

## Service Related Complaints

PROCEDURE NUMBER:	CM9 INT17/241462	VERSION	1.0
AUTHORISED BY:	Secretary	AUTHORISED DATE	22/11/2017
ISSUED BY:	Legal	EFFECTIVE DATE	08/12/2017
CATEGORY:	People, Ethics and Conduct	REVIEW DATE:	30/06/2019

### Purpose

To provide guidance on managing service related complaints, including key steps and actions required for staff to respond effectively and in a timely manner to external complainants. This procedure is to be read in conjunction with the NSW Department of Industry Service Related Complaints Policy.

### What is a Service Related Complaint

*A service related complaint is an expression of dissatisfaction made to or about us, our services, staff or the handling of a complaint where a response or resolution is explicitly or implicitly expected.*

Service related complaints include representations concerning :

- the quality of an action taken
- a delay or failure by the department in providing a service
- departmental staff unreasonably delaying in taking an action or responding to queries or concerns

Service related complaints do not include matters relating to:

- the cost of services provided
- regulatory requirements and processes
- administrative outcomes or decisions
- a request for service or action
- staff grievances or Work, Health & Safety issues – they will be managed under the related Departmental Policies and Procedures

Reporting by members of the public of concerns or suspected breaches for which the Department has industry or sector compliance and regulatory responsibilities are not service related complaints as the complaint is about the conduct of others, not the service being delivered by the Department to the individual making the report.

Non service related complaints will be referred to the relevant business area/department for action.

### Roles and responsibilities:

- *Staff receiving a complaint directly* will enter details in Feedback Assist, including those for Level 1 complaints which have not been finalised within 3 working days of receipt
- *Assessment and Referral Officers* assess complaints referred by Feedback Assist as outlined in this procedure and forward them for action
- *Executive Directors, Deputy Directors General and equivalent Band 2 Senior Executives (ED/DDG)* have responsibility for the oversight of investigations concerning Level 2 complaints within their portfolio area. This includes nominating an investigating officer, ensuring all aspects of the complaint are thoroughly examined and reported upon, endorsing suitable recommendations that are actioned and ensuring responses are issued to the complainant within the agreed timeframes

These actions may be delegated in accordance with a locally documented process, but the responsibility for monitoring progress and ensuring the quality of the outcomes remains with the ED/DDG

- *Investigating Officers* gather all required information and assess the actions of departmental staff and contractors, and the processes under which they operate, to determine if the actions were considered suitable and appropriate in the circumstances
- *The Director General DPI, Deputy Secretaries and equivalent Band 3 Senior Executives (DG/DS)* have responsibility for managing internal reviews where the complainant considers their concerns have not been properly investigated or managed, or they are unsatisfied with the outcome of a previous investigation. They are also responsible for the quality and timeliness to requests for information in relation to a Level 3 External Review
- *The Director Governance & Information Requests (DGIR)* administers the complaints handling process. This includes acting as an escalation point for complainants and staff members, monitoring actions and reporting progress against agreed performance standards
- *The Deputy Secretary Corporate Service Partners (DS CSP)* has overall responsibility for the complaints handling process. This includes setting standards through monitoring the consistency and effectiveness of how the process is applied, and reporting and reviewing the outcomes
- *General Counsel* will provide legal advice upon request by the relevant Director
- *The Director Stakeholders & Strategy* has responsibility for oversighting review of any referred complaints from a departmental communication perspective and preparation of any support required for stakeholder strategy, media response or internal communication

## Definitions

- *Feedback Assist*

Is a sector wide case management and referral system which sits on all customers facing websites. It provides a visible, consistent and easily accessible contact point to lodge complaints, compliments and feedback - therefore not all inputs received through Feedback Assist are complaints. As inputs are received they will be referred to the appropriate area for attention by the Assessment and Referral Officer.

## Context

External complaints made by either stakeholders or the public can be categorised at three levels:

- *Level 1 Complaint:*

A Level 1 complaint is one that should be able to be quickly resolved informally by the relevant frontline staff or their immediate manager within 3 working days of receipt. These are the large majority of complaints received by the Department and are resolved through the provision of further information or explanation at the time or shortly after the initial concerns were received. This would most commonly occur during a conversation discussing the matters of concern or in response to a written complaint where further information addresses the issue in contention. Note that with the deployment of the Feedback Assist tool to websites many Level 1 complaints may be made through the tool, but are easily resolved by contacting the complainant by phone to provide further information.

Even though Level 1 complaints should be able to be resolved quickly, any that are not finalised within 3 working days of coming to notice are to have their details and resolution actions entered into Feedback Assist.

If the original Level 1 Complaint was raised through Feedback Assist, or was subsequently entered due to not having been finalised within 3 working days, the details of action taken to resolve the concerns are to be recorded and the case closed in Feedback Assist. This will send a confirmation to the original complainant the matter has been resolved.

In summary, where a Level 1 complaint is raised in person or through discussion with a staff member, no further action or recording of these matters in Feedback Assist is required other than for those that have not been fully resolved within 3 working days.

- **Level 2 Complaint:**

If a complaint cannot be resolved by frontline staff or their immediate manager and the complainant wishes to progress the matter further, it is categorised as a Level 2 complaint. The complainant may lodge their complaint through Feedback Assist or alternatively, where the complaint is made in person, by email, telephone or letter the receiving staff member will enter the required information in Feedback Assist on their behalf:

- Date complaint received
- Name and contact details of the complainant
- Name of receiving officer
- A short summary of the issue and actions relevant to the complaint
- The complainant's desired outcome to resolve the complaint

It is the responsibility of the relevant Executive Director, Deputy Director General or equivalent Band 2 Senior Executive (ED/DDG) to ensure all Level 2 complaints are investigated, an appropriate response issued and the outcome documented in Feedback Assist.

It is important to note that if these complaints are not resolved satisfactorily as perceived by the stakeholder, it is likely they will seek a review by an external agency or stakeholder, such as the Ombudsman, Minister or Secretary.

Anonymous complaints will be investigated where sufficient detail is provided to substantiate a valid complaint however the investigation may be affected by the inability to seek further information and details. Anonymous complainants will also not be able to be advised of the outcome of their complaint.

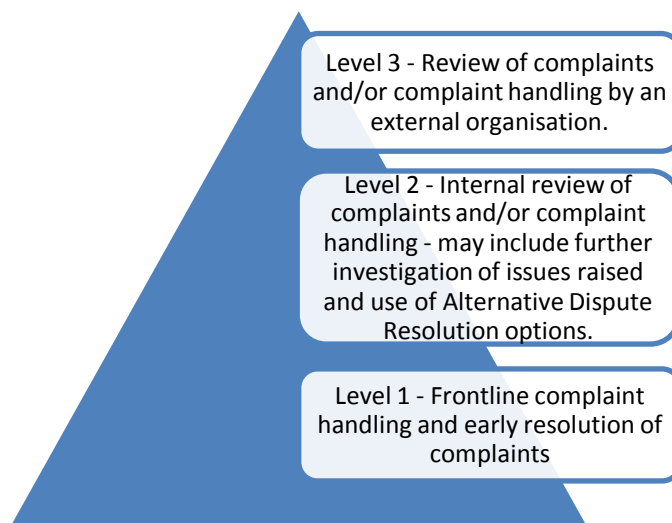
Proactive and decisive action to address complainant conduct that negatively and unreasonably affects the Department and its ability to effectively perform our functions will be managed in accordance with the Unreasonable Complainant Conduct procedure.

The step by step process of handling Level 2 complaints is explained in this procedure.

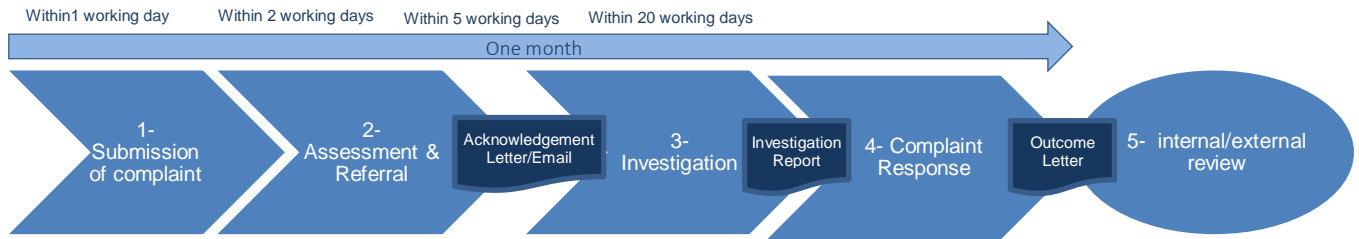
- **Level 3 Complaint:**

A complaint lodged with an external agency, such as the Ombudsman, is a Level 3 Complaint and will be managed by that external agency. The Department's role in these circumstances is to provide information and documents to assist in their review, and to determine a suitable response when the results of that investigation are advised.

The figure below reflects that the majority of referrals will be at Level 1.



## Steps in the Process – Level 2 Complaints



### Submission of complaint

Complaints can be received through various methods, including but not limited to; email, online form (Feedback Assist), in person, in writing or by phone.

When a Level 2 complaint is received other than through Feedback Assist, the details need to be entered into the online form by the receiving staff member, who will then email an acknowledgement and case number to the complainant.

### Assessment & Referral

Feedback Assist directs complaints received to the relevant business area for assessment and referral.

Assessment and Referral Officers start the process by considering:

- whether contacting the complainant directly is likely to resolve the complaint
- how serious, complicated or urgent the complaint is by conducting a risk assessment in accordance with the Department's [Enterprise Issues and Risk Management framework](#)
- whether the complaint raises concerns about people's health and safety
- whether there is potential for any legal issues
- how the person making the complaint is being affected
- whether a resolution requires the involvement of other internal areas

If the complaint is determined to be medium or high risk, it should be referred to the responsible ED/DDG for attention and to the Director Stakeholders & Strategy in the Communications and Engagement Branch for any required communication services.

It remains the responsibility of the ED/DDG to monitor progress of all complaints and ensure they are satisfied with the action taken and decisions made on their behalf.

For non-high risk complaints, the officers will refer the complaints to the relevant ED/DDG or their delegated referral pathways for investigation. That may include allowing the Assessment and Referral Officers to forward complaints for investigation and response to Managers of the affected business area where suitable arrangements have been documented and approved by the ED/DDG.

### Investigation

#### *Assigning an Investigation Officer*

The ED/DDG will oversee assignment of the complaint to an appropriate staff member for investigation. The Investigation Officer needs to have the required level of skill to assess and undertake enquiries as well as being independent from the circumstances giving rise to the complaint. That may be on a case-by-case basis for specific matters, or delegated in accordance with a documented process for non-high risk complaints.

The Investigation Officer will have access to all relevant documentation and files and may seek further written or verbal responses from staff involved in the matters under investigation.

#### *Acknowledgment:*

The Investigation Officer will issue an acknowledgement to the complainant within 2 working days of being assigned the matter to confirm receipt of the complaint and how it will be managed. This acknowledgement deals with the direct issues of the complaint and is over and above the auto-registration email issued by Feedback Assist when a complaint is lodged using the tool.

The acknowledgement will include:

- the investigating officer's contact details
- any expectations of further involvement by the complainant, e.g. if more information is required
- the expected timeframes for resolution - target is 1 month from receipt
- an overview of the investigation process

Where appropriate, the investigation officer should also consider initially phoning the complainant to explain these matters and identify what they are seeking as a resolution. This may be an important step that can resolve the matter or to limit expectations if the complainant has unrealistic views on their preferred outcome.

#### *Gathering information:*

The main purpose of the investigation phase is to impartially gather, assess and report facts. This may require consultation with the complainant to confirm the matters in contention and whether they wish to provide any further information regarding the complaint.

In an investigation, the main sources of information are:

- oral evidence - recollections and observations of both the complainant and Departmental staff
- documentary evidence - records, letters, photographs, written responses, relevant policies and procedures
- expert evidence - technical advice
- site inspections - where the matter concerns a physical aspect

The investigation officer is to maintain a central investigation file that is a complete record of the investigation. Each action should be documented, including all discussions, phone calls, interviews, decisions and conclusions made during the course of the investigation. This file must be stored in CM9 securely to prevent unauthorised access, damage or alteration, and to maintain confidentiality.

The investigation must be completed and the written report and recommendations referred to the ED/DDG or their nominated delegate in time for a response to be issued within the target date of one month from receipt of the initial complaint. If there are any delays that should be advised to the Complainant and the ED/DDG with a revised target completion date.

Throughout the process, the Investigation Officer will review the circumstances surrounding the complaint and may identify opportunities to change and improve systems and processes.

## **Complaint Response**

#### *Report and recommendation:*

At the conclusion of an investigation, the Investigation Officer will provide a written report together with recommendations to the ED/DDG or their delegate for endorsement. The ED/DDG or their delegate may accept, modify or seek further information on any aspect of the report and recommendations - it is their responsibility to ensure the facts and circumstances of the complaint have been adequately explored and documented, and that the recommended outcomes are appropriate.

Recommendations to address the complaint and avoid possible recurrences may include one or more of:

- a review of systems and procedures relating to the specific concerns
- an improvement to information provided to clients regarding departmental services
- development or improvement of client service standards
- closer supervision and/or monitoring of workflows and turnaround rates
- staff training
- acknowledging that the complaint was justified and an apology is appropriate with managers and staff to be reminded of their client service obligations
- dismissing the complaint where it is determined to be spurious, without substance or otherwise unable to be validated

#### *Communicating the outcome:*

After the ED/DDG or their delegate is satisfied with the report and recommendations, the outcome of the complaint should be clearly communicated to the complainant.

The response to the complainant should:

- thank them for bringing their concerns to our attention and allowing us the opportunity to investigate and review the issues involved regardless of the outcome
- provide the complainant with detailed reasons for the decision, including where possible, supporting information on how the outcome was reached
- advise the complainant of the Rights of Review available if they consider the complaint to have not been properly investigated or managed

Where the Department has made specific procedural or policy changes as a result of a complaint, the complainant should be advised of the changes and how these will be monitored.

#### *Examples of Remedial Action:*

If the outcome of the complaint warrants a remedial action, the next step is to determine the appropriate remedy.

Depending on the complaint, an investigation may lead to one or more of a range of possible outcomes, including:

- an explanation of the situation and what had occurred
- a change in process to avoid a repeat of the circumstances that triggered the complaint
- an apology
- mediation
- an admission of fault
- a correction of misleading records
- financial compensation, including a refund of any fees
- the waiving of a debt
- the remission of a penalty
- disciplinary action
- referral of a matter to an external agency for further investigation or prosecution

Care should be taken to ensure that the following tasks are completed upon making a decision:

- the outcome is recorded in the complaint handling system
- all actions decided as part of the decision are implemented
- information is provided to relevant staff to consider quality improvements
- the effectiveness of any outcomes or suggested changes are monitored

### **Internal and External Reviews**

Where a complaint is not upheld, the complainant may request an internal review or refer their concerns for external review.

*Internal reviews* will be undertaken by a senior staff member who has not previously been involved with the complaint nominated by the Director General DPI, Deputy Secretary or equivalent Band 3 Senior Executive (DG/DS) or appropriate nominated Senior Executive(s). The internal review process includes reviewing all relevant documentation, reassessing the information gathered, conclusions drawn and recommendations made to determine if the original decision was appropriate or whether an alternative outcome should be preferred.

Requests for internal review will be acknowledged by the Director Governance & Information Requests (DGIR), entered into Feedback Assist and referred within 2 working days of receipt to the DG/DS for action. Such action includes nominating an appropriate senior staff member to review the management of the complaint and veracity of the outcomes.

This will involve an assessment of the investigation process, recommendations and actions in terms of comprehensively and appropriately addressing or responding to the complaint.

The performance target is for the written report and recommendations to be referred to the DG/DS in time to allow the complainant to be advised of the outcomes within 3 weeks from the date the request for internal review was received.

*External reviews* by the NSW Ombudsman may be undertaken at any time before, during or after the commencement of the internal complaints handling process.

## Disciplinary action

If at any stage of the investigation there is a reasonable basis to suspect misconduct or a breach of the code of conduct has occurred, this should be immediately reported to the DS CSP via the relevant DG/DDG to allow consideration of whether formal disciplinary action should commence.

Although the disciplinary process may take some time to complete, the complaint may be finalised independently. This is possible where the acceptance that a breach of discipline may have occurred tends to validate the nature of the complaint.

The actual outcome of any disciplinary action is independent to the complaint handling process - any relationship ceases once the decision is made to commence disciplinary action. The disciplinary process is managed separately with decisions made on the facts and merits of the case, not the personal preferences of an aggrieved client.

## Recording, tracking and reporting

Feedback Assist is a case management system which allocates a unique identifying reference number and then refers the matter for assessment and referral. It can also record and report on details such as:

- The name and contact details of the complainant
- Details of the complaint and date received
- Date confirmation of receipt was issued to the complainant
- The business unit/s involved
- The responsible manager and the date referred
- Nominated investigating officer
- Target date for issue of response to complainant
- Actual date the response was issued to the complainant

Internal Reviews will be entered and tracked in Feedback Assists using similar information. These will be flagged to highlight the tighter timeframes for completion.

A summary of current complaint actions and progress will be provided to the Secretary and DG/DS on a fortnightly basis by the DGIR. A six monthly report will also be provided by the DGIR about complaints, along with any recommendations about how to improve services.

## Learning and continuous improvement

A review of all complaint information will be analysed regularly by the DGIR at Department level and ED/DDG or their delegate for each business area to help identify for improvement to services. It is useful to consider:

- the number of complaints and any trends over time
- the types of issues or services involved
- the efficiency of the response process
- the outcomes of the complaints
- the demographics of complainants.

## Actions and Performance Standards – Level 2 Complaints

Target Timeframe	Action	Responsible Officer
<i>Complaints</i>		
At receipt of complaint, if received through Feedback Assist	Auto acknowledgement	Feedback Assist
1 working day from receipt of complaint, if not received through Feedback Assist	Enter details in Feedback Assist	Receiving officer
2 working days from receipt of complaint	Forward details for investigation and response	Assessment & Referral officer
Within 5 working days from receipt of complaint	Acknowledge receipt to complainant dealing with specifics	Investigation Officer
	Complete investigation and submit report	Investigation Officer

One month from receipt	Endorse report, action recommendations and issue response to complainant	Executive Director/Deputy Director General, equivalent Band 2 Senior Executive or delegate
<i>Internal reviews</i>		
2 working days from receipt of internal review request	Issue acknowledgement of receipt, enter details in Feedback Assist and refer to DG/DS	Director Governance & Information Requests
5 working days from receipt of internal review request	Nominate investigating officer	Director General DPI/Deputy Secretary or equivalent Band 3 Senior Executive or delegate
	Complete investigation and submit report	Investigating Officer
3 weeks from receipt of internal review request	Endorse report, action recommendations and issue response to complainant	Director General DPI/Deputy Secretary or equivalent Band 3 Senior Executive or delegate
<i>Other actions</i>		
Each Fortnight	Summary of active Complaints and status referred to Secretary and Senior Management Team	Director Governance & Information Requests
Each 6 months	Report to the Secretary and Executive Management Committee on trends, effectiveness and outcomes	Deputy Secretary Corporate Service Partners

## Delegations

Administrative	Deputy Secretary Corporate Service Partners
----------------	---

## Related legislation

- Privacy & Personal Information Protection Act 1998

## Related policies and procedures

- NSW Industry Service Related Complaints Policy
- NSW Industry Unreasonable Complainant Conduct procedure

## Other related documents

- Australian & New Zealand Standard Guidelines for complaint handling in organisations AS/NZS 10002:2014
- NSW Ombudsman publication "[Effective Complaint Handling Guidelines](#)" 2<sup>nd</sup> Edition December 2010
- NSW Ombudsman publication Factsheet 8 "[Handling Complaints](#)" November 2010
- NSW Ombudsman publication "[Investigating Complaints – a manual for investigators](#)" June 2004
- NSW Ombudsman publication "[Managing Unreasonable Complainant Conduct: Practice Manual](#)" 2<sup>nd</sup> Edition May 2012
- NSW Department of Industry Feedback Assist Guideline & process map

## Superseded documents

This procedure replaces:

- Procedure – Complaints Handling V1.0 May 2012

## Glossary

*Receiving officer* – a staff member receiving a Level 2 complaint that has not yet been entered into Feedback Assist

*Assessment and Referral Officer* – a staff member nominated to assess and forward for action matters referred by Feedback Assist

*Investigation Officer* – a staff member nominated to gather information, investigate the complaint, prepare a written report and make recommendations based on their findings



**Revision history**

Version	Date issued	Notes	By
1.0	8/12/2017	Revised procedure to comply with Premier's Priority 12 - Improved Customer Service	Director Governance & Information Requests

**Contact**

Director Governance & Information Requests  
(02) 9934 0648