

Whole of Department PROCEDURE

Title: Complaints Management

Purpose:

The Department of Children, Youth Justice and Multicultural Affairs (the department) is committed to effective complaints management by managing expressions of dissatisfaction in an accountable, transparent, timely and fair manner.

This procedure is to be read in conjunction with the department's Complaints Management Policy and has been developed to provide guidance to officers in complaint management handling to ensure all matters are managed consistently and within agreed timeframes.

Definition:

For the purpose of this procedure, a complaint:

- is an oral or written expression of dissatisfaction, made by or on behalf of a complainant regarding:
 - a decision made or not made by the department; or
 - a service provided or not provided by the department; or
 - a service that is funded or contracted by the department; or
 - the behaviour or performance of the department's employees, including contracted persons; and
- requires a response or resolution; and
- is not prescribed as 'out of jurisdiction' in the Complaints Management Policy; and
- remains unresolved following a first attempt at resolution process; or
- would benefit from being managed in accordance with the complaints management policy without a first attempt at resolution being attempted.

A complaint may be:

- lodged by a complainant, their representative or advocate through one of the available channels; or
- referred by a department officer.

The following matters are defined in the Complaints Management Policy and are not subject to this procedure:

- matters that are out of jurisdiction.
- first attempt at resolution (FAAR) matters.

Complaints Management System:

The complaints management system consists of three phases:

- Phase 1: Complaints Management
- Phase 2: Internal Review
- Phase 3: External Review

Phase 1 – Complaints Management

Management of a complaint follows these key steps:

1. Acknowledge receipt of the concerns.
2. Determine if the concerns are in jurisdiction.
3. Create a complaint matter in the electronic complaints management system (Resolve).
4. Clarify the complaint allegations and desired outcomes with the complainant.
5. Assess the allegations against established criteria, including:
 - any alleged limitations of the *Human Rights Act 2019*
 - the Public Service Commission's Conduct and Performance Excellence (CaPE) framework
 - any alleged breach of the *Information Privacy Act 2009*
 - the *Public Interest Disclosure Act 2010*.
6. Determine if the allegations are in scope of the complaints management system.
7. Provide information about:
 - the complaints management process
 - the timeframe for findings to be provided to the complainant
 - the name and contact details of the administrator/investigator
 - any allegations assessed as out of scope.
8. Ensure complainants have the opportunity to be supported by a friend, an advocate, an interpreter, a community Elder or Independent Entity if required.
9. Where complaints involve multiple parts of the department or organisations, provide a single point of contact and communicate complaint management roles and responsibilities to the complainant.
10. If an allegation relates to a child protection practice decision, consider whether a Senior Practitioner review should be undertaken.

11. Manage the complaint by undertaking;
 - direct response options
 - an investigation process or
 - a Senior Practitioner review.
12. Ensure relevant parties are afforded procedural fairness and kept informed throughout the process.
13. Provide the findings and outcomes, and any other actions which may be required to the decision-maker for endorsement.
14. Advise the complainant in writing of:
 - findings and outcomes
 - reasons for the decisions made
 - any other action taken
 - how they can provide feedback
 - what review options are available.
15. Assess any feedback provided and make any necessary changes.
16. Provide any amended final findings and outcomes to the decision-maker if required.
17. Provide a written response if feedback was received and advise if the findings, outcomes or other actions were altered as a result of the feedback.
18. Record findings, outcomes, recommendations or follow up actions, and any other action taken in the electronic complaints management system (Resolve) and close the complaint.
19. Ensure that any outcomes and follow up actions are completed.

Complaint Timeframes

- Undertaking a complaint should take no more than **45 calendar days** from the point of receipt, to providing a written response to the complainant.
 - Complainants will be advised in writing if their complaint response requires additional time and a new revised timeframe will be provided to the complainant.
- Any complaint allegation which is lodged in excess of **one year** of the decision, action or inaction which resulted in the complainant’s dissatisfaction will be considered on its merit and will only be investigated at the department’s discretion.

Complaint Roles

Every complaint must be assigned an administrator/investigator and a decision-maker. A single employee can perform both roles if they meet the stated requirements, set out below.

- An administrator/investigator is an employee of the department who is appropriately capable of performing the steps outlined in Phase 1.

- The decision-maker is an employee of the department with the relevant delegations (statutory / financial / human resources) or positional authority. This role is determined following due consideration for actual, perceived or potential conflicts of interest.

Complaint Management options

Direct response

- Direct response options are used to provide a straightforward response to a complaint. These may involve a facilitated discussion, a face-to-face meeting, an informal discussion over the telephone between the departmental officer and the complainant or an explanation of departmental legislation/policy/procedure that results in a resolution to the complaint.
- Regardless of the manner of direct response offered, a written response must also be provided, and a right of reply to findings/decision and outcome advice must be afforded prior to making a final determination.

Investigation

- An investigation is a process undertaken with more complex complaints, whereby the complaint allegations are tested and assessed against relevant legislation, policies, procedures, standards, and service agreements.
- A written response is required, and a right of reply to findings/decision and outcome advice must be afforded prior to making a final determination.

Senior Practitioner Review

- A Senior Practitioner review can be conducted to inform a response to a complaint process where required.
- The Senior Practitioner review can consider a practice decision or study the practice that led to a decision. The Senior Practitioner will make findings to assist the decision-maker determine the outcome of the complaint. The review may also make recommendations to respond to opportunities identified in the review to strengthen practice.
- The review should be undertaken by a suitably qualified practice specialist, such as a Senior Practitioner or other appropriately experienced senior officer such as a Regional Practice Leader. Where the complaint relates to Aboriginal or Torres Strait Islander children and families, the review should be undertaken by, or in consultation with an Aboriginal or Torres Strait Islander staff member.

To promote objectivity, the reviewer should not be currently, or have previously been, involved in consultation related to the decision, or practice leading to the decision.

Complaint – Out of Scope

The department may decide to take no further action dealing with the complaint where:

- The complainant withdraws their complaint.

- The matter has already been managed and exhausted under the complaints management system, or the allegations are a continuation of a previous complaint involving the same or similar issues and it is evident an appropriate response has been previously provided.
- The request is outside of the complaints management timeframe and there is no justifiable reason why it should proceed out of timeframe.
- There is no apparent maladministration or merit in the allegations.
- The resources required to investigate or review the allegations would be disproportionate to the seriousness of the issues and likely outcomes.
- An investigation is likely to be ineffective because of a lack of relevant evidence and no practical possibility of it being obtainable.
- The expectations (outcomes sought) are unreasonable and unlikely to be achieved.
- No practical outcome can be achieved (e.g. the decision or action complained of cannot be reversed and has already been addressed).

A written response outlining the rationale for the out of scope decision is required, and a right of reply to findings/decision and outcome advice must be afforded prior to making a final determination.

Phase 2 – Internal Review

After progressing through Phase 1, if a complainant remains dissatisfied with the findings of their complaint (merit), or with how their complaint was managed (process), they can request an internal review. All internal reviews are conducted by the Complaints Unit.

A request for an internal review should:

- detail what specific aspects of the complaint findings or process the complainant disagrees with; and
- be lodged within 28 calendar days of the closure date of the complaint.

Internal Review timeframes

- Complainants must lodge a request for an internal review within **28 days calendar days** of their previous complaint matter closure date. Any request made outside of the timeframe will be assessed on its merit and will only be investigated at the department's discretion.
- Undertaking an internal review should take no more than **45 calendar days** from the point of receipt, to providing a written response to the complainant.
- Complainants will be advised in writing if their internal review response requires additional time and a new revised timeframe will be provided to the complainant.

Internal review roles

Every internal review must be assigned an administrator/investigator and a decision-maker. A single employee can perform both roles if they meet the stated requirements, as set out below.

- An administrator/investigator is an employee in Complaints Unit who is appropriately capable of reviewing the complaints management process and outcomes and provide recommendations to the internal review decision-maker.
- The decision-maker is an employee of the department who is equal or more senior than the original complaint decision-maker with the relevant delegations (statutory / financial / human resources) or positional authority to set aside, remake or affirm a decision or provide another appropriate outcome.
- This role is determined following due consideration for actual, perceived or potential conflicts of interest.

Internal Review Options

Investigation:

- Grounds/terms of reference need to be tested and assessed against legislation, relevant policies, procedures, standards, and service agreements.
- A written response, which may include a written report is required, and a right of reply to findings/decision and outcome advice must be afforded prior to making a final determination.

Internal Review – Out of Scope

The department may decide to take no further action when dealing with the internal review where:

- The matter has already been managed and exhausted under the complaints management system.
- The request is outside of timeframe and there is no justifiable reason why it should proceed out of timeframe.
- A Senior Practitioner review has already occurred in relation to the same or similar concerns.
- The request relates to the review of a privacy complaint.
- There is no apparent maladministration or merit in the grounds.
- The resources required to review the grounds would be disproportionate to the seriousness of the issues and likely outcomes.
- A review is likely to be ineffective because of a lack of relevant evidence and no practical possibility of it being obtainable.
- The expectations (outcomes sought) are unreasonable and unlikely to be achieved.
- No practical outcome can be achieved (e.g. the decision or action complained of cannot be reversed and has already been addressed).
- The matter is outside of the complaints management jurisdiction e.g. a request for an internal review where the previous complaint was referred to another jurisdiction and closed.

Phase 3 – External Review

If a complainant remains dissatisfied after progressing through Phase 1 and 2 of the complaints management model, they can pursue external options.

The Queensland Ombudsman has an oversight function for investigating administrative decisions of the department through an external review process.

The Queensland Ombudsman is unable to review the following matters:

- a complaint related to a **funded non-government service provider** can be referred to Industrial Relations Commission.
- a **human rights** complaint under the *Human Rights Act 2019*, can be referred to the Queensland Human Rights Commission.
- an **information privacy breach** can be referred to the Office of the Information Commissioner Queensland.

When to escalate a matter to the Complaints Unit

The Complaints Unit manages the department's central complaints function and is responsible for conducting internal reviews, which can review the merit of a previous complaint's findings or the process of how a previous complaint was managed.

A departmental business area may also highlight to the Complaints Unit reasons why it is not feasible or appropriate for them to manage a complaint. In circumstances such as this, following consultation with and agreement from the Complaints Unit, the business area is to refer the complaint to the Complaints Unit for management and advise the complainant of this action.

Other factors that help determine how and who should handle the complaint also include:

- the complainant's complaint history (including any current communication protocols);
- whether the complaint / decision-making process raises systemic factors and or concerns;
- concerns about perceived bias or conflict.

Recording

All first attempt at resolution matters, complaints and internal reviews must be entered into the department's electronic complaint management system (Resolve) to ensure consistent monitoring and reporting, and to enable effective review and ongoing system and practice improvement.

Communication Protocol Documents

Where the complainant's conduct is unreasonable; e.g. excessive or threatening telephone calls, emails or letters, a communication protocol document may be developed to guide future communications between the department and the complainant.

The protocol may include guidelines for a complainant's communication with the following areas:

- a frontline service area, such as a Child Safety Service Centre
- a regional office
- Complaints Unit.

Referrals to specialist teams

Throughout the complaint management process there may be matters that require liaison with, or referral to, a specialist team of the department to handle. This includes:

- practice leaders who can provide specialist practice knowledge about culture, domestic and family violence, mental health, substance misuse, disabilities and gender, sexuality and identity
- privacy complaints or privacy information breaches
- matters subject to review under the *Right to Information Act 2009*
- serious staff misconduct matters, including suspected corrupt conduct
- non-compliance of service contract
- possible public interest disclosures.

Information Privacy Breach or Privacy Complaint

An **information privacy breach** occurs when personal information is not handled in accordance with the *Information Privacy Act 2009*. It will generally involve access to, or collection, use or disclosure of, personal information in contravention of the department's obligations under the Information Privacy Principles. A privacy breach may be accidental or intentional. It may be a one-off occurrence or due to a breakdown in procedures. A breach may occur when personal information held by the department is lost, misused, mistakenly disclosed or stolen.

The Information Privacy and Governance team will work with the relevant area to ensure appropriate steps are taken to contain the breach, assess the risk, determine whether affected persons should be notified, and what steps should be taken to address any systemic issues and prevent a recurrence.

An **information privacy complaint** is a complaint about an act or practice of the department in relation to a person's personal information that is a breach of the department's obligations under the *Information Privacy Act 2009*.

If it is determined that the complaint is a privacy complaint it will be managed in consultation with the Information Privacy and Governance team.

Right to Information

If a person is concerned about the outcome of an application for access to or amendment of information under the *Right to Information Act 2009* or the *Information Privacy Act 2009* they have internal and external review rights under that legislation.

Complaints about Serious Staff Misconduct and Suspected Corrupt Conduct

If a matter includes any allegations which may constitute suspected 'corrupt conduct' as defined in section 15 of the *Crime and Corruption Act 2001*, category 3 misconduct under the Public Service Commission's Conduct and Performance Excellence ('CaPE') framework, or 'misconduct' as defined in section 187(4) of the *Public Service Act 2008*, the matter will be referred to Professional Standards for assessment.

If Professional Standards determine the matter does not constitute suspected 'corrupt conduct' or a category 3 misconduct, it will be returned and assessed through the complaints management system.

Possible Public Interest Disclosure

If a complaint or contact contains information about a danger to the health or safety of a child with a disability, the Complaints Unit will:

- assess the contact / complaint to determine whether the matter constitutes a public interest disclosure under the *Public Interest Disclosure Act 2010*
- undertake further enquiries in liaison with the relevant area to assess the risk and ensure appropriate risk mitigation strategies are in place.

The Complaints Unit may also investigate the complaint.

Non-Compliance of Service Contract

Compliance Services conducts financial compliance reviews and compliance investigations of departmentally funded non-government service providers where there are allegations or concerns which indicate a funded service provider's alleged non-compliance with their financial and or service delivery obligations under the departmental service agreement.

Authority:

Complaints Management Policy

Child Protection Act 1999

Youth Justice Act 1992

Multicultural Recognition Act 2016

Public Interest Disclosure Act 2010

Information Privacy Act 2009

Public Service Act 2008

Crime and Corruption Act 2001

Public Sector Ethics Act 1994

Human Rights Act 2019

Code of Conduct for Queensland Public Service

DCYJMA Occupational Violence Policy

DCYJMA Disability Service Plan 2020-2023

Respectfully Journey Together Aboriginal and Torres Strait Islander Cultural Capability Action Plan

Public Service Commission's Conduct and Performance Excellence framework

Date of approval: 22 June 2022
Date of operation: 01 July 2022
Date to be reviewed: 01 July 2024

Office: Office of the Chief Practitioner
Help Contact: Complaints Unit – 1800 080 464

Deidre Mulkerin
Director-General



Do you need an interpreter?

If you need an interpreter to assist you in understanding this document, please call the Translationz on (07) 3123 4887 and request to be transferred to the Complaint Unit on 1800 080 464