Overview of the Resolving Disputes Procedure

The Dover & District Compact Implementation Group (CIG) will try to resolve disagreements using the following guidelines:

1. Stage 1 – Informal stage:

Organisations try to resolve the issue between them.

2. Stage 2 – Investigation stage:

Disputes panel formed to look into the concern and to try to reach an outcome agreeable to both parties. The panel will report to the CIG with its recommendations.

3. Stage 3 – Appeal stage:

The CIG will consider these recommendations and mediate between the parties concerned to try to settle the dispute.

Recommendations from the CIG are final; there is no further appeal.

If it is not possible to reach a satisfactory outcome using this disputes procedure, the complainant will be advised of alternative ways to try to resolve the disagreement:

4. Stage 4 – Alternative Ways to Resolve:

Independent Arbitrator; The Compact Advocacy Programme (CAP); The National Compact Mediation Service; Ombudsmen; Charity Commission.

5. Stage 5 - Monitoring:

An annual Compact Review report will record disputes and outcomes; non-confidential information will be available on the Compact website.

A flowchart of this procedure is available (Appendix 1).

The National Council for Voluntary Organisations (NCVO) has produced a step-by-step guide on how to make the Compact work and also a Compact Advocacy Toolkit. These are designed for voluntary and community organisations with complaints about the way local or central government has acted. Please see: www.ncvo-vol.org.uk/compactadvocacy.

Stages of Dispute Resolution

1. Stage One: Informal

If you think that you have cause for complaint, the first action to take is always: **BRING IT TO THE ORGANISATIONS ATTENTION** and try to solve the issue between you first, in the spirit of the Compact. This means that all those involved should recognise the other's right to raise the issue, and give time to listen and respond to concerns.

Explain the nature of your concern, clearly stating the Dover & District Compact commitment not being kept. The organisation should then follow its usual internal procedures for dealing with complaints.

Hopefully, this will resolve the disagreement. We encourage all Compact related disputes, including those successfully resolved without CIG involvement, be referred to the CIG for monitoring purposes.

If this does not resolve the problem, the CIG will try to help, in line with the following stages:

2. Stage Two: Investigation

If addressing the issue between you does not solve the problem, please contact the Compact Support Worker:

Address: CASE Kent, 1 Maison Dieu Road, Dover, Kent, CT16 1RW
E-mail: dover@casekent.org.uk
Telephone: 01304 240090

Public bodies should contact the Compact Champions within their own organisations.

Complaints to the CIG need to be in writing and give the following details:

- Summary of issues
- Compact or Code of Practice being breached
- Name and contact details of parties involved
- What action has been taken so far
- Copies of previous letters, meeting notes or similar

The CIG will respond to a dispute within 7 working days and contact the organisation concerned to ask for a written response to the complaint.

We aim to resolve a dispute within 28 working days. If it appears that we will not be able to meet this timescale, the CIG will let you know why and give you a new deadline.

A disputes panel drawn from the membership of the CIG (one from a public body and one from a voluntary or community group) will meet within 14 working days of receipt of the complaint to consider:

- The details of the complaint and the other parties response
- If it is a Compact related issue
- If a breach has occurred
- If and what further information is needed
- If and what action can be taken to resolve the dispute.
- Try to get an outcome agreeable to both parties

The CIG will decide membership of the panel depending on availability of individuals, the organisations involved and declared interests.

Depending on the dispute, both parties may be invited to attend to discuss the concern. The CIG will write to all parties with their recommendations within 7 working days of the meeting.

If a resolution is possible, the procedure ends. If this is not possible, the panel will report to the CIG with its recommendations.

3. Stage Three: Appeal

The CIG will consider these recommendations and decide if a breach has taken place. Representatives of the organisations concerned will be invited to the next CIG meeting to discuss the issue and the CIG will try to mediate a mutually acceptable solution. Further meetings may be arranged, if all parties feel this will help to resolve the matter.

As the CIG only meets once a quarter, it may be necessary to arrange an Extraordinary Meeting of the Group to hear any appeal.

If the Group believes there has been a breach of the Dover & District Compact it will give advice on:

- Ways to comply with the Compact, including recommendations for policy or practice improvement.
- What to do next if any party is not happy with the outcome.

If the Group feels that a breach has not taken place, the matter will need to be resolved in another way.

If a dispute is considered too complex or specialist, the CIG may decide it cannot intervene, and will signpost alternative courses of action.

The CIG will tell both parties of its recommendations in writing. There is no further recourse to the Group.

4. Stage Four: Signposting to Alternative Courses of Action

- **Independent arbitrator:** If the dispute is not resolved, it may be possible to refer the matter to a suitable independent arbitrator agreed by all parties, such as another local Compact Implementation Group.

The disagreement can also be referred to:

- **Ombudsmen:**
 - The Local Government Ombudsman (LGO) examines complaints of injustice arising from maladministration by local authorities and certain other bodies.
Please see: www.lgo.org.uk (Appendix 2)
 - Health Service Ombudsman (HSO) carries out independent investigations into complaints about poor treatment or service provided through the NHS in England.
Please see: www.ombudsman.org.uk (Appendix 3).
- **The Compact Advocacy Programme (CAP):** based at the National Council for Voluntary Organisations (NCVO), is now able to help and work with local community and voluntary organisations and act on their behalf.
Please see the CAP website: www.ncvo-vol.org.uk/compactadvocacy (Appendix 4).

The Compact Advocacy Programme is separate from the Compact Mediation Service. Sometimes the Compact Advocacy Programme may take cases to the Compact Mediation Service for a voluntary organisation.

- **The National Compact Mediation Service:** CEDR Solve (the Centre for Effective Dispute Resolution) provides the National Compact Mediation Scheme. The scheme is impartial favouring neither side. Independent mediation provides an opportunity to resolve a dispute where one party feels the Compact has been infringed. There is a charge for this service.
Please see: www.cedr-solve.com/compact (Appendix 5).
- **Public Law Practice (PLP):** A national legal charity which aims to improve access to public law remedies for those whose access to justice is restricted by poverty, discrimination or other similar barriers. PLP also advise publicly funded voluntary sector organisations under their “Empowering the Voluntary Sector” project to provide free advice and training on public law principles to all voluntary sector organisations in England that deal with public bodies.
Please see: www.publiclawproject.org.uk (Appendix 6).
- **Charity Commission:** The Charity Commission is set up by law as the regulator and registrar for charities in England and Wales. For more information, please see: www.charity-commission.gov.uk

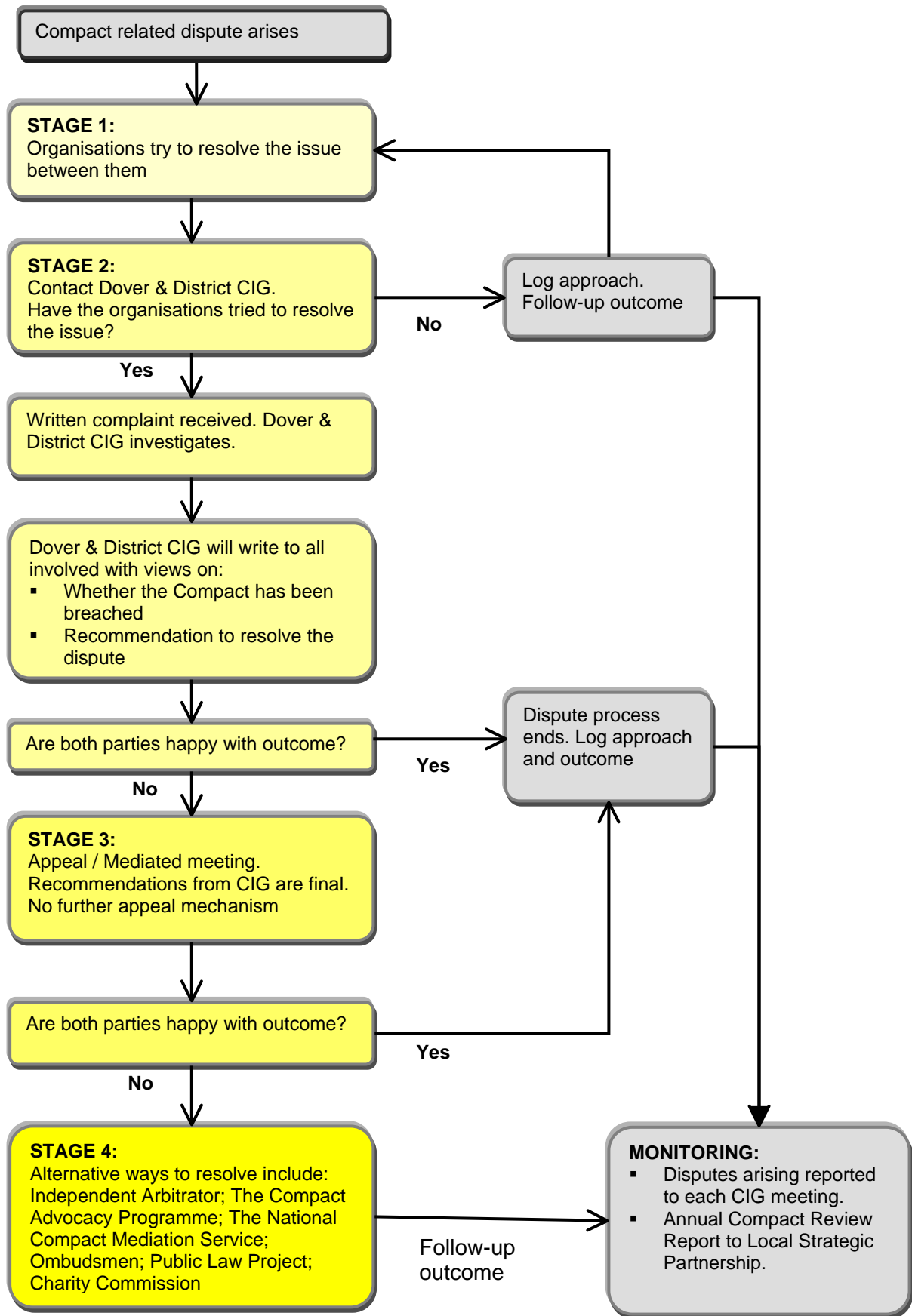
Monitoring Disputes

Disputes will be monitored through:

- Updates at Compact Implementation Group Meetings.
Issues arising through the Disputes Resolution Procedure will be an agenda item at every meeting of the Compact Implementation Group.
- Annual Compact Review Report to the Local Strategic Partnership (LSP).
If the Compact Implementation Group believes there has been a fundamental breach of the Compact, needing immediate consideration, a report will be submitted to the LSP.

The Dover & District Compact Implementation Group will review the procedure yearly. The review will focus on lessons learnt to improve relationships and outcomes for the benefit of the district.

Overview of the Dover & District Compact Resolving Disputes Procedure



Local Government Ombudsman

The information contained here is intended as a general guide. Please see the Local Government Ombudsmen website www.lgo.org.uk or telephone the Adviceline on 0845 602 1983 for further details.

The Local Government Ombudsmen (LGO) has also produced a leaflet called "[Complaint about the Council? How to complain to the Local Government Ombudsman](#)".

The LGO examine complaints of injustice arising from maladministration by local authorities and certain other bodies. Maladministration occurs when there has been a mistake in the way that a local authority has or has not done something. An injustice might include failing to receive a service to which you are entitled, suffering financial loss or suffering distress.

The LGO look into complaints about most council matters including housing, planning, education, social services, consumer protection, drainage and council tax.

The Ombudsman does not usually criticise the merits of a decision properly taken simply because someone may disagree with it. The LGO will however look at the way the decision was made.

The LGO cannot examine matters which have already been - or could be - appealed to a tribunal or government minister, matters about the community in general, court proceedings, personnel matters and the internal management of schools and colleges.

How to complain

By law, the Ombudsman may not look into a complaint before a council has had a reasonable opportunity to look into and respond to it. Generally, the LGO considers that a 'reasonable opportunity' is 12 weeks from the date when someone first made a written complaint to a council.

The LGO encourages people to use councils' complaints procedures. It is not necessary to exhaust all stages of these procedures before approaching the Ombudsman, provided the council has had a 'reasonable opportunity' to deal with the matter. In exceptional circumstances, there are some complaints the Ombudsman will consider becoming involved sooner. Each case is considered individually - please contact the LGO for advise.

The Ombudsman will not normally look into matters known about for more than 12 months.

If the Ombudsman decides to take up a complaint an investigator will get in touch. If the investigator decides that you have suffered an injustice as result of maladministration, they can make a recommendation to the council. While this is not enforceable, the council will almost always follow the recommendation.

You cannot appeal the decision but it can be reviewed on the basis of new information.

Contact details

To contact the regional Local Government Ombudsman covering the Dover District:

Local Government Ombudsman, Millbank Tower, Millbank, London, SW1P 4QP.

Phone: 020 7217 4620

Fax: 020 7217 4621

E-mail: enquiries.london@lgo.org.uk

Sources: <http://www.lgo.org.uk/index.php>; <http://www.yourrights.org.uk>

The Parliamentary and Health Service Ombudsman

The information contained here is intended as a general guide. Please see the Parliamentary and Health Service Ombudsman website www.ombudsman.org.uk, or telephone the complaints Helpline 0845 015 4033 for further details or advise.

The Parliamentary and Health Service Ombudsman looks into complaints that government departments, their agencies and some other public bodies in the UK - and the NHS in England - have not acted properly or fairly or have provided a poor service.

The Health Service Ombudsman (HSO) carries out independent investigations into complaints about poor treatment or service provided through the NHS in England. The HSO may be able to help if you have suffered because of poor service or treatment or were not treated properly or fairly, and the organisation or practitioner hasn't put things right where they could have.

HSO investigators look into complaints against NHS services provided by hospitals, health authorities, trusts, GPs, dentists, pharmacists, opticians and other health care practitioners. They can also examine complaints against private health providers if the NHS funded the treatment.

How to complain

Stage 1 - local resolution

Before sending a complaint to the Ombudsman you should have complained to the NHS organisation or practitioner providing the service (the HSO recognise this is not always possible) to try to resolve the complaint. You can get full details of the NHS complaints procedure from any NHS organisation or from the Department of Health's website:

www.dh.gov.uk/PolicyAndGuidance/OrganisationPolicy/ComplaintsPolicy/fs/en

Stage 2 – Independent Review

If unhappy with the response, contact the [Healthcare Commission](http://www.healthcarecommission.gov.uk) to try to resolve the complaint (again the HSO recognise this is not always possible).

Stage 3 - Involving the Health Service Ombudsman

If you remain unhappy then you can complain to the Health Service Ombudsman. There are some complaints they do not have the legal power to examine. The HSO recommends contacting them to discuss the case and for advice on completing the complaint form. It may also be that another more suitable organisation should be involved to deal with the complaint.

There are time limits at each stage of the NHS complaints process, Contact the Health Service Ombudsman for advise.

The HSO looks carefully at individual complaints and will write to advise how they intend to handle a particular complaint. While the HSO has no formal power to enforce their recommendations they are almost always followed.

Contact details:

The Health Service Ombudsman for England,
13th Floor, Millbank Tower, Millbank, London, SW1P 4QP
Tel: 0845 015 4033
e-mail: OHSC.Enquiries@ombudsman.qsi.gov.uk
Website: www.ombudsman.org.uk
or e-mail complaints@healthcarecommission.org.uk

Sources:

www.ombudsman.org.uk; <http://www.nhs.uk/england/aboutTheNHS/complainCompliment.cmsx>

Compact Advocacy Programme

The information contained here is intended as a general guide. Based at the National Council for Voluntary Organisations (NCVO), CAP is an established programme that helps voluntary and community organisations that have a dispute with central or local government and speak on their behalf. CAP provides support and wider campaigning to the sector in cases where the Government has breached the Compact.

With funding from the Big Lottery Fund, the Compact Advocacy Programme has expanded its work to include local Compacts. By taking up individual cases of Compact breaches, and engaging in wider campaigning, the Compact Advocacy Programme provides a mechanism to ensure local Compacts work.

How to complain

Voluntary and community organisations that believe their local council, or other local public bodies, have breached the Compact should contact the Compact Advocacy Programme. If the Compact has been breached the Compact Advocacy team will work with the organisation to put pressure on the bodies failing to fulfil the Compact to effect change in their working practices. Strategies include advocacy, negotiation and lobbying.

The CAP gives the following support:

- Identify breaches of the Compact
- Set and agree objectives
- Identify key decision makers
- Draw up a campaign plan
- Represent organisations through communications including letters, emails, phone calls, meetings and press work
- Seek policy and practice change
- Identify best and worst practice and share lessons within the sector

What is the difference between the Compact Advocacy Programme and the Compact Mediation Service?

The Compact Advocacy Programme is separate from the Compact Mediation Service. Sometimes the Compact Advocacy Programme may take cases to the Compact Mediation Service for a voluntary organisation.

The main difference between the two is that Compact Advocacy **represents** the voluntary organisation to government. The Mediation Service provides the opportunity to resolve a dispute with the help of an **impartial** mediator.

For more information on the Compact Advocacy Programme and the support offered to the voluntary and community sector, please visit the NCVO website: www.ncvo-vol.org.uk/compactadvocacy.

The website also includes useful information on the Compact, including a step-by-step guide on how to make the Compact work for voluntary and community organisations.

Contact details:

Compact Advocacy Team, Regent's Wharf, 8 All Saints Street, London N1 9RL
Phone: 020 7520 2581
E-mail: saskia.daggett@ncvo-vol.org.uk

Sources: www.ncvo.org.uk

National Compact Mediation Service

The information contained here is intended as a general guide. CEDR Solve (the Centre for Effective Dispute Resolution) provides the National Compact Mediation Scheme, under a contract awarded by the Home Office in January 2003.

The Compact Mediation Scheme applies to disputes about the national Compact. Its scope includes central Government departments, their executive agencies, Government Offices for the Regions and all voluntary and community organisations.

The scheme is impartial favouring neither side. Independent mediation provides an opportunity to resolve a dispute where one party feels the Compact has been infringed.

In mediation, the parties themselves, with the help of a neutral mediator, work out a mutually acceptable solution.

Mediation is:

- Voluntary, affordable and cost-effective
- Private and confidential, conducted by a fully trained professional mediator
- Leads to a rapid and binding solution (about 80% of mediations settle in one day).

How to complain

The Compact Mediation Scheme is independent. Either a voluntary and community organisation or a government department or agency can ask for mediation at any stage of a dispute.

There is a charge for this service. Costs will be agreed between both parties but will not prohibit small organisations benefiting from the scheme.

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Further information

For further information, advice or details of how to access the scheme please contact the CEDR:

Contact details

CEDR Solve,
International Dispute Resolution Centre, 70 Fleet Street, London EC4Y 1EU
Tel: 020 7536 6060
E-mail: info@cedr-solve.com

Source: www.cedr-solve.com/compact

Public Law Project

The information contained here is intended as a general guide. The Public Law Project (PLP) is a national legal charity which aims to improve access to public law remedies for those whose access to justice is restricted by poverty, discrimination or other similar barriers.

PLP has three main objectives:

- increasing the accountability of public decision-makers;
- enhancing the quality of public decision-making;
- improving access to justice.

What is public law?

Public law is the set of legal principles which govern the exercise of power by public bodies, such as government ministers and departments, local authorities, the prison service, NHS Trusts, coroners' courts and many more.

What are public law remedies?

There are many procedures by which citizens can challenge the legality of decisions made by public bodies. They include:

- Judicial review: court proceedings in which a judge is asked to review the lawfulness of the decision which is being challenged;
- Complaints procedures; and
- Ombudsman schemes such as the Local Government Ombudsman.

How to get advice

PLP does not offer case-specific advice direct to the general public;

- Advice sheets and guides on common public law issues are available on their website.
- Telephone advice to voluntary and community groups on public law matters, such as local authority funding decisions;
- Specialist support service to lawyers and advisers (including CAB advisers) funded by the Legal Services Commission so they can access help from the PLP;
- Cases on referral from other lawyers and advisers.

Public Law Project Information leaflets

PLP publishes information leaflets to assist members of the public, advisers, caseworkers and lawyers in understanding public law and judicial review. These include:

- A guide to making a formal complaint; and
- Complaint procedures for particular public bodies – including local authorities and the National Health Service – with a list of useful contacts.

Voluntary sector and community groups

PLP do not normally accept requests for advice from members of the public. However, on a limited range of issues, they can provide advice to some organisations in the not-for-profit sector on public law issues.

PLP also advise publicly funded voluntary sector organisations under their “Empowering the Voluntary Sector” project. This is a Big Lottery funded initiative between PLP and NAVCA (National Association for Voluntary and Community Action) to provide free advice and training on public law principles to all voluntary sector organisations in England that deal with public bodies.

The initiative has three main strands: training, newsletters and advice, and complements the work of, and work closely with, the Compact Advocacy Team at the National Council for Voluntary Organisations. Through a dedicated advice line, PLP lawyers can provide detailed legal advice on public law issues, with the facility to take on particular cases.

Sources: www.publiclawproject.org.uk