

COMPLIMENTS AND COMPLAINTS POLICY

PREFACE

Our office aims to be accessible and responsive, and to be a leader in standards of service. We are accountable to the public of NSW and all members of the public have a right to expect quality service from us.

As complaint handlers, it is inevitable that we will also receive complaints and compliments about our work. They tell us where we have gone wrong and what we have done well. We acknowledge that sometimes people are reluctant to provide feedback. Through this policy we show our commitment to actively seek and use feedback to improve the way we do things. We expect the agencies about which we receive complaints to take a constructive approach to complaints about the way they operate and the service they provide. Our office should be no different.

PURPOSE

The purpose of this policy is to affirm and support the right of members of the public to give our office positive and negative feedback, and to have any dissatisfaction with our services dealt with fairly, consistently and confidentially. We recognise that external feedback is an important tool that we can use to continually improve our services. This policy provides a framework for taking a consistent and professional approach to front-line complaint handling.

RESPONSIBILITY

This policy applies all staff of the office, whether by way of appointment, secondment, contract, temporary arrangement or on a fee-for-service basis. Any individual having employee functions or acting in an employee capacity, including a volunteer, is a member of staff.

This policy does not apply to official community visitors appointed from time to time under the *Community Services (Complaints, Reviews and Monitoring) Act 1993*. Complaints about official community visitors are dealt with under a separate policy – *Complaints about official community visitors*.

Division managers are responsible for keeping central records of complaints and compliments for their respective divisions and for ensuring that complaints about their divisions are responded to appropriately. The Director Corporate is responsible for making sure information about our internal complaints system is available publicly.

LEGISLATIVE FRAMEWORK

Public Sector Employment and Management Act 2002

Annual Reports (Departments) Act 1985

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| NSW Ombudsman policy number: | 41 |
| Policy originally created: | April 1999 |
| Last reviewed / updated: | 2 July 2010 |
| Version number: | 3 |
| Related policies: | Internal reporting policy, Interviewing complainants policy and procedures, Grievance and dispute management, Complaints about official community visitors, Request for review of decision |
| File number: | ADM/4984 |
| This policy supersedes the Complaints and Compliments Policy dated 4 June 2004 | |

DEFINITIONS

Not applicable.

POLICY STATEMENT

1. *Principles of customer feedback and quality service*

Our statement of corporate purpose and code of conduct for staff incorporate principles of quality service. In all our dealings with individuals and agencies, we aim to be polite, responsive, fair, impartial, prudent, effective and efficient.

Feedback from those who receive our service is essential to determine how well we are achieving this goal. Both positive and negative feedback should be recorded and responded to in a way that allows us to improve the way we do things, and recognise what we are doing well.

Ideally we try to do things right the first time, but we will not always be able to provide the best service or fulfil people's expectations at the outset. This is why we need an internal complaints system.

2. *Why it is important for this office to handle complaints properly*

We are in the business of handling complaints about other agencies. Our reputation is largely based on finding practical solutions to people's concerns, including requiring agencies to improve the way they do things. We also encourage agencies to improve the way they handle complaints about themselves. It would be reasonable for those agencies to expect that we apply the same standards to ourselves.

Properly handling complaints about our work is important to our performance. Complaints which are not promptly resolved can generate significant additional workload for the office and impact heavily on staff morale. Even though all complaints may not be 'justified' in our eyes, complainant dissatisfaction can fester and make further contacts with our office difficult. They can also 'bad-mouth' our service, so that our reputation and credibility suffers.

Complaints can give us ideas for changing not only the way we do things, but things like laws and government policy that affect our work. If the real cause of a person's dissatisfaction is that a law has created a difficult situation for them, we may decide to recommend a change to that law.

3. *Why people do and do not complain*

People make complaints because they are unhappy with a decision, the level of service or the behaviour of staff. Many complaints are a result of poor communication. Finding out what precisely is making the complainant dissatisfied can be helpful in resolving the complaint.

It is important to remember that many dissatisfied people do not actually complain. When people are asked why they didn't complain when they had a genuine grievance, they consistently mention the following reasons:

- no available information on how to make a complaint
- too difficult to find out who to ring or go to
- too time consuming
- didn't think it would be taken seriously
- wouldn't make any difference so why bother
- negative reception on past approaches
- to avoid further upset after previously experiencing rudeness
- don't want to be seen as a trouble-maker

- concerns about retribution where ongoing involvement is unavoidable
- gave up after initial fob-offs and telephone transfers
- fear of retribution.

It is useful to consider these factors when you think about how complainants want to be treated when they complain. The way the first contact is handled is vital. In fact the first few sentences are the most vital in making people less apprehensive about how they are going to be received.

When people complain they generally want five essential things:

- they want to be heard
- they want to be understood
- they want an explanation
- they want an apology
- they want action as soon as possible.

Even if you are unable to do what the complainant wants exactly, they will usually be reasonably happy if you can satisfy some of their needs.

4. *Benefits of an internal complaints system*

When used properly, an internal complaints system:

- creates a second chance to provide service and satisfaction to dissatisfied people, particularly those who have originally complained to us about another agency
- helps to identify areas that need improvement and helps to achieve that improvement
- improves accountability of the office — people's dissatisfaction is on the record
- provides opportunities to strengthen public support for the office, or at least limits the amount of 'bad press' that dissatisfied people can generate, and
- assists in planning and allocation of resources.

We hope to maintain public satisfaction and support by combining the two elements of doing things right the first time and effectively handling any complaints that are made despite our best efforts.

By and large, complaints about our work are specific and actionable. We aim to resolve the specific grievance if at all possible. An important second step is to record data about the nature of each complaint so that we can see what we are doing that makes people complain. The main conclusions that we can draw include:

- what specific work practices and policies seem to work and what seem to cause dissatisfaction
- whether expectations of service levels in certain areas exceed what we can reasonably deliver — we may need to arrange for better publicity or explain more clearly our service standards and priorities so that people's expectations are realistic.

We have aimed to make our internal complaints system simple and worthwhile for customers to give us feedback.

5. *What is a complaint about our office?*

A complaint about our office includes:

- any allegation of impropriety or misconduct by a staff member

- any clearly articulated grievance about the handling of a matter, our policies, procedures or service.

A complaint is not:

- a disagreement about an assessment of facts
- a disagreement about an evaluation of evidence, or
- a request for a review of a decision (these are dealt with in accordance with the policy *Request for review of decision*).

It must include something more, such as a clear allegation that it is the improper conduct of a member of staff that has led to the office making a decision that, in the opinion of the dissatisfied person, is wrong or bad.

Examples of possible complaints about our office are:

- delay
- rudeness
- inaccurate information being included in a publication
- conflict of interest or bias
- failing to follow up or to do something that was promised.

6. ***Our internal complaints system***

Our internal complaints system comprises three stages:

| (a) Frontline complaint handling | (b) Internal review | (c) External review |
|---|---|---|
| <p>Staff member who receives the complaint is to deal with it at the first instance.</p> <p>Staff member may receive the complaint by telephone or be referred a written complaint by their division manager.</p> <p>Certain complaints, including those raising more serious concerns, are to be automatically referred to the next stage.</p> | <p>A supervisor is to:</p> <ul style="list-style-type: none"> • review any complaints that could not be resolved at the frontline stage, or • deal with serious complaints referred from a staff member. <p>A statutory officer or the Ombudsman will deal directly with complaints:</p> <ul style="list-style-type: none"> • alleging criminal or corrupt conduct, where there seems to be evidence supporting the allegations • from a public sector agency • from a member of parliament. | <p>The staff member may advise the complainant to complain to another agency or to seek resolution of their concerns using other avenues of appeal or review (eg legal system).</p> |

(a) Frontline complaint handling

If you feel you can resolve a complaint made directly to you, or referred to you by your division manager you are expected to do so. You should ask your supervisor for guidance if necessary.

(b) Internal review

You should automatically refer certain complaints to your supervisor, in accordance with the procedures supporting this policy. These include complaints about your own conduct, where it is not appropriate for you to deal with it, and those of a more serious nature.

You should also refer a complaint to your supervisor, in accordance with the procedures supporting this policy, if you have tried to resolve a matter but the complainant is still dissatisfied and would like to deal with another person. Your supervisor is to consult with the division manager to determine who should deal with the complaint. That person is responsible for conducting an internal review in accordance with the procedures supporting this policy.

You should automatically tell your statutory officer of any complaints:

- alleging criminal or corrupt conduct, where there seems to be evidence supporting the allegations
- from a public sector agency
- from a member of parliament.

Your statutory officer is responsible for directing initial inquiries into these kinds of complaints and reporting the matter to the Ombudsman.

The Ombudsman may decide that the complaint must be referred to ICAC (for corrupt conduct) or the police (in criminal matters). The Ombudsman will also decide whether additional investigation or other action is required and will sign the final correspondence.

If there is a possibility of disciplinary action the Ombudsman may need to conduct a preliminary inquiry in accordance with Part 2.7 of the *Public Sector Employment and Management Act 2002*.

(c) External review

Our office, like any other NSW government agency, is subject to the scrutiny of other state watchdog bodies. Sometimes it is more appropriate to refer a dissatisfied complainant to an agency such as the Independent Commission Against Corruption, the Auditor-General, the Privacy Commissioner, the Anti-Discrimination Board.

They may also be referred to the Parliamentary Committee on the Ombudsman and the Police Integrity Commission (the PJC), which has a general monitoring and review function over our office.

Dissatisfied complainants should be advised that while the PJC can review our procedures it cannot review the merits of decisions regarding specific complaints (that we have dealt with in our complaint-handling capacity).

Sometimes we cannot resolve a complaint despite our best efforts. When the complaint is serious and the complainant's demands continue to impact on the time and resources of staff, the complainant should be referred to any appropriate external sources of review or appeal.

7. How we receive complaints about us

Complaints can be made in writing, by telephone, by email or in person. Complaints can be made anonymously, but we would generally only investigate if the matter was relatively serious and there is sufficient information in the complaint to enable an investigation to be conducted. You should also advise any anonymous complainants that you will not be able to resolve their specific concerns or tell them how the office has responded to the complaint.

You should offer help if a person needs any assistance to make a complaint, including a written complaint. This may include recording the conversation and arranging for them to sign it, either through a personal interview or mailing it to them. It may include using an interpreter or TTY service, or encouraging the person to use an advocate. You may need to explain to the person how to make a complaint. You should only request that a complaint be put in writing if it raises more serious matters.

8. Unreasonable complainant conduct

If a complainant complains about our office in person or on the telephone and becomes angry, aggressive or threatening in any way, you should follow the procedures and guidance in the *Complainant conduct and visitor access policy* and the *Unreasonable Complainant Conduct Guidelines*.

9. All complaints must be recorded

According to directives associated with the NSW Government's Guarantee of Service and the *Annual Reports (Departments) Act 1985* our office is required to register all complaints received about us. We are also required to annually report publicly on the complaints we receive and how they were dealt with.

You must record the details of every complaint that you receive in accordance with the procedures supporting this policy. You should also record any actions that you have taken to resolve the complaint and any systemic issues that the complaint may raise. This will make it possible for our office to properly analyse complaint information.

Division managers are responsible for keeping central records of complaint information in accordance with the procedures supporting this policy.

10. Handling complaints

All complaints should be handled in accordance with the procedures supporting this policy.

11. Analysing and reporting on complaints

Division managers are responsible for managing the complaints system within each division. They will advise their statutory officer of any useful information received about systemic issues. They will talk to individual staff members and their supervisors to make sure any problems with the staff member's work are addressed. They are also responsible for analysing complaint data and preparing a report to include in our annual report.

12. Complainants will not be punished for complaining

Members of the public and other people who we have professional dealings with are welcome to complain about any aspect of our service. All complaints will be dealt with confidentially. No person will suffer reprisals as a result of complaining about us.

The Ombudsman will deal personally with any complaints that a person has suffered reprisal as a result of complaining about this office.

13. Making information about our internal complaints system available

Our office is committed to encouraging people to give us feedback about our work. The Manager Corporate Support is responsible for providing accurate information about our internal complaints system on our web site and in our brochures.

14. Suggestions and compliments

It is good to get feedback about how well we do things as well as feedback on how we could do things better, so we also need to register compliments and suggestions. Positive feedback helps us evaluate how effective we have been in our work. Compliments and suggestions are to be handled in accordance with the procedures supporting this policy.

Division managers are responsible for keeping central records of compliments and suggestions in accordance with the procedures supporting this policy.

OMBUDSMAN APPROVAL

A handwritten signature in black ink, appearing to read "B. A. Barbour". The signature is written in a cursive style with a large initial "B" and a long, sweeping underline.

Bruce Barbour
OMBUDSMAN

PROCEDURES

1. Stage (a): Frontline complaint handling

If you receive a complaint by telephone or in person and believe you can resolve/conciliate it then and there, you are expected to do so. Please fill out a compliment/complaint form and give it to your division manager. The form is available electronically in ADM/320. [Click here](#) to access the form.

When responding to any complaint you should:

- be courteous — tell them your own name and ask how you can assist them
- listen to what they have to say — seriously aggrieved complainants may feel angry over what has happened, so give them time to tell their story
- seek clarification of any points that are not clear in a non-judgmental way — use open-ended questions to do this. Good starting words are: how? when? where? who? what?
- provide any relevant information that will assist the complainant to better understand the decision or action that they are aggrieved about
- clarify the application of any relevant policies or procedures governing the way their matter has been dealt with
- make it clear you understand the complaint, summarise the main points made and ask whether you have got it right
- ask the complainant how they would like their dissatisfaction to be addressed
- try to meet any reasonable requests that would resolve the matter
- acknowledge their sense of grievance, justified or not
- agree on the appropriate course to adopt. If you cannot come to any agreement you may decide to discuss the matter further with your supervisor or division manager and explore further options
- take the action decided and inform the complainant
- take any action you can to prevent similar complaints in the future.

2. Options to address people's complaints

Each complaint is unique and you will need to find a solution that addresses the complainant's particular concerns. Here are some ideas for what you might be able to offer a complainant:

- an expression of empathy or regret that the complainant has suffered some form of detriment without admitting that we were at fault
- offering an apology where it is apparent that we were at fault and some other form of remedial action
- providing explanations and giving reasons for decisions
- undertaking some action eg send correspondence that someone failed to send earlier
- giving higher priority to a matter that has been delayed

- correcting records that are incomplete, incorrect, out of date or misleading
- undertaking to make requests for review or recommendations that policy or procedures be changed, or cases be reconsidered
- offering compensation if the complainant has suffered financial detriment as a result of our actions (this requires the approval of a statutory officer).

3. *Stage (b): Which complaints should you refer to your supervisor for an internal review?*

You should automatically refer complaints to your supervisor:

- if the complaint is about your own conduct and you are not confident you can deal with the matter fairly or you feel that the complainant will perceive you as not capable of dealing with it fairly
- if the complainant requests someone else deals with the complaint
- when the problem is clearly outside your delegation or area of expertise
- when there are established internal or external referral procedures eg ICAC notifications
- when significant disciplinary action is a possible outcome or when a staff member is alleged to have committed a criminal offence, acted corruptly, or engaged in other serious misconduct
- if the complaint is from a public sector agency or a member of parliament.

You should also refer a complaint to your supervisor if:

- the complainant is still dissatisfied
- you cannot do anything else to satisfy the complainant
- the complainant wants someone else to look at their complaint, and
- you believe this is a reasonable request.

It will not always be possible to satisfy a complainant. Common sense will dictate whether you have achieved everything that the complainant could reasonably expect from this office. The complainant should be told in clear terms what you (and the office) can and cannot do. You need not refer a matter for an internal review if you do not think it will achieve anything.

4. *Tell the complainant if you are going to refer their complaint*

If you are going to refer a complaint, do so quickly. Politely suggest (or agree) that it would be better for the complainant if someone else reviewed the matter and refer it to your supervisor. You should inform the complainant that you will find out the appropriate person to deal with their complaint, and that you will refer the complaint to them. If the person is not available at the time, tell the complainant this and inform them you will arrange for the person to contact the complainant within a set time frame. Invite them to call you again if they do not hear further from the person within that time.

5. *Referring a complaint to your supervisor*

If you decide to refer a complaint to your supervisor, you should do so within 24 hours of making that decision. You should provide all the relevant information and the action taken to your supervisor on the compliment/complaint form.

Your supervisor may consult with the division manager to determine who should deal with the complaint. The person dealing with the complaint should then assess the complaint and, after discussing the complaint with anyone who originally attempted to resolve the matter:

- try to informally resolve the complaint and take corrective action where appropriate, or
- investigate the complaint and report to the Ombudsman.

6. Resolution of complaints referred for an internal review

Complaints about unsatisfactory service, especially rudeness or delay, are often more conducive to informal resolution or conciliation. This may be done by telephone or meeting with the complainant. The senior officer hears them out and if appropriate, offers a formal apology on behalf of our office and undertakes to stop the rudeness or delay from happening again. The principal aim is to prevent the complaint from escalating into a larger and more time-consuming dispute.

Informal resolution or conciliation is less effective when:

- the complaint is complex
- the facts are likely to be in dispute and an investigation may be needed
- disciplinary action is a possible outcome
- the outcome the complainant is demanding cannot be provided by the more senior officer
- questions of precedent for the office may be involved.

In these circumstances, the matter may need to be formally investigated and a report provided to the Ombudsman making a finding and/or recommendations.

7. Complaints raising serious matters should be in writing

If you think the complaint raises serious matters, including allegations of serious misconduct or corruption, ask the complainant to set out full details of his or her complaint in writing to the Ombudsman. Tell the complainant that the concerns will be reported to the division manager but the matter will not be investigated until the complaint is received in writing.

Fill out a compliment/complaint form to inform your division manager what you have done. Your division manager should report these matters to your statutory officer and the Ombudsman. Your division manager should telephone the complainant to follow up the matter if the complainant has not written to us within two weeks.

8. How we handle complaints received in writing

Division managers are responsible for assessing all written complaints. The division manager will:

- ensure that the complaint is recorded
- attach a compliment/complaint form to the correspondence
- assess the seriousness of the complaint, and
- either deal with it directly or refer it to an appropriate person for action.

Where the matters involve general customer service issues they will usually refer the matter to the staff member most immediately concerned or their direct supervisor. When a complaint has been dealt with, details of the outcome are to be provided to the division manager on the compliment/complaint form.

9. What information do I need to record about a complaint?

You should record the following information about each complaint received on a compliment/complaint form:

- personal details about the complainant and the case file reference number (if there is one)
- how the complaint was made (eg telephone)
- any member of staff and/or section of the office that is the subject of the complaint
- an issue number corresponding to the nature of the complaint
- the substance of the complaint
- any specific requests the complainant has made
- any specific options for resolving the complaint that you offered, including if it was referred to someone else
- the outcome of the complaint
- any procedural or broader issues raised by the complaint
- any remedial action taken.

10. *Telling a member of staff about complaints about him or her*

If the complaint is about the conduct of a specific member of staff, he or she is likely to be among the first to know about the complaint. If this is not the case, the staff member dealing with the complaint should make every effort to get the subject's side of the story before deciding what further inquiries, if any, are required.

If the matter is serious or involves allegations of corrupt conduct it may be necessary to carry out some inquiries and notify the matter to ICAC before informing the subject of the complaint.

You should advise both the complainant and subject of the complaint of the outcome of the complaint.

If you are the subject of a complaint and you are unhappy with the way the complaint is handled, you can lodge a grievance in accordance with our *Grievance and Dispute Management Policy*.

11. *Time-frames for dealing with complaints*

Generally a speedy response to the complaint will be well received and the complainant will be more open to resolution. Sometimes, however, delaying a final response for a short time can play an important role in resolving a complaint. It may allow tempers to cool, advice to be obtained, alternatives to be investigated and considered. You will need to use your discretion in each case but the following time-frames should be used as guidance:

- Frontline complaints received by phone or in person should be dealt with immediately and wherever possible finalised on the same day, but otherwise within two days of receipt. Please tell your supervisor if you cannot achieve this.
- Matters referred to supervisors or other senior staff for informal resolution should be dealt with as soon as possible and usually within 5 days of receiving the complaint.
- Written complaints should be inquired into and responded to within 2 weeks.

12. *Centrally recording complaint information*

Division managers are responsible for ensuring that central records of complaint information are kept in physical and electronic files.

Annexure 1 provides an example of the information that should be included within each Division's file.

Most complaints will be made by a person who has initially complained to our office about another agency. Original correspondence relating to a person's original complaint is to remain on their original complaint file. However, compliment/complaint forms and copies of any correspondence containing a complaint about our office will be kept on file by each division manager.

Any complaint concerning serious misconduct, including corrupt or criminal activities, will either be investigated by the Ombudsman or a statutory officer and the papers held in a safe, or referred to an appropriate external body.

13. Centrally recorded compliments and suggestion information

Incoming mail containing compliments and suggestions should be noted by each division manager or any other person assessing the mail and photocopied. The compliment or suggestion can be highlighted on the photocopy for easy identification. The letter should then be referred to the division's executive assistant, who is to keep a central record of compliments, and includes a copy of the most relevant extract of the compliment or suggestion.

Compliments and suggestions made over the phone or in person should be recorded on the compliment/complaint form and given to your division manager.

Annexure 2 provides an example of the information that should be included within each Division's file.

Annexure 1 – Central register of complaints received

| No | File no. | Complainant | Agency | Staff member the subject of complaint | Complaint | Date received | Refer to | Issue No. | Action required | Date and outcome | Finding | Remedial action |
|----|-------------------|-------------|-------------------|---------------------------------------|---------------|---------------|----------|-----------|-----------------|------------------|----------|-------------------------------|
| 1. | eg C/2004/1342 | Ms James | Dept of Education | Bea Bloom | Bea was rude. | 25/3/04 | N/A | 10 | Apology | 25/3/04 | Resolved | Apology offered and accepted. |

Annexure 2 – Central register of compliments and suggestions received

| No. | File Reference | Who gave the compliment | Agency | Staff member complimented | Date | Details |
|-----|-------------------|-------------------------|-----------------|---------------------------|---------|--|
| 1. | eg C/2004/1234 | Ms Bloggs | Dept of Housing | Bea Bloom | 14/3/04 | I wanted to express my gratitude for your endeavours on my behalf and for the happy outcome you achieved. I really was at my wits end, so I really do appreciate the fact that the Ombudsman does exist and that you took an interest in my dilemma. |