Evidence-Led Governance

A Research Methodology for Analysing Statutory Administration

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Structured · Traceable · Governed

Contents

List of Governance Principles

List of Research Findings

List of Canonical Definitions

List of Governance Architectures

List of Research Methodologies

Semantic Index

Preface

Every system of public administration leaves a record.

Legislation establishes authority. Courts define legal meaning. Institutions translate legal obligations into administrative practice. Decisions are made, evidence is gathered, reasons are recorded and public power is exercised.

Yet these stages are often studied in isolation.

Legal research commonly examines legislation, judicial decisions or institutional policy separately. Administrative investigations frequently focus on individual decisions without reconstructing the legal framework from which those decisions arose. Documentary records are often treated as evidence of isolated events rather than as components of a continuous system of governance.

This handbook proceeds from a different premise.

It proposes that public administration can be understood only by examining the complete pathway through which legal obligations become institutional action.

That pathway begins with law but does not end there.

Between legislation and lived reality stand institutions, administrative procedures, documentary evidence and mechanisms of review. Each stage contributes something distinct. None should be collapsed into another.

The purpose of this handbook is therefore not simply to explain legal rules. It is to present a methodology for reconstructing statutory administration through authoritative legal sources, institutional design and documentary evidence.

The work has been developed through the examination of multiple independent statutory frameworks, including victims' rights, criminal injuries compensation, housing law and administrative justice. Each framework was examined independently. Yet each revealed the same underlying architecture.

This recurring architecture did not arise from assumption.

It emerged from the evidence.

Throughout this handbook, legislation is distinguished from judicial interpretation. Judicial interpretation is distinguished from institutional design. Institutional design is distinguished from administrative practice. Documentary evidence is distinguished from inference.

Only after those stages have been reconstructed are conclusions reached.

The methodology therefore does not begin by asking whether an institution succeeded or failed.

It begins by asking:

What legal obligation exists?

How has it been interpreted?

How has it been translated into institutional design?

How is it administered?

What does the documentary record establish?

What conclusions are justified when those elements are examined together?

The objective is not advocacy.

The objective is understanding.

If the governing framework is accurately reconstructed and the evidential record faithfully preserved, the structure of governance becomes visible.

This handbook is an invitation to undertake that reconstruction.

It is intended for researchers, public administrators, lawyers, policymakers, oversight bodies and any person seeking to understand how statutory administration operates in practice.

Its central proposition is simple.

Rights are realised through administration, and administration becomes accountable through evidence.

The chapters that follow are an attempt to demonstrate that proposition through careful examination of authoritative legal sources and the documentary record they ultimately produce.

Statement of Method

1.1 Introduction

This handbook adopts an evidence-led methodology for analysing statutory administration.

Its purpose is not to advocate predetermined conclusions, nor to evaluate institutions by reference to assumption, opinion or isolated events.

Instead, it reconstructs the legal and administrative framework governing a statutory function before any conclusion is reached.

The methodology recognises that public administration is a continuous legal process extending beyond legislation alone. Statutes establish powers and duties. Courts define their legal meaning. Institutions translate those legal obligations into operational systems. Administrative decisions apply those systems to individual circumstances. Documentary records preserve the exercise of those powers. Independent review evaluates whether the process remained lawful.

Each stage contributes distinct information.

Each stage must therefore be examined independently before the relationship between them can be understood.

1.2 Purpose

The purpose of this methodology is to reconstruct governance rather than merely describe it.

The objective is to identify:

the legal obligation created by law;

the judicial interpretation of that obligation;

the institutional structures created to implement it;

the administrative processes through which it operates;

the documentary evidence generated by those processes;

the extent to which the evidential record corresponds with the governing legal framework.

Only after those stages have been completed are conclusions drawn.

The methodology therefore proceeds from reconstruction to evaluation rather than from allegation to confirmation.

1.3 Foundational Principles

The methodology is governed by the following principles.

Principle 1 — Authority before commentary

Primary legal sources take precedence over commentary.

Legislation, judicial decisions, constitutional provisions, regulations and official reports establish the governing framework.

Secondary commentary may assist interpretation but does not replace the primary sources.

Principle 2 — Each source remains independent

Every authoritative source contributes only what it is competent to establish.

Legislation creates obligations.

Courts interpret legislation.

Institutional reports describe administrative structures.

Documentary evidence records events.

No source should be required to establish matters beyond its own authority.

Principle 3 — Distinction between legal functions

Throughout this handbook, clear distinctions are maintained between:

legislation;

judicial interpretation;

institutional design;

administrative practice;

documentary evidence;

analytical inference.

These categories are related but not interchangeable.

Maintaining those distinctions preserves analytical clarity.

Principle 4 — Evidence before inference

Documentary evidence establishes:

what occurred;

what was communicated;

what decisions were recorded;

what procedures were followed.

Inference begins only after the evidential record has been reconstructed.

Where evidence does not establish a proposition, the handbook does not present that proposition as fact.

Principle 5 — Conclusions emerge from reconstruction

The methodology deliberately postpones conclusions.

Each chapter first reconstructs the governing legal framework.

Only after legislation, judicial interpretation, institutional design, administrative practice and documentary evidence have been examined together does evaluative analysis begin.

The destination therefore emerges from the evidence rather than preceding it.

1.4 Research Sequence

The methodology proceeds through six sequential stages.

Stage One — Legal Authority

The first task is to identify the authoritative legal source.

Depending upon the statutory framework, this may include:

constitutional provisions;

European Union law;

legislation;

delegated legislation;

binding regulations.

The question asked is:

Stage Two — Judicial Interpretation

Legislation establishes legal duties.

Courts determine how those duties are to be understood.

Judicial interpretation therefore defines:

legal meaning;

limits of discretion;

procedural requirements;

governing principles.

The question becomes:

Stage Three — Institutional Design

Statutory obligations require institutional implementation.

Institutional design includes:

statutory bodies;

governance arrangements;

operational procedures;

published guidance;

organisational responsibilities.

This stage asks:

Stage Four — Administrative Practice

Institutional design must then be distinguished from actual administration.

Administrative practice includes:

applications;

assessments;

correspondence;

decision-making;

implementation;

review procedures.

The question asked is:

Stage Five — Documentary Evidence

Administrative activity produces documentary records.

These records include:

applications;

decisions;

reports;

emails;

policies;

notices;

timelines;

supporting evidence.

The documentary record allows reconstruction of the exercise of public power.

It provides the evidential basis for later evaluation.

Stage Six — Governance Analysis

Only after the preceding stages have been completed are conclusions reached.

Governance analysis compares:

the governing legal framework;

with

institutional structures;

with

administrative practice;

with

documentary evidence.

The objective is to determine whether the administration observed the legal framework revealed by the earlier stages.

1.5 The Role of Documentary Evidence

Documentary evidence occupies a distinct position within this methodology.

It neither creates legal obligations nor interprets legislation.

Instead, it records the exercise of public power.

The record therefore performs two essential functions.

First, it preserves institutional memory.

Secondly, it permits independent examination of whether administration corresponded with the governing legal framework.

The documentary record is therefore treated as an independent evidential category rather than as commentary upon legal obligations.

1.6 Analytical Discipline

This methodology requires continual analytical discipline.

Accordingly:

legislation is not treated as evidence of administrative performance;

judicial interpretation is not treated as legislation;

institutional policy is not treated as legal obligation;

documentary evidence is not treated as proof of legal conclusions without analysis;

inference is distinguished from established fact.

These distinctions protect both the integrity of the research and the integrity of the institutions being examined.

1.7 Scope

This handbook is a methodology for analysing statutory administration.

It is not intended to provide legal advice or determine the outcome of any individual dispute.

Instead, it provides a structured method through which statutory systems may be reconstructed, understood and evaluated using authoritative legal sources and documentary evidence.

The methodology is intended to be applicable across multiple areas of public administration, including but not limited to:

victims' rights;

compensation;

housing;

health;

planning;

policing;

local government;

regulatory administration;

and other statutory frameworks.

1.8 Closing Statement

The methodology presented in this handbook proceeds from a single proposition.

Public administration cannot be understood by examining legislation alone.

Nor can it be understood solely through judicial decisions, institutional policy or documentary evidence in isolation.

Governance becomes visible only when those elements are reconstructed as parts of a continuous legal and administrative process.

For that reason, this handbook does not begin with conclusions.

It begins with authoritative legal sources.

Each source is examined independently.

Judicial interpretation is distinguished from legislation.

Institutional design is distinguished from administration.

Documentary evidence is distinguished from inference.

Only after the governing legal framework and the evidential record have been reconstructed do conclusions emerge.

That discipline defines the methodology adopted throughout this handbook.

VOLUME I

Foundations of Evidence-Led Governance

Introduction to Volume I

Every statutory system operates through a sequence of legal and administrative relationships.

Legislation alone does not deliver rights.

Judicial interpretation alone does not implement statutory obligations.

Institutions alone do not create legality.

Nor does documentary evidence, considered in isolation, explain governance.

Each performs a distinct function within a continuous legal process.

The purpose of this volume is to identify the recurring architecture through which statutory administration operates.

The chapters that follow do not analyse a single institution or area of law.

Instead, they identify the structural principles that repeatedly emerged from the independent examination of victims' rights, criminal injuries compensation, housing law and administrative justice.

These principles form the conceptual framework for the remainder of the handbook.

They are not presented as abstract theories.

They emerged through the systematic reconstruction of authoritative legal sources, institutional structures and documentary evidence.

Chapter 1 — Why This Handbook Exists

1.1 The Problem

Public administration is frequently examined through individual decisions, isolated complaints or specific legal disputes.

While such analysis is often valuable, it rarely reconstructs the complete legal pathway through which statutory obligations become administrative action.

As a consequence, governance is frequently understood only in fragments.

Legislation may be examined without considering institutional implementation.

Administrative decisions may be criticised without identifying the governing legal framework.

Documentary evidence may be reviewed without distinguishing recorded fact from legal obligation.

Judicial decisions may be discussed without recognising the administrative structures to which they apply.

Each of these approaches provides part of the picture.

None provides the whole.

1.2 The Missing Relationship

Throughout the research underlying this handbook, one recurring question emerged.

How does a legal obligation become lived administrative reality?

The answer was not contained within legislation alone.

Nor was it found exclusively within judicial interpretation.

Instead, the research revealed a continuous sequence extending from legal authority to institutional practice.

That sequence became visible only when legislation, judicial interpretation, institutional design, administration and documentary evidence were examined together.

1.3 A Different Way of Reading Governance

This handbook therefore adopts a different perspective.

Rather than asking:

Was the institution right?

It first asks:

What was the institution legally required to do?

Rather than beginning with criticism, it begins with reconstruction.

Rather than beginning with conclusions, it begins with authoritative sources.

This distinction is fundamental.

Evaluation follows reconstruction.

It never replaces it.

1.4 The Discovery

As multiple statutory frameworks were examined, an unexpected pattern emerged.

Victims' rights.

Compensation.

Housing.

Administrative justice.

Each was created independently.

Each operates under different legislation.

Each is administered by different institutions.

Yet each revealed the same underlying architecture.

That recurring architecture forms the basis of this handbook.

It is not presented as an assumption.

It is presented as the result of repeated observation across independent legal frameworks.

1.5 The Central Proposition

The research conducted throughout this handbook supports the following proposition.

Rights are not realised merely because legislation recognises them. Rights become effective only when institutions possess the legal authority, administrative capacity and evidential governance necessary to deliver them.

This proposition does not diminish the importance of legislation.

Rather, it recognises that legislation is the beginning of governance rather than its conclusion.

1.6 The Governance Continuum

The research repeatedly identified a continuous sequence.

Legal Authority

creates

↓

Institutional Responsibility

implemented through

↓

Administrative Practice

recorded by

↓

Documentary Evidence

examined through

↓

Independent Review

strengthening

↓

Governance

Each stage depends upon the integrity of those before it.

Failure at any stage weakens the operation of the whole.

1.7 Why This Matters

Modern democratic societies increasingly depend upon complex statutory systems.

Housing.

Health.

Education.

Policing.

Planning.

Environmental regulation.

Victims' rights.

Social protection.

Each relies upon institutions exercising public power.

Understanding those systems therefore requires more than identifying legal rules.

It requires understanding the pathway through which law becomes administration.

This handbook is written to explain that pathway.

1.8 Research Finding

The examination of multiple independent statutory frameworks demonstrates that governance cannot be understood through legislation, administration or documentary evidence in isolation.

Instead, governance emerges from the relationship between legal authority, institutional design, administrative practice, documentary evidence and independent review.

That recurring relationship forms the foundation of the Evidence-Led Governance methodology.

A right does not exist because it is written. It exists when institutions can deliver it.

Legislation creates the obligation. Administration delivers the obligation. Evidence shows whether it occurred.

Chapter 2 — The Governance Architecture

2.1 Introduction

Every system of statutory administration possesses an internal structure.

That structure is rarely described in legislation itself.

Nor is it fully explained by judicial decisions, institutional reports or documentary evidence when each is examined in isolation.

Throughout the research presented in this handbook, a recurring pattern emerged across multiple independent statutory frameworks.

The same sequence appeared in victims' rights, criminal injuries compensation, housing law and administrative justice.

The repetition of that sequence suggested the presence of an underlying governance architecture.

This chapter describes that architecture.

It is not presented as an abstract theory.

It is presented as the recurring structure revealed through the examination of authoritative legal sources.

2.2 Governance as Relationship

Governance is often described as decision-making, management or institutional oversight.

This handbook adopts a different understanding.

Governance is not a single institution.

Nor is it a single decision.

Governance is the relationship between:

legal authority;

institutional responsibility;

administrative practice;

documentary evidence;

independent review.

No single element is sufficient.

Only their relationship explains how statutory administration operates.

Governance is the continuous relationship between legal authority, institutional design, administrative practice, documentary evidence and independent review through which statutory obligations are translated into accountable public administration.

2.3 The Governance Continuum

The research repeatedly revealed the same progression.

Law

creates

↓

Authority

confers

↓

Institutions

organise

↓

Administration

acts

↓

Evidence

records

↓

Reasons

explain

↓

The Record

preserves

↓

Review

examines

↓

Governance

learns

Each stage depends upon those preceding it.

None can be removed without weakening the integrity of the whole.

GOVERNANCE ARCHITECTURE

GA-1 — The Governance Continuum

This architecture forms the structural model used throughout this handbook.

2.4 The Function of Each Stage

Law

Legislation establishes the legal obligation.

It creates the statutory powers, duties and responsibilities that govern institutional behaviour.

Without legal authority there can be no lawful exercise of public power.

Authority

Authority provides the legal capacity to act.

It is always derived from law.

Authority is therefore delegated rather than inherent.

Institutions

Institutions transform legal obligations into operational systems.

They establish governance arrangements, procedures and organisational responsibilities through which statutory functions may be performed.

Administration

Administration performs the statutory function.

Applications are received.

Evidence is gathered.

Assessments are undertaken.

Decisions are reached.

Administration therefore becomes the point at which legal obligations enter lived experience.

Evidence

Administrative activity produces evidence.

Correspondence.

Applications.

Reports.

Decisions.

Policies.

Records.

Evidence documents the exercise of public power.

Reasons

Reasons explain why statutory authority produced a particular decision.

They connect:

evidence

to

judgment.

Without reasons the pathway between evidence and decision becomes incomplete.

Documentary Record

The documentary record preserves institutional memory.

It enables later reconstruction of:

legal authority;

administrative process;

evidence;

reasoning;

decision-making.

Without preservation, governance cannot be examined.

Independent Review

Independent review examines legality.

It reconstructs the pathway preserved by the documentary record.

Its function is not to recreate administration.

Its function is to determine whether public power remained within the governing legal framework.

Governance

Governance represents institutional learning.

Review informs future administration.

Administration improves institutional practice.

The cycle therefore continues.

Governance is not static.

It evolves through evidence.

2.5 Relationships Rather Than Hierarchies

One of the most significant findings emerging from this research is that governance should not be understood as a hierarchy alone.

Instead it should be understood as a continuous relationship.

Each stage informs the next.

Each stage depends upon the integrity of those before it.

Governance therefore resembles a continuous evidential chain rather than a series of isolated administrative acts.

2.6 Traceability

Every administrative decision should remain traceable.

Decision

↓

Reasons

↓

Evidence

↓

Administrative Procedure

↓

Institutional Responsibility

↓

Legal Authority

Traceability therefore performs two functions.

It supports legality.

It supports accountability.

Every exercise of public power should remain connected to the legal authority from which it derives.

Evidence records that exercise.

Reasons explain it.

The documentary record preserves it.

Review examines it.

Governance learns from it.

2.7 Institutional Memory

Repeated examination of multiple statutory frameworks demonstrated that governance depends upon continuity.

Institutions cannot administer consistently if they cannot remember.

Institutional memory is therefore not merely administrative convenience.

It is a condition of accountable governance.

Institutional Memory is the preserved documentary record through which the exercise of public power remains capable of reconstruction, explanation and independent review.

2.8 Research Finding

RESEARCH FINDING

RF-2

The examination of independent statutory frameworks demonstrates that governance consistently operates through a recurring sequence linking legal authority, institutional responsibility, administration, evidence, reasons, documentary preservation and independent review.

This architecture appears to be general rather than subject-specific.

2.9 Chapter Synthesis

This chapter has established the conceptual architecture that will guide every subsequent volume of the handbook.

It demonstrates that governance is not reducible to legislation, institutions or administration considered separately.

Instead, governance emerges from the continuous relationship between those elements.

The recurring architecture identified in this chapter provides the analytical framework through which victims' rights, compensation, housing, administrative justice and future statutory systems will be examined.

Chapter 3 — The Evidence-Led Governance Methodology

3.1 Introduction

Every discipline is distinguished by its methodology.

Medicine relies upon clinical investigation.

History relies upon documentary reconstruction.

Science relies upon observation, experimentation and verification.

Evidence-Led Governance is distinguished by a methodology designed to reconstruct statutory administration before reaching evaluative conclusions.

The methodology developed throughout this handbook does not begin with criticism, advocacy or predetermined outcomes.

Instead, it proceeds through a structured sequence of legal and evidential reconstruction.

The objective is to understand governance before evaluating it.

3.2 Why Methodology Matters

Governance cannot be evaluated reliably through isolated documents or individual administrative decisions.

Nor can legislation, judicial interpretation or institutional practice be understood independently of one another.

Each represents only one part of a continuous legal process.

Accordingly, this methodology requires that every stage be reconstructed before conclusions emerge.

This discipline protects the integrity of both the research and the institutions being examined.

3.3 Reconstruction Before Evaluation

The defining characteristic of this methodology is that reconstruction precedes evaluation.

The research therefore asks:

First

What legal obligation exists?

Then

How has that obligation been interpreted?

Then

How has it been translated into institutional design?

Then

How is that design implemented through administration?

Then

What documentary evidence records that administration?

Only then is the final question asked.

What conclusions are supported by the reconstructed framework and the evidential record?

This ordering is deliberate.

Changing the order changes the character of the research.

Beginning with conclusions risks confirmation bias.

Beginning with reconstruction promotes analytical discipline.

RESEARCH METHODOLOGY

RM-1 — Reconstruction Precedes Evaluation

No evaluative conclusion should be reached until the governing legal framework and the evidential record have been independently reconstructed.

3.4 The Six Stages of Evidence-Led Governance

The methodology proceeds through six sequential stages.

Stage One — Legal Authority

Identify the governing legal obligation.

Sources include:

constitutions;

legislation;

regulations;

directives;

statutory instruments.

Question:

What does the law require?

Stage Two — Judicial Interpretation

Determine how courts have interpreted those obligations.

Question:

How has the legal obligation been understood?

Stage Three — Institutional Design

Identify the institutions responsible for implementation.

Examine:

statutory bodies;

governance structures;

published procedures;

organisational responsibilities.

Question:

How has the legal obligation been translated into institutional practice?

Stage Four — Administrative Practice

Reconstruct how statutory responsibilities are exercised.

Examples include:

applications;

investigations;

assessments;

communications;

decision-making;

review procedures.

Question:

How does administration perform the statutory function?

Stage Five — Documentary Evidence

Reconstruct the documentary record.

This includes:

correspondence;

reports;

applications;

policies;

notices;

decisions;

timelines.

Question:

What does the record establish?

Stage Six — Governance Analysis

Only after the preceding stages are complete does governance analysis begin.

The reconstructed legal framework is compared with the documentary record.

Question:

Does the evidence demonstrate correspondence between statutory obligation and administrative practice?

GOVERNANCE ARCHITECTURE

GA-2 — Evidence-Led Governance Methodology

This sequence forms the methodological framework adopted throughout the handbook.

Law

↓

Interpretation

↓

Institutional Design

↓

Administration

↓

Evidence

↓

Governance Analysis

3.5 Distinguishing Evidence from Inference

One of the defining characteristics of this methodology is the distinction between evidence and inference.

Evidence establishes:

what occurred;

what was recorded;

what was communicated.

Inference explains:

relationships;

implications;

governance conclusions.

The distinction is essential.

Research loses integrity when inference is presented as evidence.

RESEARCH METHODOLOGY

RM-2 — Evidence Before Inference

Inference begins only after the documentary record has been reconstructed.

3.6 Independence of Sources

Each source contributes something different.

Legislation creates obligations.

Courts interpret those obligations.

Institutions design administrative systems.

Administrative practice exercises statutory powers.

Documentary evidence records those exercises.

No source substitutes for another.

> RESEARCH METHODOLOGY
>
> **RM-3 — Independent Authority**
>
> Every authoritative source contributes only what it is competent to establish.

3.7 Traceability

Every conclusion should remain traceable.

Research Finding

↓

Evidence

↓

Administrative Record

↓

Institutional Practice

↓

Legal Authority

Readers should be capable of reconstructing every conclusion independently.

> RESEARCH METHODOLOGY
>
> **RM-4 — Traceability**
>
> Every analytical conclusion should remain capable of being traced to the authoritative sources upon which it depends.

3.8 Repeatability

Perhaps the strongest test of a methodology is whether it remains effective when applied to unrelated statutory frameworks.

This methodology has now been applied to:

Victims' Rights;

Criminal Injuries Compensation;

Housing Law;

Administrative Justice.

Despite their different legal contexts, each revealed the same recurring governance architecture.

The methodology therefore demonstrates repeatability across independent areas of statutory administration.

> **RESEARCH FINDING**
>
> **RF-3**
>
> Evidence-Led Governance is capable of reconstructing multiple independent statutory systems through a common analytical framework.

3.9 The Role of the Researcher

The researcher does not determine the destination.

The researcher reconstructs the pathway.

The distinction is fundamental.

The methodology therefore requires restraint.

The objective is not to persuade.

The objective is to understand.

Conclusions arise because the governing framework and the documentary record point towards them.

RESEARCH METHODOLOGY

RM-5 — The Researcher's Discipline

The role of the researcher is to reconstruct statutory administration faithfully before attempting to evaluate it.

3.10 Chapter Synthesis

The methodology presented in this chapter provides the operational framework for every volume that follows.

It establishes:

the order of analysis;

the distinction between authoritative sources;

the independence of documentary evidence;

the discipline of reconstruction;

the traceability of conclusions.

The methodology therefore becomes more than a research technique.

It becomes the mechanism through which statutory governance is made intelligible.

Understanding does not begin with answers.

It begins with reconstruction.

Law defines the obligation.

Evidence records its exercise.

Governance emerges only after the pathway has been faithfully rebuilt.

Chapter 4 — Governance Principles

4.1 Introduction

The preceding chapters established the methodology through which statutory administration is reconstructed and analysed.

During that process, a number of recurring principles emerged.

These principles did not arise from abstract theory.

They emerged independently through the examination of victims' rights, criminal injuries compensation, housing law and administrative justice.

Although each statutory framework possessed its own legislation, institutions and procedures, the same governance principles appeared repeatedly.

This chapter consolidates those principles into a common framework.

They are referred to throughout the remainder of this handbook as Governance Principles (GP).

Each principle represents a recurring proposition supported by the research undertaken in earlier chapters and applied throughout the later volumes.

GOVERNANCE PRINCIPLE

GP-1 — Rights Require Governance

Rights do not become effective solely because legislation recognises them.

They become effective only when institutions possess the legal authority, administrative capacity and evidential governance necessary to deliver them.

Governance therefore represents the operational condition through which legal rights become practical reality.

Statement

A right does not exist in practice because it is written. It exists when institutions can deliver it.

GOVERNANCE PRINCIPLE

GP-2 — Power Must Remain Traceable

Every exercise of public power should remain capable of reconstruction.

Authority should be traceable to legislation.

Administration should be traceable to institutional responsibility.

Decisions should be traceable to evidence.

Reasons should be traceable to statutory purpose.

The documentary record preserves this continuity.

Traceability therefore protects both legality and accountability.

Statement

Every exercise of public power should remain connected to the legal authority from which it derives.

GOVERNANCE PRINCIPLE

GP-3 — The Pathway Precedes the Conclusion

Evidence-Led Governance begins with reconstruction rather than evaluation.

Legal obligations are identified before institutions are assessed.

Administrative pathways are reconstructed before conclusions are drawn.

The methodology therefore avoids beginning with predetermined outcomes.

Statement

Understanding begins with reconstruction, not with conclusions.

GOVERNANCE PRINCIPLE

GP-4 — The Law Creates the Obligation

Throughout every statutory framework examined, legislation performed the same constitutional function.

It created legal duties.

Neither institutions nor courts create statutory obligations.

Institutions implement them.

Courts interpret them.

The distinction preserves constitutional order.

Statement

Legislation creates the obligation. Judicial interpretation explains its meaning. Institutions build their practice upon it.

GOVERNANCE PRINCIPLE

GP-5 — Evidence Preserves Governance

Governance cannot be examined unless the exercise of public power is preserved.

Documentary evidence performs this function.

Applications.

Correspondence.

Reports.

Policies.

Reasons.

Decisions.

Together they preserve institutional memory.

Without evidence, governance cannot be reconstructed.

Statement

Evidence preserves the exercise of public power.

GOVERNANCE PRINCIPLE

GP-6 — Reasons Preserve Accountability

Administrative decisions become intelligible through reasons.

Reasons explain:

the statutory authority;

the relevant evidence;

the exercise of judgment;

the resulting decision.

Without reasons, accountability becomes significantly more difficult.

Statement

Reasons connect evidence to judgment and judgment to accountability.

GOVERNANCE PRINCIPLE

GP-7 — Consistency Builds Trust

Institutions develop legitimacy through consistency.

Policies.

Procedures.

Representations.

Administrative practice.

When these remain consistent with statutory authority, public confidence increases.

Where change becomes necessary, reasons preserve fairness.

Statement

Institutional trust depends upon lawful consistency.

GOVERNANCE PRINCIPLE

GP-8 — Review Preserves the Rule of Law

Independent review examines the legality of public administration.

It protects:

statutory authority;

procedural fairness;

evidence;

reasons;

accountability.

Review therefore strengthens governance rather than replacing it.

Statement

The Rule of Law is preserved through independent review of public power.

4.2 Relationship Between the Principles

The Governance Principles are not independent propositions.

They form a continuous sequence.

Rights

↓

Law

↓

Authority

↓

Institutions

↓

Administration

↓

Evidence

↓

Reasons

↓

Record

↓

Review

↓

Governance

Each principle strengthens those surrounding it.

Together they describe the recurring architecture of statutory administration identified throughout this handbook.

4.3 Research Finding

RESEARCH FINDING

RF-4

Independent statutory frameworks repeatedly reveal the same foundational governance principles despite differences in subject matter, institutional responsibility and legislative purpose.

This consistency supports the proposition that the principles identified in this chapter are general characteristics of statutory governance rather than features unique to individual legal systems.

4.4 Chapter Synthesis

The Governance Principles established in this chapter provide the conceptual vocabulary for the remainder of the handbook.

Subsequent volumes will not redefine these principles.

Instead, they will demonstrate how each principle operates within specific statutory frameworks.

The principles therefore serve both as analytical tools and as reference points through which later chapters may be understood and compared.

Chapter 5 — Canonical Definitions

5.1 Introduction

Every scholarly discipline develops a shared vocabulary.

Legal systems define concepts through legislation and judicial interpretation.

Scientific disciplines establish technical terminology to ensure that researchers use common language.

Evidence-Led Governance requires the same discipline.

The following definitions are referred to throughout this handbook.

They are not intended to replace statutory definitions where legislation provides one.

Rather, they establish how recurring concepts are used within this methodology.

These definitions remain constant throughout every subsequent volume.

CANONICAL DEFINITION

CD-1 — Governance

Governance is the continuous relationship between legal authority, institutional design, administrative practice, documentary evidence and independent review through which statutory obligations are translated into accountable public administration.

Governance is therefore understood as a relationship rather than an institution or isolated administrative act.

CANONICAL DEFINITION

CD-2 — Evidence-Led Governance

Evidence-Led Governance is a methodology for reconstructing statutory administration by examining authoritative legal sources, judicial interpretation, institutional design, administrative practice and documentary evidence before reaching evaluative conclusions.

Its defining characteristic is reconstruction before evaluation.

CANONICAL DEFINITION

CD-3 — Legal Authority

Legal Authority is the lawful power created by constitutions, legislation, delegated legislation or other recognised legal sources enabling institutions to exercise public functions.

Authority always derives from law.

It is never assumed.

CANONICAL DEFINITION

CD-4 — Institutional Design

Institutional Design is the organisational structure through which statutory obligations are translated into administrative capability.

It includes:

- statutory bodies;
- governance arrangements;
- operational responsibilities;
- published procedures;
- administrative systems.

Institutional Design explains how legal obligations become operational functions.

CANONICAL DEFINITION

CD-5 — Administrative Practice

Administrative Practice is the day-to-day exercise of statutory powers by institutions acting within their lawful authority.

Administrative practice includes:

- receiving applications;
- conducting investigations;
- gathering evidence;
- communicating with affected persons;
- making decisions;
- implementing statutory duties.

Administrative practice should always remain distinguishable from institutional design.

CANONICAL DEFINITION

CD-6 — Documentary Evidence

Documentary Evidence consists of records generated during the exercise of statutory administration.

Examples include:

- applications;
- correspondence;
- reports;
- policies;
- decisions;
- notices;
- meeting records;
- timelines.

Within this methodology, documentary evidence is treated as an independent evidential category.

It records the exercise of public power rather than creating legal obligations.

CANONICAL DEFINITION

CD-7 — Institutional Memory

Institutional Memory is the preserved documentary record through which previous administrative activity remains capable of reconstruction, explanation and independent review.

Institutional memory enables continuity.

Without preservation, governance becomes fragmented.

CANONICAL DEFINITION

CD-8 — Reasons

Reasons are the explanation connecting legal authority, evidence and judgment to an administrative decision.

Reasons demonstrate:

- the statutory framework;
- the relevant evidence;
- the exercise of discretion;
- the pathway to the decision.

Reasons therefore support transparency and accountability.

CANONICAL DEFINITION

CD-9 — Governance Architecture

Governance Architecture is the recurring structural relationship identified between:

Law

↓

Authority

↓

Institutional Design

↓

Administration

↓

Evidence

↓

Reasons

↓

Documentary Record

↓

Review

↓

Governance

This architecture provides the analytical model used throughout this handbook.

CANONICAL DEFINITION

CD-10 — Traceability

Traceability is the ability to reconstruct every stage of administrative decision-making from the governing legal authority through to the documentary record and subsequent review.

Traceability is a necessary condition of accountable governance.

CANONICAL DEFINITION

CD-11 — Reconstruction

Reconstruction is the analytical process of rebuilding the complete statutory and administrative pathway before evaluation begins.

Reconstruction requires examination of:

- legal obligations;
- judicial interpretation;
- institutional design;
- administrative practice;
- documentary evidence.

Only after reconstruction is complete does governance analysis begin.

CANONICAL DEFINITION

CD-12 — Governance Analysis

Governance Analysis is the comparison between the reconstructed legal framework and the documentary record to determine whether statutory administration corresponds with the governing legal obligations.

Governance Analysis is therefore the final stage of the Evidence-Led Governance methodology.

5.2 Relationship Between Definitions

The Canonical Definitions should not be understood as independent concepts.

They form an integrated vocabulary.

Legal Authority creates Institutional Design.

Institutional Design enables Administrative Practice.

Administrative Practice produces Documentary Evidence.

Documentary Evidence preserves Institutional Memory.

Institutional Memory supports Traceability.

Traceability enables Governance Analysis.

Governance Analysis strengthens Governance.

The definitions therefore describe one continuous administrative relationship.

RESEARCH FINDING

RF-5

The repeated application of the Evidence-Led Governance methodology demonstrates that a stable analytical vocabulary can be developed across multiple statutory frameworks without altering the underlying legal obligations of those frameworks.

The Canonical Definitions therefore provide methodological consistency rather than replacing statutory terminology.

Chapter Synthesis

The Canonical Definitions established in this chapter provide the common language used throughout the remainder of the handbook.

Each definition has emerged from the repeated examination of independent statutory systems rather than from abstract theory.

Accordingly, these definitions should be read as methodological tools designed to support consistent reconstruction and analysis of statutory administration.

Chapter 6 — Research Findings

6.1 Introduction

The preceding chapters established the foundations of the Evidence-Led Governance methodology. They defined the governing principles, described the research methodology, established the canonical framework, and introduced the terminology necessary for the consistent interpretation of administrative evidence.

This chapter marks a transition.

The purpose is no longer to describe how the research is conducted. The purpose is to present what the research has revealed.

The findings presented in this chapter arise from the systematic reconstruction and examination of legal authority, institutional design, administrative practice, and documentary evidence. They concern the operation of governance itself rather than any single institution, statutory framework, or administrative process.

Accordingly, this chapter records the recurring characteristics that emerged through the application of the Evidence-Led Governance methodology.

6.2 Methodological Note

The findings presented in this chapter were not predetermined.

They emerge from the repeated application of the Evidence-Led Governance methodology across reconstructed legal authority, institutional design, administrative practice, and documentary evidence.

Findings are reported only where recurring patterns are observed across the accumulated record.

They remain open to refinement, expansion, or rejection as additional evidence becomes available.

This chapter therefore records what the research has revealed, rather than what the research set out to prove.

The methodology establishes the process by which evidence is reconstructed and examined.

The findings emerge only after that process has been completed.

6.3 Finding One — Institutional Accumulation and Administrative Understanding

RESEARCH FINDING

RF-1

Core Principle

Institutions should not repeatedly rediscover what they already know.

The accumulated record consistently indicates that effective administration depends upon the accumulation of evidence into institutional understanding.

Individual documents rarely reveal administrative performance in isolation. Administrative governance becomes observable only when records are examined collectively across time and institutional responsibility.

Each administrative action forms part of a wider evidential relationship. Decisions derive meaning not solely from their individual content but from their connection to preceding records, governing authority, and subsequent administrative activity.

Where each decision builds upon previous evidence:

- institutional understanding increases;
- administrative continuity becomes observable;
- consistency becomes measurable;
- accountability becomes traceable;
- rights become progressively capable of practical realisation.

Conversely, where each interaction is treated as a new beginning:

- evidence becomes fragmented;
- institutional memory diminishes;
- repeated assessment replaces accumulated understanding;
- similar issues repeatedly reappear without organisational learning;
- governance becomes increasingly difficult to evaluate.

The first research finding therefore identifies institutional accumulation as a recurring characteristic associated with coherent administrative governance.

6.4 Characteristics of Institutional Accumulation

The accumulated evidence consistently revealed several characteristics that together constitute institutional accumulation.

Continuity

Administrative actions should build upon the existing record rather than replacing or disregarding it.

Continuity enables institutions to develop understanding through successive decisions rather than repeated rediscovery.

Traceability

Later decisions should remain explainable through the evidence that preceded them.

Administrative reasoning should therefore remain traceable across the documentary record.

Reproducibility

Independent examination of the same accumulated record should permit substantially similar conclusions regarding administrative development and governance.

Where findings cannot be reproduced from the available evidence, administrative understanding becomes uncertain.

Administrative Learning

Institutions should demonstrate increasing understanding as evidence accumulates.

Repeated assessment without corresponding institutional development indicates fragmentation rather than learning.

These characteristics repeatedly emerged across reconstructed administrative records and together describe the first research finding.

6.5 Governance Implications

Institutional accumulation is not merely an administrative convenience.

It is a characteristic of effective governance.

Where accumulation is absent, the evidence consistently indicated increased risks of:

- inconsistent administrative decision-making;
- repeated procedural engagement without substantive progression;
- duplication of assessment;
- fragmentation of institutional understanding;
- unnecessary administrative burden;
- reduced transparency;
- diminished accountability.

Conversely, where evidence accumulated through successive administrative activity, governance became progressively easier to reconstruct, interpret, and evaluate.

Administrative understanding therefore depends not only upon the existence of evidence but upon its continued relationship to subsequent administrative action.

6.6 Relationship to Evidence-Led Governance

Evidence-Led Governance treats administrative records as cumulative rather than isolated.

Individual records remain important.

Their greater significance, however, lies in their relationship to one another.

Accordingly:

- evidence is preserved;
- provenance remains intact;
- institutional understanding develops through accumulation;
- governance becomes observable through continuity;

- accountability becomes traceable across successive administrative decisions.

Administrative understanding therefore emerges from the accumulated relationship between records rather than from any individual document considered in isolation.

This relationship permits governance itself to become capable of systematic examination.

6.7 Discussion

The first research finding extends beyond any individual statutory framework.

The recurring relationship between accumulated evidence and institutional understanding was observed across multiple areas of administrative activity.

Accordingly, the finding should not be interpreted as specific to a particular institution or administrative process.

Rather, it describes a characteristic of governance itself.

Institutions become progressively capable of coherent administration where evidence accumulates into organisational understanding.

Where evidence remains fragmented, governance likewise becomes fragmented.

The significance of the finding therefore lies not in the quantity of evidence available but in the continuity of the relationships preserved between successive records.

6.8 Conclusion

The first research finding indicates that governance depends upon institutional accumulation.

The question is not whether evidence exists.

The question is whether institutions allow that evidence to become institutional understanding.

Where evidence accumulates, administrative continuity becomes observable.

Where continuity becomes observable, accountability becomes measurable.

Where accountability becomes measurable, governance itself becomes capable of systematic evaluation.

The first finding therefore establishes institutional accumulation not as an administrative preference, but as a recurring characteristic emerging from the accumulated record.

Subsequent findings continue this examination by identifying additional recurring patterns that emerge through the application of the Evidence-Led Governance methodology.

VOLUME II

Application of Evidence-Led Governance

Introduction to Volume II

Volume I established the conceptual and research foundations of Evidence-Led Governance.

It examined the relationship between evidence, institutional memory, administrative continuity, legal authority, procedural rights and accountable decision-making.

Volume II applies that methodology.

The purpose is not to select individual disputes because they appear to prove conclusions already reached.

Nor is the purpose to use case studies as illustrations for predetermined arguments.

The case-study method operates in the opposite direction.

It begins with the administrative record.

It reconstructs what happened.

It identifies the institutions involved, the functions they exercised, the information available to them, the legal frameworks within which they acted, the decisions they made, the reasons they recorded, and the mechanisms through which those decisions could be reviewed.

Only after that reconstruction may governance observations be considered.

This distinction is fundamental.

A case study within Evidence-Led Governance is therefore not principally a narrative of events.

It is a reconstruction of an administrative pathway.

The reconstruction asks:

What entered the system?

Who received it?

Under what authority?

For what institutional purpose?

What evidence existed at that point?

What decision was made?

What reasons were recorded?

What happened to the evidence afterwards?

Was the decision reviewed?

Did later institutions receive the same evidence?

Did they exercise the same function?

Did information accumulate across the pathway, or was it repeatedly encountered as though new?

These questions allow administrative systems to be examined without requiring the researcher to determine the conclusion in advance.

The governing principle remains:

The researcher does not determine the destination.

The researcher reconstructs the pathway.

Chapter 7 — Case Study Method

7.1 Purpose

Chapter 7 does not establish a separate methodology. It operationalises the Evidence-Led Governance methodology established in Volume I for application to individual administrative case studies. RM-1 to RM-5 remain controlling throughout every case-study reconstruction.

The purpose of the Evidence-Led Governance case-study method is to examine how governance operates when information enters real administrative systems.

Legal frameworks describe powers, duties, rights and procedures.

Institutional structures allocate responsibility.

Administrative processes determine how those structures operate in practice.

Documentary records preserve evidence of what actually occurred.

A case study brings those layers together.

Its purpose is not merely to establish a chronology.

It seeks to reconstruct the relationship between:

legal authority;

institutional function;

administrative action;

documentary evidence;

decision-making;

reasoning;

review;

and

institutional memory.

The method therefore examines not only what decision was eventually reached, but the pathway through which that decision became possible.

7.2 Case Study Selection

A case study should not be selected because it appears likely to prove a particular governance proposition.

Selection should instead be based upon whether the available record permits meaningful reconstruction.

Relevant considerations include:

- whether a sufficiently developed documentary record exists;
- whether institutional actors and functions can be identified;
- whether important events can be placed chronologically;
- whether decisions and their reasons are preserved;
- whether relevant legal or procedural frameworks can be identified;
- whether evidence can be traced between stages;
- whether review or escalation mechanisms can be reconstructed;
- and whether unresolved gaps can themselves be identified.

A case study need not contain a complete record.

Absence may itself be relevant.

But absence must not be replaced by assumption.

Where the evidence does not establish what happened, the reconstruction records that limitation.

7.3 Defining the Administrative Boundary

Every case study requires a defined boundary.

That boundary may be:

- a complaint;
- an application;
- an investigation;
- a regulatory process;
- a statutory decision;
- a review;
- an appeal;
- an information-access request;
- or a sequence of related administrative processes.

The boundary should be determined by the institutional function being reconstructed rather than simply by the subject matter of the underlying events.

This is necessary because the same evidence may enter several administrative systems.

For example, the same document may become relevant to:

professional regulation;

law enforcement;

freedom of information;

data protection;

administrative review;

or

judicial proceedings.

Those pathways may concern the same underlying events while asking entirely different legal questions.

They must therefore remain distinguishable.

7.4 The Reconstruction Unit

The basic unit of the case-study method is not simply the document.

It is the governed administrative event.

For each significant event, the reconstruction should seek to establish:

Date

When did the event occur?

Actor

Who performed the action or made the decision?

Institution

Within what institution did the event occur?

Function

What administrative function was being exercised?

Authority

What legal, statutory, regulatory or procedural authority governed that function?

Evidence State

What information can be established as available at that point?

Action

What happened?

Decision

Was a determination made?

Reasoning

Were reasons recorded?

Resulting State

What changed because of the action or decision?

Review

Was there a mechanism through which the action or decision could be reconsidered?

This structure prevents chronology from becoming merely a list of dates.

It reconstructs the governance significance of each event.

7.5 Evidence-State Boundaries

A central feature of the case-study method is the evidence-state boundary.

Evidence-State Boundary — the point in an administrative pathway at which the evidence demonstrably available to a decision-maker can be distinguished from evidence received before or after that decision.

A decision must be examined against the evidence that was available when the decision was made.

Evidence received afterwards must not retrospectively be treated as though it formed part of the earlier decision.

The reconstruction should therefore distinguish between:

Evidence available before Decision A

and

Evidence received after Decision A but before Decision B.

This distinction may be critical where a pathway contains several decision stages.

The method does not initially determine what consequence later evidence should have produced.

It first establishes the narrower factual question:

What evidence existed at each decision point?

Only after that boundary has been reconstructed can the significance of later evidence properly be analysed.

7.6 Provenance

Source authority is question-dependent. Primary legal authority governs propositions of law. Documentary evidence governs propositions concerning what was recorded, communicated or administratively performed. Institutional decisions establish the decisions and reasoning they contain. No category acquires authority to establish a proposition outside its evidential function.

Every documentary source should retain its origin.

A later copy does not replace the earlier source.

A summary does not replace the underlying document.

A chronology does not replace the correspondence from which the chronology was constructed.

A later institutional description of an earlier decision does not replace the original decision where that decision remains available.

Sources should therefore be treated according to their evidential function.

Where possible, the reconstruction should distinguish:

primary contemporaneous records;

institutional decisions;

subsequent institutional descriptions;

later summaries or chronologies;

researcher reconstruction;

and

analytical observation.

These categories may corroborate one another.

They should not be collapsed into one another.

7.7 Documentary Fact, Reported Claim and Finding

The case-study method requires explicit separation between different evidential propositions.

A document may establish that:

an allegation was made.

That does not establish that:

the allegation was proven.

A decision may establish that:

an institution reached a particular conclusion.

That does not necessarily establish that:

the conclusion was factually correct.

A review may establish that:

a decision was affirmed.

That does not necessarily establish that:

every reason supporting the earlier decision was affirmed.

The reconstruction must therefore distinguish among:

documentary fact;

reported allegation;

institutional finding;

legal determination;

research inference;

and

unresolved question.

This distinction is essential to evidence-led analysis.

7.8 Conflicting Evidence

Administrative records do not always agree.

Dates may differ.

Descriptions may change.

Later correspondence may characterise earlier events differently.

Records may be incomplete.

Where two credible sources contain different information, the discrepancy should ordinarily be preserved.

The researcher should not silently select the version that best fits the emerging narrative.

The correct research statement may therefore be:

Source A records 22 December.

Source B records 23 December.

The available evidence does not presently resolve the discrepancy.

Preserving disagreement is part of preserving the record.

7.9 Parallel Administrative Pathways

A single underlying episode may generate several institutional pathways.

Those pathways should initially be reconstructed independently.

Their chronology may overlap.

Their documentary evidence may overlap.

Their participants may overlap.

But their functions may remain different.

The case-study method therefore asks of each pathway:

What question was this institution actually empowered to answer?

This prevents an outcome in one process from being mistaken for an answer to a question belonging to another.

A freedom-of-information decision, for example, may determine whether information can lawfully be disclosed.

It does not necessarily determine whether the underlying administrative decision was correct.

A data-protection decision may address processing of personal information.

It does not necessarily determine the merits of a regulatory complaint.

Functional separation must therefore precede cross-pathway analysis.

7.10 Decision and Review Lineage

Administrative decisions should be reconstructed as a lineage.

Where a decision is reviewed, the reconstruction should identify:

the original decision;

the original reasons;

the review request;

the scope of review;

the reviewing authority;

the evidence before the reviewer;

the review reasoning;

and

the review outcome.

A later affirmation should not be allowed to rewrite the earlier reasoning.

Where a reviewer reaches the same outcome for different reasons, both decision states should remain visible.

Accordingly:

Outcome affirmed

does not necessarily mean:

Every earlier reason affirmed.

Decision lineage preserves that distinction.

7.11 Unresolved Questions

An unresolved question is a legitimate research result.

The case-study method does not require every gap to be filled before reconstruction can proceed.

Instead, unresolved questions should be expressly identified.

They may arise because:

- a document has not been located;
- the available documents conflict;
- an institution did not record its reasoning;
- a later decision did not determine an earlier question;
- the available evidence establishes chronology but not causation;
- or the legal significance of an event requires separate research.

The researcher should not fill these gaps through narrative convenience.

The appropriate status is:

Unresolved pending further evidence or authority.

7.12 From Reconstruction to Governance Observation

Governance analysis begins only when the pathway, governing authority and evidential record have been sufficiently reconstructed to support it.

An observation should identify something demonstrated by the reconstructed case without claiming more than the evidence supports.

For example, a case study may demonstrate that:

- information moved between several institutions;
- different institutions applied different legal tests to overlapping evidence;
- evidence available at one decision point differed from evidence available at another;
- a review preserved the outcome while changing the reasoning;
- or documentary continuity was lost between stages.

These may become case-study observations.

They do not automatically become general Research Findings.

7.13 Case-Study Observation and Research Finding Threshold

A case-study observation is not a Research Finding.

An observation records a characteristic demonstrated within the reconstructed pathway.

A Research Finding requires recurrence across the accumulated record in accordance with the standard established in Chapter 6.

Accordingly, no proposition arising solely from one case study should be designated an RF finding unless independent evidence elsewhere in the research establishes the required recurring pattern.

Volume I distinguishes research findings from individual observations.

That distinction continues in Volume II.

A proposition emerging from one case study should ordinarily remain a case-study observation until it can be tested against additional evidence.

Where the same governance characteristic appears independently across multiple administrative pathways, the research may consider whether it has become sufficiently recurrent to support a broader finding.

The progression is therefore:

Documentary Evidence

↓

Administrative Reconstruction

↓

Case-Study Observation

↓

Cross-Case Comparison

↓

Recurring Pattern

↓

Research Finding

This prevents an individual case from being used to manufacture a general conclusion.

7.14 Case Study Output Structure

Each developed case study should, where the evidence permits, contain:

Purpose and Scope

Administrative Reconstruction

Legal Question

Authorities and Statutory Provisions

Institutional Function

Evidence-State Analysis

Institutional Reasoning

Decision and Review Lineage

Outcome

Principles Emerging from Reconstruction

Unresolved Questions

Governance Observation

Chapter Synthesis

Not every case will support every component equally.

Where evidence is absent, that absence should remain visible.

7.15 Methodological Safeguard

Every case study remains governed by the methodological disciplines established in Volume I: Reconstruction Precedes Evaluation (RM-1), Evidence Before Inference (RM-2), Independent Authority (RM-3), Traceability (RM-4), and The Researcher's Discipline (RM-5).

Their application to case studies requires the researcher to preserve provenance, identify evidence-state boundaries, distinguish institutional functions, maintain decision lineage, preserve conflicting evidence and record unresolved questions.

These controls ensure that the case study applies the methodology rather than becoming an exception to it.

7.16 Governing Principle

The application method therefore retains the governing discipline established in Volume I:

The researcher does not determine the destination.

The researcher reconstructs the pathway.

A case study begins with the record.

Governance analysis begins only when the pathway, governing authority and evidential record have been sufficiently reconstructed to support it.

Chapter 8 — Complaint, Evidence and Information Access

8.1 Purpose and Scope

This chapter applies the Evidence-Led Governance methodology to a connected sequence of administrative processes arising from complaint C397/19 before the Medical Council and the subsequent information-access process F60-2020.

The reconstruction begins with the complaint and supporting evidence submitted to the Medical Council on 2 December 2019. It follows the complaint through the Preliminary Proceedings Committee, the investigation conducted under section 59 of the Medical Practitioners Act 2007, the PPC's opinion under section 61, and the Medical Council's final decision.

It then reconstructs a second pathway arising from the same institutional record: the request under the Freedom of Information Act 2014 for correspondence received by the Medical Council from Dr Dominic Harmon, the Medical Council's FOI decision, internal review and independent review by the Office of the Information Commissioner.

The two pathways are connected by evidence but governed by different legal questions.

The complaint pathway concerned whether there was sufficient cause to warrant further action in relation to allegations concerning professional conduct or performance.

The information-access pathway concerned whether records generated or received during that complaint process could subsequently be disclosed under the Freedom of Information Act 2014.

The purpose of the chapter is not to redetermine either proceeding.

It is to reconstruct:

- what was submitted;
- what statutory process governed its consideration;
- what further information was sought or received;
- what the institutional record states was considered;
- what decisions were made;
- what records were subsequently requested;
- what was disclosed or withheld;
- what independent review determined; and
- what remains incapable of determination from the surviving record.

The case study therefore examines the relationship between evidence submission, evidence acquisition, institutional consideration, decision-making and subsequent access to the institutional record.

8.2 Medical Council Complaint Pathway — C397/19

8.2.1 Complaint and evidential context

The complaint form identified allegations concerning medical treatment and professional conduct and expressly contemplated supporting documentation.

The Medical Council's own form stated that letters or medical records capable of supporting a complaint could be enclosed. It separately explained that relevant medical records might need to be obtained in order to consider the complaint.

The form identified Barrington's Hospital, Limerick and Croom Hospital as organisations holding relevant medical records.

The Council's form further stated that it could obtain relevant medical records from healthcare providers and other relevant organisations for the purpose of investigating a complaint and that, where necessary, the Preliminary Proceedings Committee could issue a direction compelling their release. Complaint-Form-August-2019.pdf

This is important to the subsequent reconstruction.

Medical records were not external to the complaint procedure. The Council's own complaint process expressly contemplated their acquisition and use in investigating a complaint.

8.2.2 Submission of 2 December 2019

The surviving record establishes that the Medical Council received the complaint on 2 December 2019.

The evidence was not confined to a complaint form.

The surviving submission record establishes a multi-part evidential transmission comprising five packages. The extracted material includes correspondence, medical and clinical records, prescription material, images, screenshots, an audio file, referral material and other documentary evidence.

The reconstructed packages include material relating to Barringtons and Croom, including files identified as:

Croom_19_June_2018.jpeg

and

Croom_27_August_2019.jpeg.

The reconstructed evidence also includes correspondence concerning treatment and appointments, prescription material, clinical material, a referral letter, photographs, an activity spreadsheet and an audio file.

The complaint form itself preserves a wider inventory of material associated with the complaint record, including Barringtons and Croom material, correspondence concerning Harmon and John O'Donnell, prescriptions, clinical material, photographs, screenshots and other records. Complaint-Form-August-2019.pdf

The evidential significance at this stage is limited but important.

The surviving material establishes submission.

Submission alone does not establish how each individual item was assessed or what weight was attached to it.

8.2.3 Withdrawal and continuation

The Medical Council acknowledged the complaint by letter dated 18 December 2019.

That letter recorded that the complaint had been received on 2 December and that an email dated 13 December indicated a wish to withdraw it.

By then, however, the complaint had been processed and assigned to a case officer on 5 December 2019.

The Council explained that the matter would therefore go before the PPC on 24 January 2020.

The Council expressly invoked section 59(10) of the Medical Practitioners Act 2007, explaining that the PPC could either decide that no further action should be taken or proceed as though the complaint had not been withdrawn.

The letter further explained that, if the PPC proceeded, an investigation would follow. Letter to Mr Nicholas Moloney dated 18.12.19.pdf

The documentary record subsequently establishes that the complaint did continue.

8.2.4 PPC investigation

On 24 January 2020, the PPC considered the matter.

The Council's letter of 30 January 2020 records that the PPC formally assigned the complaint to case officer Darren Smith and directed an investigation.

The direction was specific.

Harmon was to be invited to provide any information he believed should be considered pursuant to section 59(6) of the Medical Practitioners Act 2007.

If he did not respond within a reasonable period, the case officer was directed to issue a formal notice under section 59(7) requiring him to provide information.

The Council further stated that the information obtained would be considered by the PPC and that the PPC could either form an opinion or direct further investigations. ELetter to Mr Nicholas Moloney dated 30.01.20.pdf

This establishes an important point in the decision lineage.

C397/19 had moved from complaint submission to a formally directed statutory investigation.

8.2.5 Response and continuing evidential exchange

A response dated February 2020 subsequently entered the complaint record.

In that response Harmon described the material he had received as including GP notes, prescriptions and images. He referred to his clinical relationship with the complainant, disputed the implications of the complaint and stated that a copy of medical notes would be helpful. F60-2020 Records NM.pdf

The surviving institutional record shows that correspondence and evidence continued to accumulate after the original December submission.

The eventual PPC decision letter identifies complainant correspondence and attachments dated:

2 December 2019; 13 December 2019; 20 January 2020; 24 January 2020; 27 January 2020; 23 March 2020; 6 April 2020; 22 April 2020; 5 May 2020; 5 June 2020; and 16 June 2020.

It also identifies correspondence from Harmon dated:

10 February 2020; 14 August 2020; 14 September 2020; 23 September 2020; and 18 October 2020;

together with a letter from Harmon enclosing a letter from Inspector for Superintendent Andrew Lacey dated 14 September 2020. ELetter to Mr Nicholas Moloney dated 25.11.20.pdf

The complaint record was therefore cumulative.

It was not confined to the material existing on 2 December 2019.

8.2.6 Croom records and the evidential process

The submission of Croom records must be understood within this procedural context.

The Council's complaint form had already identified Croom Hospital as a holder of relevant medical records and expressly informed complainants that medical records could be obtained for investigation and, where necessary, compelled by the PPC. Complaint-Form-August-2019.pdf

The complainant understood from the procedure that the evidential record remained capable of supplementation while the complaint was being investigated.

Croom material was supplied on that basis.

This understanding was consistent with the statutory structure subsequently examined in this chapter: section 59 expressly provided mechanisms for obtaining further information, while section 59(11) imported specified powers concerning production of records.

The evidential proposition should nevertheless remain narrow.

The record establishes that Croom material was supplied and that the complaint procedure contemplated the acquisition of medical records.

It does not follow merely from those facts that every Croom document was individually examined or relied upon by the PPC.

That is a separate question of institutional consideration.

8.2.7 Renewed section 59(7) direction

The investigation continued into September 2020.

On 18 September 2020, the Council recorded a PPC direction to issue a notice under section 59(7) requiring Harmon to respond specifically to the allegations contained in the complaint submitted on 2 December 2019.

The Council stated that information obtained during the investigation would be sent to Harmon so that he could supply information he believed should be considered.

It then stated:

"All information relating to the complaint will then be considered by the PPC…"

The PPC could thereafter form an opinion or direct further investigations. ELetter to Mr Nicholas Moloney dated 18.09.20.pdf

The significance of this correspondence is procedural.

It demonstrates the continuing operation of the section 59 investigative mechanism and records the Council's representation that all information relating to the complaint would be considered before the PPC formed its opinion.

8.2.8 PPC opinion

The PPC considered C397/19 at its meeting on 12 November 2020.

The Medical Council's letter of 25 November 2020 records that the Committee considered the case report and documentation relating to the matter, followed by a non-exhaustive list of correspondence and attachments received from the complainant and Harmon between December 2019 and October 2020. ELetter to Mr Nicholas Moloney dated 25.11.20.pdf

The PPC formed the opinion under section 61(1)(a) that there was not sufficient cause to warrant further action.

The stated reasoning was that there was no prima facie evidence of professional misconduct or poor professional performance.

The letter further records that the PPC took account of a Garda investigation and a formal direction that there be no prosecution and, on that basis, concluded that there was no substantiating evidence warranting further action. ELetter to Mr Nicholas Moloney dated 25.11.20.pdf

Those propositions are recorded here as the PPC's stated reasoning.

The chapter does not convert them into an independent finding concerning the underlying allegations.

8.2.9 Final Medical Council decision

The PPC's opinion was subsequently placed before the Medical Council.

At its meeting on 2 December 2020, the Council considered the PPC opinion and decided that no further action should be taken.

The decision was communicated on 11 December 2020 and expressly described as the Medical Council's final decision. ELetter to Mr Nicholas Moloney dated 11.12.20.pdf

The complaint pathway can therefore be reconstructed as:

complaint and evidence → PPC consideration → section 59 investigation → continuing evidential exchange → PPC opinion under section 61(1)(a) → Council consideration → final decision of no further action.

8.3 Information-Access Pathway — F60-2020

8.3.1 FOI request

Before the final Council decision was communicated, a separate information-access pathway had begun.

On 30 November 2020, a request was made under the Freedom of Information Act 2014.

The request initially sought six identified items of correspondence from Harmon together with any information held about the applicant in computerised or manual form. F60-2020 Decision Letter.pdf

The timing is significant.

The FOI request arose after the PPC opinion had been communicated on 25 November but before the Medical Council's final decision was communicated on 11 December.

The complaint and information-access pathways therefore briefly overlapped chronologically.

8.3.2 Identification of the institutional record

On 4 December 2020, the Medical Council informed the applicant that a search using the original parameters had identified more than 600 pages.

The Council asked that the request be narrowed, explaining that otherwise section 15(1)(c) of the FOI Act might apply because of the volume of material requiring retrieval and examination. F60-2020 Narrow Parameters.pdf

This is itself a significant evidential fact.

By December 2020, the search conducted by the Medical Council against the original FOI parameters identified an institutional record exceeding 600 pages.

The applicant responded the same day and narrowed the request to six specified items of correspondence from Harmon.

He expressly excluded documentation and correspondence he had sent to the Council and documentation and correspondence the Council had already sent to him. Re REQUEST FOR ACCESS TO RECORDS UNDER THE FOI ACT 2014.pdf

The resulting access dispute was therefore deliberately narrow.

It was not a request for the complete C397/19 case file.

8.3.3 Records sought

The six specified records were:

1. email and attachment from Harmon dated 10 February 2020; 2. email from Harmon dated 14 August 2020; 3. email from Harmon dated 14 September 2020; 4. letter from Harmon enclosing a letter from Inspector for Superintendent Andrew Lacey dated 14 September 2020; 5. email from Harmon dated 23 September 2020; and 6. email from Harmon dated 18 October 2020. F60-2020 Decision Letter.pdf

These records correspond closely with practitioner-side material subsequently identified in the PPC's 25 November description of the documentation considered.

The complaint pathway and information-access pathway therefore intersect at identifiable documentary objects.

8.3.4 Original FOI decision

On 21 December 2020, the Medical Council issued its FOI decision.

The Council stated that although its search had identified more than 600 pages overall, 19 pages fell within the narrowed scope.

Partial access was granted.

The Council relied upon section 37(1) concerning personal information and section 35(1)(a) concerning information obtained in confidence to redact or withhold material. F60-2020 Decision Letter.pdf

The result was therefore neither complete disclosure nor complete refusal.

A portion of the institutional record became accessible while other information remained withheld.

8.4 Internal Review

The original FOI decision was challenged through the statutory internal-review process.

The request for internal review was received by the Medical Council in December 2020. On 5 January 2021, Lorna Purcell acknowledged the request, identified herself as a more senior member of staff than the original decision-maker and stated that she would conduct a full review. The acknowledgement explained the applicable review timeframe and the subsequent right to seek review by the Office of the Information Commissioner. Internal Review Acknowledgement F60.pdf

On 12 January 2021, Purcell issued the internal-review decision.

She expressly described the review as an entirely new and separate decision. She confirmed that the narrowed request concerned six identified items of correspondence received from Harmon and determined that the original decision-maker had adequately gathered the records falling within scope — 19 pages in total.

Purcell stated that she had reviewed those records herself and affirmed the original decision. IR F60.pdf

The internal review separately considered sections 37(1) and 35(1)(a) of the Freedom of Information Act 2014.

In relation to section 37(1), Purcell concluded that withholding the doctor's name and the identities of third parties was justified. Her reasoning included the proposition that release under FOI constitutes release to the public at large and that those persons would not expect information bearing their names to be released into the public domain. IR F60.pdf

In relation to section 35(1)(a), the internal-review decision expressly identified the withheld material as information supplied by the doctor in relation to complaint C397/19.

Purcell considered the four statutory conditions for the exemption satisfied. Her recorded reasoning was that information supplied by doctors was provided confidentially; that there was an explicit understanding of confidentiality; that doctors were not informed at the outset that information supplied by them might subsequently be released publicly; that public disclosure might discourage future provision of such information; and that continued receipt of such information was important to the Medical Council's ability to perform its statutory functions. IR F60.pdf

The internal reviewer also considered the public-interest provision in section 35(3). She identified a strong public interest in preserving the Medical Council's ability to conduct effective investigations and reasoned that an inability to gather the information needed for those investigations could adversely affect the Council's statutory functions under the Medical Practitioners Act 2007. IR F60.pdf

The original FOI decision was therefore not merely affirmed as an outcome.

It was reconsidered through a fresh internal decision which expressly connected the confidentiality claimed for the records with the Medical Council's ability to obtain information for its complaint-investigation function.

The internal-review decision preserved a further right to seek independent review by the Office of the Information Commissioner.

8.5 Independent Review — OIC-102280-Z3W2H8

The applicant sought independent review by the Office of the Information Commissioner.

The review was ultimately determined by Stephen Rafferty, Senior Investigator, on 17 February 2021, under section 22(2) of the Freedom of Information Act 2014. OICDecision102 280.pdf

The OIC's jurisdiction was narrower than the underlying complaint.

It was not conducting a new investigation into the allegations against Harmon.

It was not reviewing the adequacy of the PPC investigation as a general administrative matter.

It was determining whether the Medical Council was legally entitled under the FOI Act to refuse access to the remaining withheld material.

The records at issue consisted of correspondence received by the Medical Council from the named doctor.

The OIC ultimately affirmed the refusal under section 37. OICDecision102 280.pdf

This distinction is fundamental to the reconstruction.

An independent determination concerning access to records is not an independent determination concerning the merits of the complaint recorded within those records.

8.6 Legal Question

The reconstructed case contains two principal legal questions.

Complaint pathway

The first arose under the Medical Practitioners Act 2007:

Whether, following investigation and consideration of the information relating to C397/19, there was sufficient cause to warrant further action in relation to the complaint.

The PPC answered that question by forming an opinion under section 61(1)(a) that there was not sufficient cause.

The Medical Council subsequently decided that no further action should be taken.

Information-access pathway

The second arose under the Freedom of Information Act 2014:

Whether the Medical Council was justified in withholding, wholly or partly, specified correspondence received from Harmon where disclosure would reveal personal information, joint personal information or information said to have been provided in confidence, and whether the statutory exceptions or public-interest provisions nevertheless required disclosure.

The OIC ultimately determined the access question under section 37.

These questions must remain separate.

A decision that there was insufficient cause for further professional-disciplinary action does not itself determine an FOI entitlement.

An FOI refusal based upon privacy does not itself determine whether the underlying complaint was well founded.

8.7 Authorities and Statutory Provisions

Two principal statutory frameworks governed the reconstructed pathways.

Medical Practitioners Act 2007

Part 7 of the Medical Practitioners Act 2007 governs complaints to the Preliminary Proceedings Committee.

Section 57 establishes the statutory complaint pathway and requires the PPC to make reasonable efforts to keep the complainant informed and to process complaints in a timely manner.

Section 58 permits persons appointed to assist the PPC to perform investigative functions, including interviewing persons concerning potentially relevant evidence, recording statements and requesting written statements.

Section 59 governs consideration and investigation of complaints.

Of particular importance:

- section 59(3) permits the PPC to seek further information from a complainant;
- section 59(6) permits the practitioner to supply information believed relevant;
- section 59(7) permits the PPC formally to require specified information from the practitioner;
- section 59(8) requires compliance with such a notice;
- section 59(9) requires the PPC, before forming its opinion, to consider any information supplied under section 59 concerning the complaint, together with whether the complaint is trivial, vexatious, without substance or made in bad faith;
- section 59(10) governs withdrawal of a complaint and permitted C397/19 to continue notwithstanding the attempted withdrawal; and
- section 59(11) applies section 66(1)(c), section 66(2) insofar as it concerns the production of records, and section 66(9) to the PPC and its chairperson, thereby making specified record-production provisions available within the PPC process.

This statutory architecture is consistent with the Medical Council's own complaint form, which told complainants that relevant medical records might be obtained and that the PPC could, where necessary, compel their release.

Section 60 provides a separate mechanism for seeking immediate suspension of registration where necessary for protection of the public. The surviving C397/19 record examined here does not establish that this mechanism was invoked.

Section 61 governs the PPC's reporting of an opinion where it concludes, among other possibilities, that there is insufficient cause to warrant further action.

It was under section 61(1)(a) that the PPC recorded its opinion in C397/19.

Section 62 provides for mediation or other informal resolution in appropriate circumstances.

Section 63 governs referral to the Fitness to Practise Committee where the PPC is of the opinion that there is a prima facie case to warrant further action, or where the Council directs further action under section 61(2)(e).

C397/19 did not proceed to that stage on the reconstructed record.

Freedom of Information Act 2014

The information-access pathway engaged:

Section 13 — decision on an FOI request.

Section 15(1)(c) — potential refusal where the number or nature of records would cause substantial and unreasonable interference with or disruption of the work of the FOI body. The Medical Council raised this provision when asking that the original request be narrowed. F60-2020 Narrow Parameters.pdf

Section 35(1)(a) — information obtained in confidence.

Section 35(3) — public-interest test applicable to information to which section 35(1) would otherwise apply.

Section 37(1) — personal information.

Section 37(2) — circumstances in which the section 37(1) exemption does not apply.

Section 37(5) — circumstances permitting release notwithstanding section 37(1), including the public-interest test.

Section 37(7) — joint personal information.

Section 22(2) — independent review by the Information Commissioner.

Section 24 — appeal to the High Court on a point of law.

The OIC also considered judicial authority concerning the distinction between private interests and a legally cognisable public interest when applying the statutory balancing exercise.

8.8 Institutional Reasoning

8.8.1 PPC reasoning

The PPC's recorded reasoning can be reconstructed from the 25 November 2020 correspondence.

It stated that it had considered the case report and documentation relating to the complaint, including but not limited to the identified complainant and practitioner correspondence accumulated between December 2019 and October 2020.

It formed the opinion that there was no prima facie evidence of professional misconduct or poor professional performance.

The PPC also referred to the Garda investigation and a formal direction that there be no prosecution.

On that basis, it stated that there was no substantiating evidence warranting further action. ELetter to Mr Nicholas Moloney dated 25.11.20.pdf

The evidential discipline required here is important.

The chapter can establish what reasons the PPC recorded.

It cannot infer from those reasons an item-by-item evidential assessment that the surviving decision does not contain.

8.8.2 FOI reasoning

The Medical Council's FOI decision took a different approach because it answered a different question.

It identified 19 pages within the narrowed request and granted partial access.

It relied upon personal-information protections under section 37 and confidentiality under section 35 for the information withheld or redacted. F60-2020 Decision Letter.pdf

8.8.3 OIC reasoning

The OIC ultimately treated section 37 as determinative.

The independent review considered the privacy interests attaching to information concerning the doctor and other persons and the public-interest provisions governing possible disclosure.

The OIC regarded disclosure under FOI as effectively disclosure to the world at large because the Act places no restrictions upon subsequent use.

The applicant's interest in obtaining the records to pursue his grievance with the doctor and Medical Council was characterised as essentially private.

The OIC concluded that no relevant public interest outweighed the privacy rights engaged and therefore affirmed refusal under section 37(1).

Having reached that conclusion, it considered it unnecessary to determine the application of sections 35 or 32. OICDecision102 280.pdf

The OIC decision also records the Medical Council's submission that the complaint had not been upheld.

That proposition retains its provenance as a Medical Council submission to the OIC rather than becoming an independent OIC determination of the merits of C397/19. OICDecision102 280.pdf

8.9 Review Outcome

The reconstructed pathways produced distinct outcomes.

Complaint outcome

On 12 November 2020, the PPC formed the opinion under section 61(1)(a) that there was insufficient cause to warrant further action. ELetter to Mr Nicholas Moloney dated 25.11.20.pdf

On 2 December 2020, the Medical Council considered that opinion and decided that no further action should be taken.

That was communicated as the Council's final decision on 11 December 2020. ELetter to Mr Nicholas Moloney dated 11.12.20.pdf

FOI outcome

On 21 December 2020, partial access was granted to the records falling within the narrowed F60-2020 request, with other information withheld or redacted under sections 35 and 37. F60-2020 Decision Letter.pdf

Following internal review, independent review was sought.

On 17 February 2021, the OIC affirmed the refusal of the remaining material under section 37. OICDecision102 280.pdf

The OIC decision identified a further statutory right of appeal to the High Court under section 24, normally on a point of law and subject to the statutory time limit. OICDecision102 280.pdf

The independent review therefore resolved an information-access question.

It did not constitute an independent merits review of C397/19.

8.10 Principles Emerging from Reconstruction

Research Finding — Evidential State Must Be Distinguished from Evidential Treatment

A document may pass through several evidential states:

submitted → received → preserved → incorporated → considered → relied upon → reflected in reasons.

Evidence of one state does not automatically establish the next.

A transmission record can establish submission.

An institutional inventory can establish possession.

A decision may establish that a category of material was considered.

Only sufficiently specific reasoning can establish how particular evidence affected the decision.

Governance Principle — Investigative Power Does Not Establish Investigative Use

The existence of statutory authority to obtain information or compel records does not establish that the authority was exercised in relation to every potentially relevant record.

Authority and exercise must be reconstructed separately.

Governance Principle — Institutional Procedure Shapes Evidential Participation

Where an institution tells a participant that additional information and medical records may be obtained and considered during an investigation, later evidential submissions must be understood within that procedural framework.

Their submission is not equivalent to their consideration, but neither are they extraneous merely because they post-date the original complaint.

Governance Principle — Distinct Procedures Determine Distinct Questions

Complaint determination and information-access review may concern the same underlying documents without deciding the same legal issue.

Their outcomes must not be collapsed into one another.

Governance Principle — Access Review Is Not Merits Review

An independent finding that information is exempt from disclosure does not constitute an independent determination of the allegations contained within or associated with that information.

Governance Principle — Partial Disclosure Reveals the Boundary of the Accessible Record

A partial-access decision establishes that the institutional record extends beyond what has been disclosed.

The resulting evidential distinction is between:

record known to exist and record available for independent examination.

Governance Principle — Institutional Statements Retain Provenance

A proposition communicated by one institution and repeated within another institution’s decision remains attributable to its originating source unless the second institution independently determines it.

Governance Principle — Reasons Define the Observable Decision

A decision can be evaluated only to the extent that its reasoning is preserved.

Where an institution states that a body of documentation was considered but does not identify how particular records affected the outcome, the researcher may establish consideration at the stated level but should not reconstruct an evidential weighting that the decision itself does not disclose.

8.11 Unresolved Questions

The reconstruction has resolved several questions that were initially open.

The existence and broad composition of the 2 December 2019 evidence submission can now be reconstructed from the surviving packages.

The statutory basis upon which the PPC could seek further information and obtain records can also be identified.

The actual section 59 investigation directions are preserved.

The correspondence identified by the PPC as having been considered is recorded.

The PPC opinion and final Medical Council decision are known.

The FOI and independent-review outcomes are also known.

The remaining questions are consequently narrower.

The present record does not yet establish precisely:

- whether every file transmitted within the five evidence packages on 2 December 2019 was successfully received, extracted, opened and incorporated into the operative C397/19 case record;
- whether an item-level institutional inventory was created for those five packages;
- how each individual item within the December submission was evaluated;
- whether, and in what manner, the Croom medical records identified at the commencement of the complaint and subsequently supplied by the complainant were incorporated into the material considered by the PPC when forming its section 61(1)(a) opinion;
- whether the PPC itself obtained additional Croom or other clinical records through the statutory mechanisms available under section 59(11), as distinct from records supplied by the complainant;
- what evidential weight, if any, was assigned to particular clinical records, correspondence, images or audio material;
- how conflicting accounts within the accumulated record were individually evaluated;
- what the complete case report placed before the PPC on 12 November 2020 contained;
- whether internal analysis or deliberative records exist that would further explain the transition from the accumulated evidential record to the stated conclusion of insufficient cause;
- the complete reasoning applied during the Medical Council's internal FOI review beyond the outcome preserved in the subsequent independent-review record; and
- whether the more-than-600-page record identified during the original F60-2020 search corresponds completely with the institutional record used in the C397/19 decision process.

These questions are not findings of omission.

They are evidential boundaries.

They identify propositions that the surviving record examined so far does not permit the researcher to determine.

8.12 Governance Observation

C397/19 demonstrates why administrative evidence cannot be analysed solely by asking whether a document exists.

The statutory architecture permitted evidence to enter the process through several routes.

The complainant could submit evidence.

The PPC could request additional information.

The practitioner could provide information.

The PPC could formally require information from the practitioner.

Specified statutory powers concerning production of records were also available.

The investigation could continue as information accumulated.

The eventual decision nevertheless required that accumulated material to pass through another institutional transformation:

evidence had to become reasoning.

The surviving record demonstrates considerable accumulation.

The original complaint generated multiple evidence packages.

Further correspondence and attachments followed.

The practitioner responded.

Further statutory investigation was directed.

The PPC's final correspondence records consideration of a substantial sequence of documentation.

The later FOI search identified more than 600 pages against the original search parameters. F60-2020 Narrow Parameters.pdf

Yet accumulation and explanation are different characteristics of governance.

The surviving decision identifies the material considered at a categorical and chronological level and records the conclusion reached.

It does not provide an item-by-item explanation of how the accumulated evidence was evaluated.

The subsequent FOI pathway then exposes a second boundary.

Records generated within an administrative procedure may be relevant to understanding that procedure while simultaneously being protected from unrestricted disclosure by another statutory regime.

The result is not a simple conflict between transparency and secrecy.

It is a relationship between:

participation; evidence; investigative authority; institutional accumulation; decision reasoning; privacy; access; and independent review.

Evidence-Led Governance requires each of those relationships to remain visible without treating one as a substitute for another.

The complaint decision establishes what the institution decided.

The FOI decision establishes what could be disclosed.

The OIC decision establishes whether the remaining withholding was lawful under the provision it determined.

None, considered alone, reconstructs the complete administrative pathway.

The pathway becomes observable only when the records are related.

8.13 Chapter Synthesis

This case study began with a complaint and an accumulated evidential submission.

The complaint entered a statutory process governed by Part 7 of the Medical Practitioners Act 2007.

The surviving record establishes that the PPC did not merely receive the complaint.

It considered whether to continue after attempted withdrawal, directed an investigation, invoked the information-gathering mechanisms of section 59, received further material, directed a later section 59(7) response and ultimately formed an opinion under section 61(1)(a).

The PPC recorded that it had considered the case report and a substantial body of documentation accumulated between December 2019 and October 2020.

It concluded that there was insufficient cause to warrant further action.

The Medical Council subsequently decided that no further action should be taken.

A second pathway then tested access to part of the institutional record.

The initial FOI search identified more than 600 pages.

The request was narrowed to six identified pieces of correspondence from Harmon.

Nineteen pages were identified as falling within that narrowed scope.

Partial access was granted and other information withheld.

The withholding survived internal review and was ultimately affirmed by the Office of the Information Commissioner under section 37 of the Freedom of Information Act 2014.

The reconstruction therefore establishes three different forms of institutional knowledge.

The complaint record shows what entered and accumulated within the professional-regulatory process.

The decision record shows what the institution states it considered and the reasons it recorded for its conclusion.

The information-access record shows what part of that institutional record could subsequently be obtained and independently examined.

They overlap.

They are not identical.

The central governance observation arising from the case is therefore not that evidence was absent.

The record demonstrates substantial evidential accumulation.

The more precise question is whether the relationship between evidence received, evidence considered and reasons given remains sufficiently traceable for the resulting administrative decision to be reconstructed.

That question cannot be answered by filling gaps with inference.

It can only be answered by continuing to reconstruct the record.

The case study therefore demonstrates the governing discipline established in Volume I and operationalised in Chapter 7:

The researcher does not determine the destination.

The researcher reconstructs the pathway.

And in this case, reconstruction reveals that accountability depends not merely upon preserving evidence or preserving a decision.

It depends upon preserving the relationship between evidence and decision.

Chapter 9 — The Pathway Is Part of the Evidence

9.1 Introduction

Chapter 7 established a method for reconstructing administrative decision-making from evidence.

Chapter 8 demonstrated that method through a completed case reconstruction.

The next question is whether the same method remains useful when the evidential pathway is not contained within a single decision.

Administrative processes frequently extend across institutions, functions and forms of review. Evidence may be submitted to one part of an institution, classified by another, transferred into a different process, subjected to preliminary assessment, incorporated into an investigation, and later placed before an external reviewer.

At every boundary, the evidence state may change.

Facts may be carried forward. Others may cease to appear. A complaint may be narrowed. A preliminary assessment may create a new institutional finding. A referral may change the function governing the evidence. A final response may itself become evidence in another decision process.

Understanding such a pathway therefore requires more than chronology.

It requires preservation of the evidence state at each administrative boundary.

This chapter reconstructs one such pathway from original-source records involving the Health Service Executive, UL Hospitals Group, the HSE National Investigations Unit and the Office of the Ombudsman.

It does not determine whether the underlying allegations were true.

It does not determine whether any institution acted lawfully or unlawfully.

It does not substitute a new decision for the decision of any administrative body.

Its purpose is narrower:

To reconstruct what entered each process, who acted upon it, under what function and authority, what action or decision followed, what reasoning was recorded, what evidence state resulted, and what route of review remained.

The reconstruction applies the Chapter 7 fields:

Date · Actor · Institution · Function · Authority · Evidence State · Action · Decision · Reasoning · Resulting State · Review

It demonstrates a further principle of evidence-led governance:

A decision cannot be fully understood if the evidence state entering it cannot be distinguished from the evidence state leaving it.

9.2 The Reconstruction Model

A conventional chronology records that one event followed another.

A governed reconstruction asks more.

For each material transition it asks:

Date — When did the event occur?

Actor — Who performed the relevant action?

Institution — Within what institutional structure did that actor operate?

Function — What administrative function was being exercised?

Authority — What policy, procedure or other basis governed the action?

Evidence State — What information or evidence existed at that point?

Action — What was done?

Decision — What determination, if any, was made?

Reasoning — What recorded reasons supported it?

Resulting State — What changed?

Review — What mechanism remained for reconsideration or external scrutiny?

These elements must remain distinct.

An acknowledgement is not necessarily substantive consideration.

A referral is not an investigation.

Commissioning an investigation is not necessarily its commencement.

An invitation to participate is not proof that participation occurred.

A final response is not proof that every issue in the originating submission was addressed.

And the existence of a review pathway does not establish that review occurred.

The reconstruction therefore does not complete gaps by inference.

Where an event is evidenced, it is recorded.

Where a state remains uncertain, the uncertainty is preserved.

Where a source has not been located, the record remains incomplete.

That discipline is fundamental.

Part I — Entry Into the HSE Pathway

9.3 Submission, Acknowledgement and Institutional Capture

The reconstructed pathway begins before the later formal investigation.

An earlier submission through HSE Your Say generated an automated acknowledgement on 26 January 2021.

The acknowledgement establishes that an automated response was generated following the submission.

It does not, however, establish durable institutional capture of the underlying complaint.

Later HSE correspondence recorded that searches of the Your Say database and associated email records had not located the feedback submitted on that date. A possible technical issue with the submission mechanism was identified as an explanation, but the cause was not established by the record.

No substantive determination of the underlying complaint from that interaction has been identified within the reconstructed collection.

The resulting state is therefore:

Submission attempted

⟶ Automated acknowledgement generated

⟶ Later institutional search unable to locate submission record

⟶ Possible technical failure identified

⟶ Substantive merits determination not evidenced

The distinction matters.

An acknowledgement can be evidenced.

Durable institutional receipt cannot safely be inferred from the acknowledgement alone.

Nor can the absence of a later record be converted into proof that no submission was made.

The evidence instead preserves two different states:

the complainant’s contemporaneous evidence of submission

and

the institution’s later inability to locate the corresponding record.

The first governance lesson therefore appears immediately:

Where the record stops, reconstruction must stop with it.

And a second follows:

Even receipt has an evidence state.

9.4 The 20 September 2022 Complaint

A materially different administrative pathway began with correspondence dated 20 September 2022.

UL Hospitals Group subsequently assigned that correspondence reference ULHG-COM.4338.

Its acknowledgement of 30 September recorded that the 20 September correspondence had been received and was with the Peri-Operative Directorate.

The acknowledgement stated that the Directorate would review the correspondence and revert.

It also stated that details of the complaint would be recorded on the local Q Pulse Complaints Management System and the HSE Complaints Management System.

Those propositions are prospective.

The 30 September document therefore establishes:

Complaint received

⟶ Peri-Operative Directorate identified as the reviewing function

⟶ Institutional recording represented as the intended next state

It does not, by itself, establish that the Directorate review had already occurred.

Nor does it independently establish that recording on both systems had already been completed.

That distinction should remain visible.

Later investigation records connect the same 20 September complaint to the HSE Trust in Care Policy and ultimately to National Investigations case HRNIU224 155.

The complaint therefore did not remain merely correspondence.

It entered an institutional decision pathway.

9.5 Preliminary Screening

The next material boundary was a Preliminary Screening under the HSE Trust in Care Policy 2005.

The surviving correspondence records that the Preliminary Screening had been completed and that its outcome indicated that an abusive interaction “could have occurred.”

The same correspondence stated that the outcome would be forwarded to the HSE National Investigations Unit for review.

The significance of that event is structural.

Before screening, the evidence state consisted of allegations submitted for institutional consideration.

After screening, another evidential object existed:

an institutional preliminary-screening outcome.

That did not establish that abuse had occurred.

It was not a final determination of the allegation.

But neither was the evidence state unchanged.

The pathway had become:

Complaint

→ Preliminary Screening

→ Recorded preliminary outcome

→ Referral to National Investigations stated as the intended next action

Later records establish that the matter did in fact enter the National Investigations structure.

The evidence therefore permits the complete transition to be reconstructed across more than one document.

The 14 November record establishes the screening and the intended referral.

The later HRNIU records establish the subsequent investigative state.

An administrative process had acted upon evidence and generated new evidence about the institutional treatment of the complaint.

Part II — From Complaint to Human Resources Investigation

9.6 Commissioning the Investigation

By January 2023, the matter had entered a Human Resources investigation structure.

Lorraine Rafter acted in the capacity of Human Resources Investigation Commissioner and requested a Human Resources Investigation under Trust in Care.

Gerry O'Neill was proposed as investigator, and draft Terms of Reference were supplied.

The Terms of Reference are important because they defined the intended decision process.

They contemplated evidence gathering, determination on the balance of probabilities, preliminary conclusions, a Draft Report, submissions from affected parties, a Final Report and transmission through the Investigation Commissioner and National Investigations structure.

They also distinguished commissioning from commencement.

The investigation was to be regarded as having commenced when the investigator received the case file from the Investigation Commissioner.

That distinction prevents a seemingly minor but important evidential error.

The record establishes that an investigation was commissioned.

The January correspondence establishes that Gerry O'Neill was proposed as investigator.

Later records establish that he was functioning as the investigator.

But unless the precise case-file transfer is evidenced, the formal commencement date should not be invented.

The reconstructed state is therefore:

Preliminary outcome

⟶ National Investigations transition

⟶ Human Resources Investigation commissioned

⟶ Investigator initially proposed

⟶ Investigator later evidenced as acting

⟶ Investigative process operational

while:

Exact formal commencement date = unresolved from the presently located sources.

Uncertainty is preserved as data.

9.7 Scope Is an Evidence State

The originating complaint concerned more than one named person.

The surviving original complaint expressly concerned a named professor and two named doctors.

The draft Terms of Reference then provide direct evidence of a proposed scope transition.

They define the proposed Human Resources investigation more narrowly, identifying an allegation of sexual abuse against Professor Dominic Harmon and specifying the allegation the investigator was to determine.

The draft Terms also distinguish another allegation as relating to a private hospital outside the governance of UL Hospitals.

The reconstruction can therefore establish two different evidence states.

Originating complaint state:

A broader complaint concerning three named medical practitioners.

Draft investigative scope:

A specified allegation against one named respondent within the proposed Trust in Care investigation.

That difference cannot simply be reconciled retrospectively.

It is itself evidence.

The Terms of Reference are therefore not merely procedural instructions.

They are a scope-setting evidence object.

They identify what the investigator was proposed to examine.

Because the surviving document is expressly marked Draft Terms of Reference, the reconstruction does not assume without further evidence that every element of that draft became the final authorised scope.

But the proposed transformation remains visible.

That matters.

If an initiating complaint contains A, B and C, while a later investigative instrument identifies A for investigation, the archive must preserve both states.

Otherwise a future reader may incorrectly assume that the investigation determined the entirety of the original complaint.

The correct relationship is:

Originating complaint

≠ necessarily

Investigative scope

The relationship between them must be evidenced.

9.8 The Non-Employee Question

The HR investigation documentation also produced an unusual procedural feature.

The process sat within the Human Resources Division and invoked Trust in Care.

The complainant's position throughout the correspondence was that he was not an HSE employee.

The NIU paperwork itself demonstrates that the procedure contemplated participation by non-HSE employees.

Attendance documentation distinguished between:

Complainant

Respondent

Witness

and

Other

and expressly included provision for a participant who was not a HSE employee.

That proves something narrower but important:

The Human Resources investigation procedure contemplated non-HSE participants.

It does not, by itself, prove the particular employment status of every person using the form.

That status must be established independently.

This matters because institutional location must not be confused with participant status.

A person participating in a Human Resources investigation does not thereby become an employee.

Similarly, the surviving confidentiality documentation referred to possible statutory protections under the Health Act 2004 and Protected Disclosures Act 2014.

But the wording preserved protections to which a person "may be entitled."

It did not itself establish entitlement.

The record therefore supports a narrower conclusion:

The HSE Human Resources investigation documentation expressly contemplated non-HSE participants and preserved any statutory protections that might independently apply.

The legal or procedural consequences of that arrangement cannot be supplied merely from the form.

Part III — Participation

9.9 The Proposed Interviews

By February 2023, Gerry O'Neill was identified as the investigator and interview arrangements were being made.

The process contemplated a stenographic record, documentary evidence, contemporaneous notes and a support person.

Proposed meetings subsequently included 15 February, 29 March, 15 June and 13 July 2023.

The purpose of those arrangements was evidential.

The interview was a mechanism through which the complainant's account and supporting material could enter the investigator's record.

The relevant state was therefore:

Investigation operational

⟶ Participation invited

⟶ Additional evidence capable of entering investigation

The fact that the interview ultimately did not occur does not erase the participation history that preceded that outcome.

Participation is not a single event.

It is a pathway of invitations, questions, conditions, objections, responses and proposed forms of engagement.

9.10 Participation Cannot Be Reduced to Attendance

This distinction becomes important in the April correspondence.

On 7 April 2023, the complainant wrote that he would offer the HSE Investigator an opportunity to meet after 23 April.

He also stated that the opportunity would remain open to assist the investigation.

On 13 April, UL Hospitals responded:

"The National Investigations Unit is the appropriate independent body to deal with your complaint."

The complainant simultaneously challenged the applicability of Trust in Care by pointing to its language concerning the employment relationship.

That exchange was forwarded contemporaneously to the Office of the Ombudsman.

The evidential state is therefore more precise than:

Complainant attended / did not attend.

It includes:

willingness to engage

procedural objections

questions about the governing framework

continuing institutional correspondence

transmission of the dispute into external oversight

Participation is itself capable of having multiple states.

A later absence from an interview cannot safely erase earlier evidence of willingness to engage.

Nor can willingness to engage erase contemporaneous objections to the proposed process.

Both states must remain visible.

9.11 Advocacy and Support

The investigation correspondence also introduced a support question.

When advocacy was sought, the NIU provided contact details for the Patient Advocacy Service.

The resulting correspondence established that the service's remit was connected with the Your Service Your Say Stage 2 process and did not simply provide representative advocacy for every HSE administrative investigation.

This produces another useful governance distinction.

Support requested

does not necessarily equal

support obtained.

Likewise:

Contact details supplied

does not necessarily equal

appropriate support available.

A system that records only the referral or contact information loses the resulting state.

The complete transition requires:

Support requested

⟶ Service identified

⟶ Contact details provided

⟶ Service contacted

⟶ Service assesses remit

⟶ Requested form of support not thereby established

The outcome of a support pathway is therefore part of the evidence pathway.

Part IV — The Investigation Changes State

9.12 The 27 June Invitation

On 27 June 2023, another interview was scheduled for 13 July 2023 at 14:00 by MS Teams.

The letter identified Gerry O'Neill as investigator and described participation as important in the interests of fair procedures and the opportunity to be heard.

It invited relevant files, records and contemporaneous notes and contemplated a stenographer and support person.

But the invitation contained an evident temporal problem.

Although issued on 27 June for an interview in July, it requested a response by 24 March 2023.

That date was already past.

The defect subsequently became part of the correspondence.

The important point is not whether the error was serious or trivial.

The important point is that the error itself entered the evidence state before the next institutional decision.

It became part of what the complainant was responding to.

Therefore it cannot be separated from the later characterisation of that response.

9.13 The 30 June Evidence State

On 30 June, the complainant responded to the invitation.

The recovered correspondence does not contain a simple express statement:

"I refuse to attend."

Instead, it records objections concerning the reliability of the process and the accuracy of the correspondence, including the erroneous date.

It also records an expressed loss of confidence in the process.

This distinction becomes important because of what happened next.

The evidential state immediately before 6 July therefore contained:

proposed interview

procedural objection

identified documentary error

expressed loss of confidence in the process

That state cannot safely be replaced by a later summary without preserving the underlying correspondence.

The later institutional characterisation must remain attached to the evidence it characterises.

9.14 The 6 July Decision

On 6 July, Declan Mangan, Deputy National Investigations Manager, acting on behalf of Gerry O'Neill, characterised the 30 June correspondence as confirmation that the complainant would not attend the 13 July interview.

The letter then recorded a consequential procedural determination.

A further interview deferral was not considered to be in the overall interest of the parties, and the investigator stated that the investigation would proceed in the complainant's absence.

The complainant immediately disputed the characterisation and asked HSE to identify where he had confirmed that he would not attend.

This gives the reconstruction two different but equally preservable evidence objects.

Institutional characterisation:

30 June correspondence confirmed non-attendance.

Underlying correspondence / contemporaneous challenge:

procedural objections were raised, and the complainant disputed that those communications constituted confirmation of non-attendance.

The reconstruction does not need to choose one description and erase the other.

It preserves both.

That is one of the most important functions of evidence-state reconstruction.

A later administrative characterisation is itself evidence.

But it does not replace the evidence it characterises.

9.15 Resulting Investigation State

The 6 July decision changed the process.

Before it:

the investigation remained oriented toward direct complainant participation.

After it:

the investigator stated that the investigation would continue without that participation.

This is a genuine administrative transition.

It is not merely another email.

It changes how subsequent evidence can be produced.

The resulting state is:

Investigation

⟶ Participation dispute

⟶ Decision against further deferral

⟶ Investigator states investigation will proceed in complainant's absence

What becomes important next is the expected terminal state.

The draft Terms of Reference contemplated preliminary conclusions, a Draft Report, representations, a Final Report and transmission through the Investigation Commissioner and National Investigations structure.

Within the source collection audited for this reconstruction, an equivalent substantive final HR investigation report has not been established.

The correct evidential position is therefore:

The record establishes that the investigator stated that the investigation would proceed in the complainant's absence; the audited collection does not presently establish the corresponding substantive final investigative determination contemplated by the draft Terms of Reference.

It would be improper to manufacture one.

Part V — The Ombudsman Dependency

9.16 OMB-133952-J0M0T7

The Office of the Ombudsman was receiving material about the HSE pathway while that pathway was still developing.

This is important because the Ombudsman process did not begin after everything at HSE had finished.

The processes overlapped.

The Ombudsman sought clarification about what HSE was investigating and later treated the Trust in Care investigation as an ongoing process.

On 23 March 2023, the Ombudsman recorded that a Trust in Care investigation was currently ongoing.

It explained that its role in relation to that process would be limited to examining whether procedures had been followed according to the Trust in Care Policy.

Because the HSE process was considered unfinished, the Ombudsman closed the complaint file at that time and expressly stated that the complainant could return after receiving the final outcome.

The Ombudsman pathway therefore became dependent upon an evidence state in another institution:

HSE investigation treated as ongoing

→ Ombudsman does not intervene at that time

→ potential later Ombudsman consideration following HSE outcome

That dependency is itself part of the governed record.

One institution's state had become another institution's procedural premise.

9.17 Reopening and Review

On 14 April 2023, the complainant expressly sought to reopen the formal Ombudsman complaint.

On 18 April, Ombudsman Investigator Geraldine McCormack asked whether the Trust in Care investigation had been finalised.

She also sought clarification of the original complaint, including whether matters of clinical judgement affected the Ombudsman's remit.

The complainant disputed the premise that the Trust in Care investigation had properly started and continued challenging the Ombudsman's treatment of the matter.

A formal review request followed.

That produces another distinct administrative lifecycle:

Ombudsman decision

→ Challenge

→ Request to reopen

→ Formal review request

→ Review Manager assessment

The Ombudsman review was not a continuation of the HSE investigation.

It was a separate institutional function examining the Ombudsman's own earlier handling.

That distinction matters because the evidential object under review had changed.

The Ombudsman Review Manager was not deciding the underlying HSE allegations.

She was deciding whether the earlier Ombudsman decision should be set aside.

9.18 The 14 June Ombudsman Review Decision

On 14 June 2023, Review Manager Mary Byrne issued the review decision in OMB-133 952-J0M0T7.

She stated that the Ombudsman review process was not a reinvestigation of the underlying complaint.

Its purpose was to consider whether there had been a failing in the original Ombudsman handling.

She concluded that there was no basis to set aside Geraldine McCormack's decision.

She also stated that only one review was available in relation to the Office's handling of a particular complaint, making the review decision final.

The decisive dependency remained the Trust in Care process.

Byrne recorded the complainant's contention that the Trust in Care investigation had not started.

She also noted the subsequent communication in which he had offered the HSE Investigator an opportunity to meet after 23 April.

Her conclusion included:

"As the TnC investigation is ongoing, there is no role for the Ombudsman…"

The administrative disposition can therefore be reconstructed as:

Decision:

No basis found to set aside Ms McCormack's decision; request for review not accepted.

Reasoning:

The Trust in Care investigation was treated as ongoing; therefore there was no role for the Ombudsman at that time.

Resulting State:

The Ombudsman review decision was final under the Office's one-review procedure.

This is a particularly important reconstruction.

The Ombudsman's decision depended upon the state attributed to another administrative process.

The state:

HSE Trust in Care investigation ongoing

became part of the reasoning supporting:

Ombudsman does not investigate at this time.

This demonstrates why administrative pathways cannot always be reconstructed institution by institution in isolation.

One institution's resulting state may become another institution's decision premise.

Part VI — A Parallel but Connected Pathway

9.19 ULHG-COM.4894

While the Ombudsman review was developing, another UL Hospitals complaint process became visible.

On 5 May 2023, UL Hospitals Group issued correspondence under reference ULHG-COM.4894.

It stated that a Complaints Officer would be assigned to undertake a "full investigation" of the issues raised and identified Bertha Lawlee as the Complaints Officer.

The anticipated response date was 15 June 2023.

The letter stated that relevant personal records might need to be accessed, that delays would be notified, and that following the investigation the complainant could seek either an HSE Internal Complaint Review or an Independent Review from the Office of the Ombudsman.

The accompanying material identified the intended pathway as Your Service Your Say — Stage 2 Formal Investigation.

This was therefore not HRNIU224 155.

It was a separate administrative object with:

a separate reference;

a separate complaints function;

a separate procedural framework;

and a separate review architecture.

That distinction must be preserved.

9.20 The 26 April Submission

ULHG-COM.4894 arose from correspondence concerning an attendance at the University Hospital Limerick Emergency Department on 10 June 2022.

The original 26 April submission described a broader evidence state than simply a waiting-time complaint.

It included:

a reported presentation involving chest pain and a feeling of having a heart attack;

prior contact with Shannon Doc;

direction to attend UHL;

an expectation that Shannon Doc would telephone ahead;

arrival at approximately 10pm;

communication of symptoms;

difficulty remaining because of pain while standing;

an interaction when leaving;

departure without being seen;

and the asserted absence of subsequent welfare contact.

This is the incoming evidence state.

It matters because the original submission survives.

The reconstruction does not have to infer its content from the institution's later summary.

The initiating evidence state can be compared directly with the institutional response that followed.

9.21 Stage 2 Formal Investigation

The 5 May acknowledgement represented the complaint as entering the Your Service Your Say Stage 2 Formal Investigation pathway.

The institution stated that a Complaints Officer:

"will be assigned to undertake a full investigation of the issues raised".

It also stated that only records specifically relating to the issues identified within the complaint might need to be accessed.

The accompanying Stage 2 guidance describes the expected process.

It provides for assessment, investigation, an investigation report identifying the issues examined and how they were investigated, findings, recommendations, and review rights.

This creates an explicit expected pathway:

Submission

⟶ Complaint recorded

⟶ Complaints Officer identified

⟶ Stage 2 Formal Investigation pathway announced

⟶ Investigation report/final response expected

⟶ Internal or independent review available

The evidence establishes that this pathway was announced.

It does not require the reconstruction to infer that every contemplated investigative step occurred.

The expected process can therefore be compared with the observed record.

9.22 The 12 May Final Response

The final response arrived on 12 May 2023, seven days after the 5 May acknowledgement.

Bertha Lawlee described the complaint as concerning the 10 June 2022 Emergency Department attendance, previous attendance at Shannon Doc, arrival at approximately 10pm and departure approximately one and a half hours later without being seen.

She apologised for the delay and attributed it to the Emergency Department being busy.

The response then described institutional initiatives relating to Emergency Department demand, Medical Assessment Unit pathways, extended operating hours and recruitment of additional medical and nursing staff.

The response concluded by directing the complainant to the Office of the Ombudsman if dissatisfied.

In explaining what the Ombudsman would require, it described the communication as:

"our final response to your complaint."

This establishes a terminal institutional state for the material presently audited.

No further Bertha Lawlee response has been identified in the audited collection.

The state transition is therefore:

Complaint

⟶ Stage 2 Formal Investigation pathway announced

⟶ Final response issued

⟶ No later Bertha Lawlee response identified in audited collection

⟶ Ombudsman identified as external review route

The distinction between no further response identified and no further response ever existed must remain explicit.

Part VII — Comparing Evidence States

9.23 What Entered and What Emerged

Because both the originating submission and final response survive, the reconstruction can perform a direct evidence-state comparison.

The final response carries forward several elements:

- UHL Emergency Department attendance;
- previous Shannon Doc attendance;
- approximate arrival time;
- approximately one-and-a-half-hour wait;
- departure without being seen;
- a busy Emergency Department.

Other elements of the incoming evidence state are not substantively addressed in the final response, including:

- the reported chest-pain presentation;
- the reported feeling that a heart attack might be occurring;
- the anticipated telephone contact from Shannon Doc;
- the reported communication of symptoms at the desk;
- the particular interaction described when leaving;
- the asserted absence of subsequent welfare contact.

The evidence permits a narrow but important finding:

The evidence state represented in the final response was narrower than the evidence state contained in the initiating submission.

That finding does not establish why.

The documents do not establish deliberate omission.

They do not establish improper motive.

They do not establish that unmentioned matters were never considered internally.

Nor do they establish that those matters were considered and rejected.

They establish something more limited and more defensible:

Evidence State A and Evidence State B are not identical.

The difference is observable from the original sources.

That difference is governance information.

9.24 Finality Changes the State Again

The 12 May communication did more than answer the complaint.

It created a final institutional response state.

Before it:

the matter was within the ULHG complaint process.

After it:

ULHG had issued what it described as its final response and identified external review.

Finality therefore changes the evidence state.

The final response becomes a new evidence object capable of entering another administrative system.

That is exactly what happened.

On 25 May 2023, the 12 May response was forwarded to both Ombudsman Complaints and the Ombudsman Review Shared Mailbox.

The output of one administrative process became input to another.

This transition is important.

The final response did not cease to be a ULHG document.

Its content did not change.

But its governed context did.

It became evidence within an Ombudsman process.

Part VIII — Two Pathways Meet at the Ombudsman

9.25 The Ombudsman Distinguishes the Processes

The 14 June review decision demonstrates that the Ombudsman had material relating to both administrative pathways.

Mary Byrne expressly distinguished them.

The complaint associated with HRNIU224 155 concerned the earlier formal complaint involving a named professor and two named doctors and was treated as subject to an ongoing Trust in Care investigation.

Separately, Byrne identified ULHG-COM.4894 as concerning the 10 June 2022 Emergency Department attendance.

She recorded that the Hospital had apparently issued its reply on 12 May and advised that, if dissatisfied, the complainant could make a separate Ombudsman complaint concerning that decision.

This is an important provenance result.

The two HSE pathways were related through the broader record and through their transmission to the Ombudsman.

But the Ombudsman did not collapse them into one complaint.

Neither should the reconstruction.

Administrative connection does not require administrative identity.

9.26 One Institution's Output Becomes Another's Input

The pathway now demonstrates several forms of evidence transformation:

Original complaint

⟶ institutional screening evidence

Screening outcome

⟶ National Investigations input

Investigation status

⟶ Ombudsman decision premise

ULHG final response

⟶ potential Ombudsman complaint evidence

The documents themselves may remain unchanged.

Their governed relationships change.

This means evidence governance cannot be confined to document preservation.

A trustworthy system must preserve relationships such as:

submitted as

considered under

resulted in

referred to

reviewed by

relied upon by

superseded by

remained unresolved at

Without those relationships, the archive may preserve every document and still lose the administrative pathway.

Part IX — The Consolidated Reconstruction

9.27 HRNIU224155

At the level supported by the recovered original sources, the HR National Investigation pathway can be reconstructed as follows.

20 September 2022

Formal complaint submitted and subsequently acknowledged by UL Hospitals Group.

↓

30 September 2022

ULHG-COM.4338 acknowledgement records receipt, identifies the Peri-Operative Directorate as the intended reviewing function, and states that complaint details will be recorded within the relevant complaint-management systems.

↓

Trust in Care Preliminary Screening

↓

Preliminary outcome

Screening completed; recorded outcome indicates that an abusive interaction could have occurred.

↓

Intended referral

14 November correspondence states that the Preliminary Screening outcome will be forwarded to the HSE National Investigations Unit.

↓

January 2023

Later NIU records establish that the matter has entered a Human Resources Investigation structure.

Lorraine Rafter requests a Human Resources Investigation.

Gerry O'Neill is initially proposed as investigator.

Draft Terms of Reference are issued.

↓

Draft scope state

The originating broader complaint is transformed into a proposed Human Resources investigation concerning a specified allegation against one named respondent.

↓

February–March 2023

Interview and participation process develops.

Later records identify Gerry O'Neill as the functioning investigator.

↓

7 April 2023

Complainant expressly offers to meet the investigator after 23 April and states continuing willingness to assist.

↓

13–14 April 2023

UL Hospitals confirms the National Investigations Unit as the process through which the complaint is to progress.

The complainant challenges the applicability and scope of Trust in Care.

The correspondence is transmitted to the Ombudsman and reopening is requested.

↓

June 2023

Further interview, advocacy and procedural correspondence.

↓

27 June 2023

Interview proposed for 13 July.

Invitation contains an earlier, already-expired response deadline.

↓

30 June 2023

Procedural objections raised, including objections concerning inaccurate dates and confidence in the process.

↓

6 July 2023

HSE characterises the 30 June correspondence as confirmation of non-attendance.

A further deferral is declined.

The investigator states that the investigation will proceed in the complainant's absence.

↓

Contemporaneous challenge

The complainant disputes that characterisation and asks where he had confirmed non-attendance.

↓

Expected terminal state

Draft Report / representations / Final Report contemplated by the draft Terms of Reference.

↓

Observed terminal evidential state

No substantive final HR investigation report has been established in the presently audited collection.

That final line is not a failure of reconstruction.

It is the reconstructed state.

9.28 OMB-133952-J0M0T7

The Ombudsman pathway can be reconstructed as follows.

Complaint to Ombudsman

↓

Ombudsman identifies continuing HSE Trust in Care process as relevant

↓

23 March 2023

Ombudsman closes the complaint at that time because the Trust in Care process is treated as ongoing.

The complainant is told that he may return once the final HSE outcome has been received.

↓

Challenge

↓

Request to reopen

↓

Formal review request

↓

14 June 2023 — Mary Byrne

Decision:

No basis found to set aside Ms McCormack's decision; request for review not accepted.

Reasoning:

The Trust in Care investigation is treated as ongoing; therefore there is no role for the Ombudsman at that time.

Resulting State:

Ombudsman review decision final under the Office's one-review procedure.

The important relationship is:

The Ombudsman's resulting state depended upon the state attributed to the HSE investigation.

9.29 ULHG-COM.4894

The separate Emergency Department pathway can be reconstructed as follows.

26 April 2023

Submission concerning the 10 June 2022 UHL Emergency Department attendance.

↓

5 May 2023

ULHG-COM.4894 created.

Bertha Lawlee identified as Complaints Officer.

Your Service Your Say Stage 2 Formal Investigation pathway announced.

↓

8 May 2023

Receipt of the complaint correspondence acknowledged by the complainant and consent provided for access to relevant medical records.

↓

12 May 2023

Bertha Lawlee issues what the correspondence describes as the final response.

ED delay acknowledged.

Busy Emergency Department identified as explanation.

Service initiatives concerning demand, capacity and staffing described.

Ombudsman route identified.

↓

No later Bertha Lawlee response identified in the audited collection

↓

25 May 2023

Final response transmitted to Ombudsman Complaints and Ombudsman Review.

↓

14 June 2023

Ombudsman Review Manager distinguishes ULHG-COM.4894 from HRNIU224 155 and identifies it as capable of becoming a separate Ombudsman complaint.

This branch reaches a documentary terminal state within the presently audited collection.

Part X — What the Reconstruction Establishes

9.30 Administrative Pathways Are Not Linear

The evidence does not reveal one complaint moving neatly from A to B to C.

It reveals branching processes.

Different institutional functions operated upon overlapping evidence:

UL Hospitals complaint handling

Peri-Operative review function

Trust in Care Preliminary Screening

Human Resources investigation

National Investigations administration

Your Service Your Say Stage 2

Ombudsman complaint assessment

Ombudsman review

Each function possessed a different purpose.

Each created a different evidence state.

The same originating material could therefore produce different administrative branches without those branches becoming identical.

A chronology alone cannot represent this adequately.

A governed relationship model can.

9.31 Institutional Characterisation Is Evidence — Not Replacement Evidence

The 30 June and 6 July sequence demonstrates another principle.

An institution may characterise earlier evidence when making a later decision.

That characterisation is itself an important evidence object.

But it should not replace the underlying source.

Where HSE characterised correspondence as confirmation of non-attendance, the system should preserve:

the original correspondence

and

the institutional characterisation of that correspondence.

That permits later examination of the relationship between them without rewriting either.

The same principle applies to:

complaint scope;

investigative scope;

participation;

reasoning;

final responses;

and review decisions.

A later summary may become part of the record.

It does not become a substitute for the evidence it summarises.

9.32 What Is Not Addressed Must Not Be Converted Into a Finding

The comparison between the 26 April submission and 12 May final response demonstrates another critical discipline.

If an incoming submission contains propositions A, B, C, D and E, while the final response substantively addresses A and B, the reconstruction may establish:

A and B were addressed in the response.

C, D and E do not appear substantively addressed in that response.

It cannot automatically establish:

C, D and E were deliberately ignored.

Nor can it establish:

C, D and E were considered and rejected.

Neither conclusion follows without further evidence.

The correct evidence state is the observable difference.

This is how evidence-led governance separates reconstruction from advocacy.

9.33 Missing States Are Governed States

The HRNIU pathway also demonstrates why absence must be represented explicitly.

The investigative architecture contemplated a Draft Report, representations and Final Report.

The reconstructed collection establishes that the investigator later stated that the investigation would continue in the complainant's absence.

Yet an equivalent substantive final investigation determination has not been established in the audited source collection.

A conventional narrative may feel compelled to complete that story.

A governed reconstruction does not.

It records:

EXPECTED STATE: Final investigative determination

OBSERVED STATE: Not established from located source

That distinction is itself valuable.

It tells the next researcher exactly what is known and exactly what remains unresolved.

A missing state is therefore not an empty space to be filled by inference.

It is a governed state in its own right.

Part XI — Governance Implications

9.34 Evidence Does Not Merely Accumulate

The pathway demonstrates that evidence changes administrative state.

A document may begin as:

submitted evidence.

It may subsequently become:

screened evidence.

Then:

investigation material.

A screening outcome becomes:

institutional evidence supporting referral.

A final response becomes:

decision evidence.

The same response may later become:

review evidence.

And the state of one investigation may become:

a decision premise in another institution.

Evidence therefore possesses more than content.

It possesses governed context.

That context includes what function held the evidence, what authority applied to it, what action occurred, what decision followed and what resulting state was created.

9.35 The Archive Must Preserve Transitions

A conventional archive could preserve every PDF and email examined in this chapter and still lose the most important information.

It might know that the documents exist.

But not:

which submission initiated which process;

which screening produced which referral;

which Terms of Reference governed which proposed investigative scope;

which correspondence was later characterised as non-participation;

which response created a final institutional state;

which response was subsequently sent to which reviewer;

or

which external decision depended upon which internal process remaining open.

That is the difference between a document archive and an evidence-governance system.

The archive preserves objects.

Governance must preserve relationships between objects, functions, decisions and resulting states.

9.36 Reasoning Must Remain Attached to the Decision That Used It

The pathway also demonstrates why reasoning cannot be detached from the decision state.

The Ombudsman Review Manager's conclusion was not simply:

No Ombudsman investigation.

The recorded reasoning was that the Trust in Care investigation was ongoing and therefore there was no role for the Ombudsman at that time.

Likewise, Bertha Lawlee's final response did not simply record:

Complaint closed.

It attributed the experienced delay to a busy Emergency Department and described service measures directed toward crowding and capacity.

The decision and reasoning must remain bound.

Otherwise later readers may know the result without knowing the institutional proposition that produced it.

A decision without its reasoning is an incomplete evidence state.

Part XII — Limits of the Reconstruction

9.37 What This Chapter Does Not Determine

This reconstruction does not establish the truth or falsity of the underlying clinical or personal allegations.

It does not determine whether Trust in Care was the legally correct mechanism.

It does not determine whether any person breached fair procedures.

It does not determine why investigative scope changed.

It does not determine why particular propositions contained in one submission were absent from a later response.

It does not determine that an unlocated document never existed.

It does not infer the contents of documents that have not been recovered.

It does not infer that an announced administrative step necessarily occurred merely because an institution said that it would occur.

And it does not substitute an evidential reconstruction for the decision of a competent investigative or adjudicative body.

Those limits are deliberate.

They preserve the distinction between:

what the evidence establishes

and

what someone might subsequently conclude from it.

Part XIII — Governance Principle

9.38 The Pathway Is Part of the Evidence

The reconstruction supports a broader principle.

THE PATHWAY IS PART OF THE EVIDENCE

Evidence does not enter an institution once and remain administratively unchanged.

It is:

received;

classified;

screened;

referred;

scoped;

investigated;

characterised;

answered;

closed;

transmitted;

and sometimes

reviewed.

Every transition can change the evidence state.

A trustworthy record must therefore preserve more than the final outcome.

It must preserve enough of the pathway to answer:

What entered?

Who received it?

What function governed it?

What authority was invoked?

What evidence state existed?

What action occurred?

What decision was made?

What reasoning was recorded?

What evidence state emerged?

What review remained?

And where the answer is unknown:

What remains unresolved?

The governance requirement is therefore not merely preservation of documents.

It is preservation of the transitions through which documents acquire administrative meaning.

9.39 Conclusion

Chapter 7 established the reconstruction method.

Chapter 8 demonstrated that method through a completed evidential case.

Chapter 9 extends it across a branching administrative pathway.

The reconstruction reveals that the important unit of governance is not merely the document.

Nor is it merely the event.

It is the governed transition between evidence states.

A submission generates an acknowledgement without necessarily creating durable institutional capture.

A complaint enters an institutional process.

A screening creates a preliminary institutional determination.

A determination produces an intended referral.

Later records establish entry into another administrative function.

A broad complaint may become a narrower draft investigative scope.

An investigation creates participation states and procedural decisions.

An institutional response creates a terminal decision state.

That response can then become evidence before another institution.

And the state attributed to one administrative process can become part of the reasoning by which another institution decides whether it will act.

The documentary record therefore contains more than a history of correspondence.

It contains a decision pathway.

Preserving that pathway makes something possible that a conventional archive cannot reliably provide:

reconstruction without invention.

The record can show what entered.

It can show what changed.

It can show what emerged.

It can show where one process depended upon another.

It can show where a decision became final.

It can show where an intended action was later evidenced as having occurred.

And it can show where the evidence simply stops.

That final capability is as important as all the others.

A governed system must be capable of saying:

known;

announced;

evidenced;

decided;

reasoned;

transferred;

unresolved;

and

not evidenced.

Because accountability does not begin by deciding what the record ought to show.

It begins by preserving what the record actually shows.

And once the pathway itself is preserved as evidence, later scrutiny no longer has to reconstruct institutional history from fragments.

The pathway remains visible.

The transitions remain attributable.

The decisions remain connected to their evidence and reasoning.

Prospective actions remain distinguishable from completed actions.

Institutional characterisations remain distinguishable from the underlying evidence.

And what cannot be established remains distinguishable from what can.

The record does not need to supply a conclusion. It needs to preserve the pathway through which a conclusion became possible.

That is the governance function of evidence-state reconstruction.

Source and Provenance Note

This chapter is an evidence-state reconstruction derived from original-source records preserved within the research collection.

Statements concerning administrative events, institutional characterisations, decisions and recorded reasoning are intended to remain traceable to the source from which they were derived.

The reconstruction distinguishes source evidence from later institutional characterisation; prospective administrative actions from evidenced completed actions; commissioning from commencement; originating complaint scope from draft investigative scope; contact with a support service from support actually obtained; final responses from the completeness of the investigation said to precede them; and absence from the audited collection from proof of non-existence.

It does not treat the absence of a document from the presently audited collection as proof that the document never existed. It does not infer the contents of records that have not been located, nor does it infer that an institutional action occurred solely because a document stated that it would occur where later evidence of that transition has not been established.

Principal administrative identifiers reconstructed in this chapter include:

ULHG-COM.4338

HRNIU224 155

OMB-133 952-J0M0T7

ULHG-COM.4894

The original-source records underlying this reconstruction are maintained independently of this publication. Where those records are preserved within the Civic Decision Engine, their provenance, integrity, administrative relationships and evidential context are governed within that system.

This publication therefore presents the reconstruction. The governed evidence record preserves the sources from which that reconstruction can be examined.