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## Managing complaints and other feedback

This policy sets out the approach for managing complaints and other feedback about business centres of the Department of Justice and Attorney General, excluding Corrective Services NSW. It aims to help increase client satisfaction with Departmental services.

### Essential Summary

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- Feedback can be in the form of a complaint, a compliment or a suggestion. A complaint is defined as any expression of dissatisfaction, however made, about the standard of service, policies, procedures, costs, or staff of a business centre.
- Complaints should be resolved by frontline service staff wherever possible, and in consultation with a supervisor or manager if required.
- If the client remains dissatisfied, the business centre may conduct an internal review, or escalate the complaint for review outside the business centre. This is known as the tiered approach to complaint handling.
- Of course a complainant has the right to escalate his or her complaint, at any time, to an agency that is external to the Department.
- This policy is based on ten key principles for handling complaints. These principles aim to ensure the process for handling complaints is accessible, fair, transparent, responsive, efficient, and helps business centres to improve their services.
- This policy also specifies minimum standards for complaint handling procedures. The minimum standards are detailed in Appendix 1.
- The minimum standards specify requirements about providing information to clients, ensuring accessibility, empowering staff to resolve complaints, keeping records of complaints, and counting, reporting on and analysing complaints.
- Consistent with the minimum standards, each business centre is responsible for implementing its own detailed procedures for complaint handling, and ensuring that its staff are aware of and comply with those processes and the minimum standards.
- The NSW Ombudsman has published further guidance about best practice in handling complaints and conducting investigations, which is available at the website [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au) and referenced in section 10 of this policy.

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# 1 Scope

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This policy relates to the function of managing complaints and feedback about services to the community delivered by the Department of Justice and Attorney General.

It covers the range of business centre activities which are necessary to manage that function. These activities include receiving and responding to complaints. They also include recording and reporting this information, and analysing complaint statistics and trends.

The policy applies to all business centres of the Department of Justice and Attorney General, excluding Corrective Services NSW. All business centres are required to comply with the principles and standards set out in this policy. In addition, business centres that provide services to external clients are also required to maintain their own detailed procedures for handling complaints, consistent with these principles and standards.

All managers and frontline staff who deal with complaints and feedback should be aware of, and comply with, this policy. They should also respond to complaints and feedback in accordance with the more detailed procedures of the business centre in which they work.

This policy does not apply to complaint management functions which form part of an agency's core functions. This means it does not apply to the:

- Office of the Legal Services Commissioner's function of handling any complaint about a legal practitioner under the *Legal Profession Act 2004*
- Privacy NSW's function of handling any complaint about a breach of privacy law
- the Anti-Discrimination Board of NSW's function of handling any complaint of discrimination under the *Anti-Discrimination Act 1977*
- the Community Relations Unit's function of handling any complaint about a Justice of the Peace in NSW.

This policy also does not apply to complaints about judicial or quasi-judicial decisions, or the judicial or quasi-judicial functions of courts and tribunals. A concern about the outcome of a court hearing can only be addressed through appellate processes. A complaint about the conduct of a judicial officer can only be considered by the Judicial Commission of NSW.

## 2 Objective

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The objective of this policy is to increase client satisfaction with Departmental services. It aims to do this by:

- responding quickly and effectively to resolve complaints wherever possible
- using information from complaints and feedback to improve our services.

## 3 Definitions

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The following definitions apply in this document:

<b>ADR</b>	or Alternative Dispute Resolution, refers to a range of processes in which an impartial person helps people to resolve their disputes
<b>Business centre</b>	a business centre of the Department
<b>Client</b>	a client of a business centre of the Department, as well as any member of the general public who is making a complaint, suggestion or feedback about business centre operations <sup>1</sup>
<b>Complaint</b>	an expression of dissatisfaction, however made, about the standard of service, policies, procedures, costs, or staff of a business centre <sup>2</sup>
<b>Department</b>	the Department of Justice and Attorney General, excluding Corrective Services NSW
<b>Feedback</b>	includes complaints, suggestions and compliments
<b>Staff</b>	an employee of a business centre, regardless of whether the staff member's employment status is permanent, temporary or casual
<b>Staff misconduct</b>	has the same meaning as expressed under section 43 of the <i>Public Sector Employment and Management Act 2002</i> .

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<sup>1</sup> This definition excludes any member of the general public for matters pertaining to the Crown Solicitor's Office.

<sup>2</sup> This definition excludes an expression of dissatisfaction about a decision of the President of the Anti-Discrimination Board of NSW, under either section 89B or section 92 of the *Anti-Discrimination Act 1977*, to decline a complaint made under that Act.

## 4 Principles

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This policy is based on a set of ten key principles, which are outlined below.

Detailed procedures for handling complaints, developed by business centres which provide services to external clients, must be based on these principles. The principles also provide useful guidance for managers and staff to keep in mind, when handling any individual matter.

The principles are:

### 1. We value feedback from clients

Feedback, including complaints, help us to improve our services. Responding to a complaint is also an essential part of providing a quality service.

Overseas research shows the vast majority of dissatisfied customers do not complain.<sup>3</sup> Complaints that we do receive may therefore indicate the same concerns are held by a much wider group of clients.

### 2. We make it easy for clients to provide feedback

For many clients, just asking for help can be difficult and stressful. Clients have a right to know they can complain, and how to go about it.

Clients who have diverse needs, such as people with a disability, or those who have difficulty speaking or understanding English well, must have equitable access to the complaint process.

### 3. We resolve complaints at the earliest opportunity

Fixing a problem early not only increases client satisfaction, it makes the most effective use of our limited resources.

Research shows problems arising from poor service and ineffective communication may account for up to one-third of an agency's workload.<sup>4</sup>

### 4. We treat all complaints fairly and impartially

While we have an obligation to be fair and impartial under our *Code of Conduct*, handling a complaint in that way also reduces the risk of it escalating further.

Even if we do not agree with the behaviour of a client, our focus must be on resolving the substance of the complaint. It is never acceptable for any Departmental officer to take retaliatory action against a complainant in relation to the making of a complaint.

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<sup>3</sup> *Effective complaint handling*, NSW Ombudsman, June 2004, p3

<sup>4</sup> *Ibid*

## **5. We communicate effectively with complainants**

Effective communication with complainants throughout the process can help avoid complaints escalating further. We should acknowledge all complaints and keep complainants informed about the progress of their matters, particularly when delays occur. Upon accepting a complaint, we should clarify with the client the outcome which he or she is seeking, especially when that has not been clearly specified. A written response to the complainant is also important.

## **6. We have clear roles and responsibilities for responding to complaints**

The best results are achieved when every member of a team understands their own role and responsibilities. Some staff will be responsible for receiving a complaint, and need to know the extent of their authority to resolve it on the spot. Other staff will have a duty to report on, review or analyse complaints.

These different roles require careful thought by business centres, and must be documented clearly in writing, in order for the complaint process to be efficient and effective. Empowering staff to resolve complaints themselves, and to implement change to reduce them in the future, also supports staff morale.

## **7. We keep accurate records of complaints**

As well as our obligations under the *State Records Act 1998*, keeping accurate records enables a complaint to be reviewed efficiently. It also means we have reliable data about complaints, that we can use to improve services.

## **8. We use complaint data to improve services and inform planning**

A key function of any complaints process is to help identify areas that need improvement. Careful analysis of complaint trends will assist decisions about planning and resourcing those improvements.

## **9. We protect the privacy of complainants and, where requested, the confidentiality of a complaint**

As well as our obligations under the *Privacy and Personal Information Protection Act 1998*, we must respect requests from a client for a complaint to be handled confidentially or anonymously.

## **10. We use consistent practices for managing complaints, which meet the standards required by this policy, and the guidelines issued by the NSW Ombudsman**

While every business centre is different, ensuring overall consistency in our practices and compliance with NSW Ombudsman standards demonstrates our commitment to quality services.

## 5 The tiered approach to handling complaints

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The NSW Ombudsman has provided a model approach to complaint handling which consists of three tiers. This tiered approach to complaint handling has been adopted within the Department of Justice and Attorney General.

The three tiers are:

1. **resolution** of a complaint by frontline service staff within the business centre, wherever possible
2. **review** of an unresolved complaint by a senior supervisor or manager within the business centre
3. **escalation** of a still unresolved complaint for further review outside the business centre, such as by the Community Relations Unit of the Department, or by an external complaint handling agency such as the NSW Ombudsman or the Anti-Discrimination Board of NSW.

The tiered approach is designed to lead to fast and effective resolution of complaints at the earliest opportunity. The aim is to promote client satisfaction and ensure the most efficient use of the Department's limited resources.

Despite the tiered approach, a complainant has the right at any time to escalate his or her complaint to an agency that is external to the Department.

### 5.1 Resolution by frontline service staff

When a client makes a complaint directly to the Department, it is essential that frontline service staff have the opportunity to resolve the complaint before it escalates further. This approach is most likely to:

- provide the client with the quickest possible resolution of his/her concerns
- promote client satisfaction by demonstrating that we are willing to listen and respond immediately to feedback
- minimise the use of staff time and other resources in reviewing a complaint more formally
- reduce the likelihood of a client making a further complaint about the way in which his or her original complaint was handled
- prevent staff stress that may arise from being exposed to complaints without feeling empowered to remedy them
- ensure staff are aware of feedback about the services they provide, and have the opportunity to 'have their say' about such feedback.

The frontline service staff who should receive and respond to such complaints are generally those who:

- handled the original matter which is the subject of the complaint or
- are a team member, or immediate supervisor of the team, which handled the original matter.

Sometimes staff will need to consult with, or seek a decision from, their supervisor or other manager before a frontline response can be implemented. Nevertheless under the tiered approach the responsibility for the first response to a complaint rests with frontline staff.

Further guidance for receiving and responding to complaints is provided in the standards for complaint handling at Appendix 1.

## **5.2 Internal review by the business centre**

A client is entitled to request a review of the frontline response to his or her complaint. If requested by a client, such an internal review should be carried out by a senior supervisor or manager within the business centre who was not involved in the matter to date.

To ensure the efficiency of the complaint handling process, it is important that frontline staff have had an adequate opportunity to resolve the complaint, before an internal review commences.

The purpose of an internal review is to consider whether or not:

- relevant aspects of the complaint, and the outcome sought by the client, have been understood by the business centre and comprehensively addressed in the business centre's response
- any remedy offered by frontline staff remains appropriate to the circumstances
- it may be appropriate to offer any other, alternative remedies to the client
- the business centre's handling of the complaint has been timely and effective.

## **5.3 Escalation outside the business centre**

If a complaint remains unresolved, the business centre may escalate the complaint for further review.

After conducting an internal review, the business centre may escalate the complaint to the Community Relations Unit of the Department. A complainant may also escalate the matter to the Community Relations Unit, after either the initial frontline response or an internal review.

The Unit will re-examine the complaint and may seek further information from the business centre. The role of the Unit is to provide a more independent review of the issues at hand. At the conclusion of its re-examination of the complaint, the Unit will respond directly to the complainant.

In limited circumstances, it may be appropriate for a business centre to escalate a complaint to an agency external to the Department, such as the Independent Commission Against Corruption (ICAC) or NSW Ombudsman. This escalation may be necessary at any stage of the tiered approach. Where a business centre proposes to escalate a complaint outside the Department, the escalation decision should be approved by the Director General. An obvious exception is where a protected disclosure is made by a staff member<sup>5</sup>.

Of course, a complainant has the right to escalate his or her complaint, at any time, to an agency that is external to the Department.

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<sup>5</sup> Staff members are able to make a protected disclosure to the Director General, or the ICAC (about corruption), or the NSW Ombudsman (about maladministration) or NSW Auditor General (about serious waste of public money). For further information, refer to the DJAG internal policy on protected disclosures.

## **6 A general approach to handling other feedback**

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The focus of this policy is on the handling of complaints. This is to ensure that such an essential component of client service is handled consistently and effectively across all business centres. However other forms of feedback are equally valuable to the Department.

Suggestions from clients can offer a different perspective about our services and policies, and can be a useful prompt for innovation or a source of new ideas. Business centres should consider a range of ways to encourage clients to provide suggestions, as appropriate to each business centre's operations. These may include client surveys, 'mystery shopper' programs, focus groups and suggestion boxes. Suggestions received should be considered as soon as possible, or collated for review during the business planning process.

Compliments from clients can provide gratifying recognition of the commitment to service and professionalism of our staff. Such compliments should always be passed on to the individual staff members or teams concerned. Compliments received in writing may also be added to the staff member's personnel file.

Following receipt of a suggestion or compliment, business centres should generally arrange an appropriate acknowledgement or expression of thanks to the client.

## **7 Roles and responsibilities**

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### **7.1 Director General**

The Director General is responsible for:

- approving the escalation of a complaint to a body outside of the Department, such as to the ICAC or NSW Ombudsman
- approving this policy.

### **7.2 Business centre Managers**

Business centres managers are responsible for ensuring that:

- the business centre's own procedures for managing complaints are consistent with the principles set out in this policy and meet the minimum standards in Appendix 1
- business centre staff are aware of and comply with their obligations under this policy and the business centre's own procedures
- the business centre responds to requests for advice from the Community Relations Unit about complaints within seven calendar days, or earlier if required by the Minister's Office or Director General.

### **7.3 Community Relations Unit**

The Community Relations Unit is responsible for:

- preparing responses to complaints which have been:
  - referred by the Attorney General or Director General
  - escalated from a business centre after an internal review
  - received directly from a client who is dissatisfied with either the frontline response provided by a business centre or the internal review conducted by a business centre
- providing advice to business centres about the application of this policy and the development of detailed business centre procedures
- facilitating Department-wide strategies to support effective implementation of this policy
- reviewing this policy.

## **8 Business centre procedures**

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This policy provides an overarching framework for complaint handling, in the form of principles, a tiered approach, and roles and responsibilities. However it does not include detailed procedures about how complaints should be handled by business centres. This is because many such details are for business centre management to determine, including:

- how clients may make a complaint, and to whom
- who responds to complaints, or conducts internal reviews of complaints
- to what extent various staff positions are empowered to resolve complaints
- the type of information and statistics about complaints that is meaningful to the business centre, and should therefore be collected and analysed.

Accordingly this policy requires each business centre that provides services to external clients to develop and implement a complaint handling procedure that is appropriate to its own operations. The procedure should be in writing, approved by business centre management, and disseminated to all relevant staff.

## **9 Standards for handling complaints**

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To ensure that business centre complaint handling is generally consistent across the Department and meets best practice guidelines, this policy also specifies at Appendix 1 a set of minimum standards for handling complaints.

The standards relate to key responsibilities such as providing client access, training staff, keeping records, collecting and reporting data, and analysing trends.

To assist business centres to develop their own detailed procedures consistent with the minimum standards, a model procedure for complaint handling within a typical business centre is available. Business centres may wish to modify this model to meet their own requirements. For smaller business centres, it is likely to be more efficient for them to do so, rather than to develop their own.

However no business centre is obliged to use or modify the model, provided the business centre's complaint handling procedure is consistent with the minimum standards specified in Appendix 1.

## 10 References

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This policy been prepared with reference to:

- *Apologies – a practical guide (2<sup>nd</sup> edition)*, NSW Ombudsman, March 2009
- *Code of Conduct*, Department of Justice and Attorney General, March 2009
- *Customer Satisfaction State Plan Commitment - S8*, Premier's Memorandum M2007-18
- *Effective complaint handling*, NSW Ombudsman, June 2004
- *Investigating complaints – a manual for investigators*, NSW Ombudsman, June 2004
- *Managing unreasonable complainant conduct – practice manual*, NSW Ombudsman, June 2009
- *The complaint handler's toolkit*, NSW Ombudsman, June 2004.

## 11 Document information

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<b>Title:</b>	Managing complaints and other feedback
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## 12 Document history

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Version	Date	Reason for Amendment
1.0	1 July 2010	Approved by the Director General

# Appendix 1: Standards for handling complaints

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## **A Enabling easy client access**

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### **A.1 Information about how to provide feedback**

Each business centre must provide clients with simple, prominent messages about how to provide feedback. The information must be included in a variety of publications and contexts, as appropriate to the individual business centre and its operations. Examples may include:

- in the footer of application forms
- as part of brochures and fact sheets
- within policies and guidelines
- as part of the business centre's guarantee of service
- on signage at counters and within client service areas
- as a standard paragraph in pro forma letters and/or in the footer of letters
- on the reverse of notices or determinations
- as part of telephone recorded message services
- in the auto-signature block of emails

Examples of simple messages which may be used in these contexts include:

- 'We value your feedback. Call us on freecall 1800 123 456 or email [businesscentre@agd.nsw.gov](mailto:businesscentre@agd.nsw.gov)'.
- 'To make a complaint online, go to [www.lawlink.nsw.gov.au/feedback](http://www.lawlink.nsw.gov.au/feedback)'.<sup>1</sup>
- 'Please tell us what you think about our service. We use your feedback to improve the way we serve all our clients'.

### **A.2 More detailed information on the web**

Each business centre must have a page on its web site that provides more detailed information about how to provide feedback to that business centre. The page must be accessible from a prominent link on the home page of the business centre, and from all pages that relate to client services and policies.

For smaller business centres, where it may not be practical to provide a dedicated web page, a prominent link to the Department's complaints and feedback web page will suffice.

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<sup>1</sup> This is an example only. At the time of publication, the Department's website URL address for client feedback is yet to be confirmed.

Examples of more detailed information which should be provided include:

- relevant contact details for providing feedback such as the telephone number, TTY number for people with hearing and speech impairments, facsimile number, email address, postal address and street address
- the name or position title of the complaints or feedback officer, if there is one
- the time standard for acknowledging and responding to a complaint
- the information the client is asked to provide to assist consideration of his or her complaint
- information to encourage people with a disability and people whose preferred language is not English to request additional assistance in making a complaint, such as the availability of access to the Telephone Interpreter Service (TIS)
- if the client remains dissatisfied with the response to a complaint, information about how the client may seek an internal review by the business centre (or alternatively contact the Community Relations Unit of the Department) and that the client has the right at any time to contact an external agency such as the NSW Ombudsman.

### **A.3 Information in community languages**

Wherever practical, each business centre should make available, in a targeted selection of community languages, information about how to make a complaint or provide feedback. Examples may include:

- as part of brochures and fact sheets which are reproduced in community languages
- as links on the business centre's web page about complaints and feedback
- on signage at counters and within client service areas.

### **A.4 Access for people with diverse needs**

Each business centre must ensure that equitable access to its complaint and feedback processes is available to people with a disability and to people whose preferred language is not English. This should include, but is not limited to:

- ensuring frontline staff are aware of the principles of 'flexible service delivery' and the advice available in the Accesslink resource, and use them to make reasonable adjustments to assist a person who has a disability with providing feedback
- ensuring frontline staff are aware of how to use the Telephone Interpreter Service (TIS) and, where available, TTY equipment

- accepting complaints in community languages from people who do not speak or understand English well
- ensuring written responses to complaints meet minimum standards of readability in the Department's *Writing Style Guide* and, where relevant, standards for people with a visual impairment
- providing a language or Auslan interpreter in appropriate circumstances (such as at a formal meeting with a complainant)
- encouraging people with an intellectual disability to be assisted by a support person when making a complaint.

## **B Receiving complaints from clients**

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### **B.1 Awareness of detailed business centre procedures**

All frontline staff must be aware of, and have ready access to, the business centre's own detailed procedures for receiving and responding to a complaint. Ideally this should involve the business centre:

- providing training to staff on the business centre's own procedures
- making a copy of the procedures available on the business centre's Infolink site
- providing links from the business centre's procedures to general Departmental tips and guidance on complaint handling on Infolink.

### **B.2 Client options for submitting a complaint**

Each business centre must provide an appropriate variety of options for clients to submit a complaint. For example, clients must not be limited to making a complaint only by submitting an online form, or only by writing to a postal address. Generally clients should be able to make a complaint:

- by writing a letter
- by sending an email or fax
- where available, by submitting an online web form
- verbally over the telephone
- verbally over the counter.

Nevertheless in some circumstances it will be acceptable to request that a client puts his or her complaint in writing. This includes where the matter is complex or contentious. It may also be appropriate to suggest the client makes an appointment for another time to discuss the complaint in detail.

Where a business centre uses a complaint or feedback form, the business centre should also regularly survey staff and clients who use those forms, to assess the form's effectiveness, appropriateness and ease of use. The survey feedback should be used to make improvements to the form as necessary.

### **B.3 Accepting verbal complaints**

Staff must accept a complaint verbally, where it is apparent that the client wishing to make the complaint:

- has a disability that makes it difficult or impossible for him or her to make a complaint in writing or
- is otherwise unable to make a complaint in writing (for example due to an inability to read or write in English).

### **B.4 Procedure for verbal complaints**

Where a complaint is received verbally, business centre staff must:

- take down in writing the details of the complaint in the client's own words, as far as possible
- check with the client that the details of the complaint taken down accurately reflect the client's concerns. This may involve reading the details back to the client or providing him/her with a printed copy and
- keep an official record of the complaint, in the same manner as for complaints received in writing.

### **B.5 Use of interpreters**

Where a complaint is received verbally and it is apparent that the client making the complaint:

- speaks a language other than English and
- does not speak or understand English well

staff should offer to contact the Telephone Interpreter Service (TIS) on 131 450 to assist with the taking down of the details of the complaint.

Where the client has telephoned the business centre, the client should be advised to contact the TIS themselves, who will in turn contact the business centre.

## **C Recording complaints**

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### **C.1 Keeping official records**

Under the *State Records Act 1998*, agencies are required to make and keep full and accurate records of their activities.

Accordingly, business centres must maintain an official record of incoming complaints. Such records should ideally be created in an electronic database that enables efficient reporting about complaints (for example by period, subject area and classification). If an electronic database is not feasible, a spreadsheet or other searchable document can be used to record incoming complaints.

Relevant documents about the handling of a complaint, if not stored within the electronic database itself, must be held on an official file that is linked to the database record of the complaint.

It is recognised that, for some business centres which deal with very high-volume matters, it may be impractical to make an official record of every verbal 'expression of dissatisfaction'. It may also be inefficient to do so, when the cause of the dissatisfaction is beyond the control of the business centre.

For example, it may be common for clients to express dissatisfaction verbally that a business centre cannot arrange re-determination of a court decision, or cannot provide legal advice about the client's private legal affairs. It is therefore acceptable for a business centre's own procedures to define specific subject areas of complaint which staff are not required to record. However this must only apply to complaints that are made verbally, and that involve concerns which are beyond the control of the business centre.

Even if such a verbal complaint is not recorded, it still remains necessary for staff to provide a verbal response to the client, for example, to explain the limits of the business centre's statutory role or the assistance that can be offered.

### **C.2 Content of official records**

Business centre records of an incoming complaint must include, at a minimum:

- the name and contact details of the complainant
- the date of the complaint
- the nature of the complaint
- the category of the complaint (see C.3 below)

- the business centre's classification of the subject area of the complaint (see C.4 below)
- a more detailed description of the complaint, including any reference numbers, dates of incidents, names of staff members (in most cases, this can simply be a copy of the client's complaint)
- the officer(s) who received and responded to the complaint
- whether or not the business centre considers the complaint is valid
- the remedy sought by the client and how the complaint was resolved
- whether or not any management action to address a systemic issue is required, and if so, an overview of required action and who is responsible for implementation.

### **C.3 Categorising complaints**

Business centres must categorise all incoming complaints according to broad category of complaint, for annual reporting purposes. The following categories must be used for categorisation:

- service
- cost
- policy
- other.

### **C.4 Classifying complaints by subject area**

Business centres must classify all incoming complaints by subject area to enable analysis of trends. To this end, business centres must have a standard list of classifications for the range of subject areas of complaints received by the business centre. The list must be tailored to the nature of the business centre's operations and the relevant areas of risk to its service standards. The classifications should be meaningful to the business centre, and particularly its managers and planners.

The aim is to ensure that the majority of subject areas are covered by a standard classification, and the use of classifications such as 'other' or 'unclassifiable' will be minimised. The purpose of such classification is to facilitate analysis of complaint trends. Additions to the classification list should be determined by considering the likely value of the information to be collected.

Where a single complaint covers multiple subject areas, the classification should reflect the primary or most significant area of complaint.

An example of classification of complaint subject areas is in the model business centre procedure for handling complaints.

## **C.5 Protecting privacy and confidentiality**

Business centres must generally protect the privacy and confidentiality of records about client complaints. This should involve:

- applying appropriate security classifications to files that contain complaints
- providing appropriate secure storage of complaint files and records
- restricting access to the business centre's entire complaint records to those staff who have a need for that access as part of their duties
- restricting access to any individual complaint record to those staff involved in the handling of that particular complaint
- ensuring that complaint handling practices comply with the Department's obligations to protect privacy and personal information under the *Privacy and Personal Information Protection Act 1998*.

## **C.6 Complaints by a third party on behalf of client**

Where a third party has made a complaint on behalf of a client, staff must:

- not assume that the third party is authorised to act on behalf of the client
- as appropriate, seek the consent of the client to deal with the third party on the client's behalf
- consider the privacy implications of releasing information to the third party, and not release any information without the client's express consent to the release.

## **C.7 Complaints received anonymously**

If a complaint is received anonymously (with no means of identifying the complainant or his/her contact details), business centres must still record the complaint in the usual manner. The complaint should also be assessed to determine if it nevertheless raises relevant issues, and whether or not any improvement to service delivery or policy is warranted.

## **C.8 Complainants requesting anonymity**

If a complainant identifies himself/herself but requests anonymity or confidentiality during the complaint handling process, a supervisor or manager (who is not the subject of the complaint) should:

- clarify with the client his/her concerns and to whom details may or may not be disclosed during the complaint handling process

(For example, the client may be comfortable with a manager who is reviewing the complaint having access to the client's identity details, but not the staff at the location where the action complained about occurred)

- as necessary, make anonymous or keep confidential any records of the client's complaint and apply appropriate security to the client's complaint records.

## **D Responding to complaints**

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### **D.1 Time standards**

Where a complaint is received in writing, or where a verbal complaint has not been resolved on the spot, business centres must:

- acknowledge the complaint to the complainant within three business days of receipt, either by telephone or in writing
- send a written response to the complainant within three weeks of receipt. If this cannot be achieved, an interim response must be sent to the complainant. Wherever possible, the interim response should indicate when a full response can be expected.

Business centres should also attempt to resolve complaints earlier where the issues raised by the client are time sensitive, for example, where they may affect the proper hearing of a court matter.

### **D.2 Authority of staff to resolve complaints**

Each business centre must provide clear instruction to staff about the extent of their authority to resolve a complaint immediately. Such instruction must be provided to staff who regularly handle complaints. Ideally it should also be provided to all frontline staff.

An example of an instruction is shown in the model procedure.

Further general guidance on the range of options for resolving complaints is available in the NSW Ombudsman's publication *The complaint handler's toolkit* at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au).

### **D.3 When staff must refer a complaint**

Staff must refer a complaint to a supervisor or manager when:

- a complaint is about the staff member's own conduct
- the subject matter is beyond the staff member's expertise or delegation
- the complaint involves an allegation of any staff member committing a criminal offence, acting corruptly or engaging in misconduct (see section D.10 below)
- if the complainant requests the complaint be referred to a supervisor or manager.

If a complaint concerns the actions of a supervisor or manager, it must be referred to the next level of management.

If a complaint is received from any representative of the media, the complaint must be referred to the Departmental Spokesperson in the first instance.

Some complaints will also require the advice of the Legal Services Branch (see section D.4 below). These are where a complaint:

- makes a demand for compensation
- alleges a breach of a privacy protection principle
- purports to make a formal application for access to information.

#### **D.4 When advice must be sought from Legal Services Branch**

##### *A demand for compensation or a likelihood of litigation*

If a complaint makes a demand for compensation, either on the basis of an alleged legal liability or on an ex gratia basis, the business centre must seek the advice of the Legal Services Branch before acting upon, or responding to, the complaint.

Similarly if a complaint threatens litigation or is likely to lead to litigation, advice from the Legal Services Branch must be obtained before acting or responding.

The Legal Services Branch can assist a business centre to make sure that action taken in response to such a complaint does not compromise the Department's defence of a subsequently litigated claim.

##### *An alleged breach of a privacy protection principle*

The *Privacy and Personal Information Protection Act 1998 (PIIP Act)* sets out principles for the protection of personal information held by public sector agencies.

Where a complaint alleges conduct that may be in breach of a privacy protection principle, there is a potential obligation on the part of the Department to treat the complaint as a request for an internal review under the *PIIP Act*.

Accordingly, when in doubt, a business centre must seek the advice of the Legal Services Branch. If necessary, the matter will need to be referred to the Legal Services Branch within three working days of receipt.

##### *A request for formal access to information*

Providing access to information held by the Department can be an important remedy to some types of complaints. The *Government Information (Public Access) Act 2009 (GIPA Act)* commenced on 1 July 2010, and may apply where a client is seeking access to information as part of the response to his or her complaint.

The Act provides for informal release of information, unless there is an overriding public interest against disclosure. Business centres are responsible for determining requests for informal release, and must do so in accordance with Departmental protocols.

A person can also make an application for formal release of information. Where a complaint contains such an application, the application must be referred to the Legal Services Branch within three working days of receipt. Even if the application appears invalid, the Legal Services Branch has an obligation under the *GIPA Act* to notify the applicant and assist in making the application valid.

## **D.5 Referring a complaint to mediation**

At any stage of the complaint handling process, business centres may wish to make use of mediation services provided by Community Justice Centres, in appropriate circumstances. Use of an independent and impartial mediator may be able to assist with resolving a complaint, particularly if:

- personal conflict or communication difficulties are central to the complaint, and the business centre requires an independent mediator to help with addressing these
- a remedy that is acceptable to both parties cannot be identified, and the business centre considers it necessary to continue to attempt to identify such a remedy or
- the complaint has become intractable for any other reason, and the business centre considers impartial mediation may assist.

A business centre wishing to use mediation services during the handling of a complaint can use the standard referral form (for non-court referrals) that is available at the website of Community Justice Centres. In addition, business centres can speak with a Mediation Advisor by contacting 1800 990 777.

## **D.6 Making an apology**

Business centres should consider making an apology in appropriate circumstances. Research in customer satisfaction indicates that the giving of apologies is often the most effective way to deal with a grievance. The *Civil Liability Act 2002* provides that, in most cases, the giving of an apology is no longer an admission of fault or liability (however there are some exclusions).

The NSW Ombudsman has issued a series of fact sheets designed to assist agencies to apply the provisions of the Act when an apology may be appropriate. The fact sheets outline how an apology should be worded, which apologies are not protected by the Act, and liability issues regarding apologies.

The fact sheets are available on the website of the NSW Ombudsman at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au).

## **D.7 Using interpreters**

Where it is apparent that a client who has made a complaint:

- has a hearing impairment, or has difficulty speaking or understanding English well, and
- either the client or the business centre considers that holding a face-to-face meeting with the client is necessary in order to resolve the complaint satisfactorily

staff should offer to arrange an Auslan or relevant language interpreter to attend the face-to-face meeting, at the cost of the business centre. Alternatively, either the client or the business centre can arrange use of the Telephone Interpreter Service (TIS) via a conference call.

## **D.8 Consulting with staff**

Staff who have been the subject of a complaint should be consulted and respected during the complaint handling process. The principles of procedural fairness must be applied. This means that staff generally have a right to be given detailed information on a complaint made about them and to be given an opportunity to respond. However there are some limits to these rights, particularly where a client's request for confidentiality is concerned. The following principles should generally apply:

- a staff member who is handling a complaint or conducting an internal review should consult with the other staff who were involved (in the incident which was the subject of the complaint)
- where a staff member has been named by a complainant as the subject of a complaint, the staff member should be advised of the nature of the complaint, unless there is a compelling reason not to do so. This advice, with specific details, should be given by a supervisor or manager, and at an early stage of the process.

(However where the client has requested anonymity or confidentiality, personal information or any details of the complaint which may identify the client should be withheld. Similarly, a copy of the complaint should not be provided to staff if this would breach the client's request for anonymity or confidentiality.)

- when advising a staff member of a complaint, the supervisor or manager should approach the matter in keeping with the Department's dignity and respect policy, and the principles of procedural fairness and natural justice, and should offer the staff member a de-briefing session if appropriate

- a staff member who is the subject of a complaint has the right to respond to the officer handling the complaint, and have the staff member's version of events stored in the complaint file or record
- the appropriate time to address and resolve any staff performance issue that may arise as a result of a complaint is at the time of handling the complaint. It is generally not appropriate to defer dealing with such an issue until a formal performance review process. However where there is a pattern of similar complaints which indicate there may be an ongoing performance issue, it may be appropriate to discuss complaints during a staff member's performance review.

## **D.9 Consultation with the client**

Staff responding to a complaint should, where necessary, consult with the client before responding. This may be needed to confirm or clarify the outcome which the client expects or will accept, and any other issues that may require clarification. The initial complaint received from the client may not always specify these details.

## **D.10 Reporting corruption or unlawful conduct**

All staff have an obligation to report corruption or unlawful conduct that has occurred or is occurring within the Department.

The Department's *Code of Conduct* and the *Internal Reporting Policy* provide further guidance.

Where an allegation of staff misconduct appears to be substantiated, the business centre manager should refer the matter to the Employee Relations Unit for review.

## **D.11 Managing unreasonable complainant conduct**

Each business centre must ensure that staff who regularly handle complaints are aware of strategies for identifying and responding to complainant conduct that is unreasonable.

'Unreasonable' conduct will depend on the circumstances, but may include:

- excessive persistence or repetition of a complaint
- demands that are not in proportion with the wrong suffered by the client
- deliberate lack of cooperation of the client with due process
- behaviour such as abuse, threats or violence.

Strategies for managing such conduct are detailed in the NSW Ombudsman's practice manual, *Managing Unreasonable Complainant Conduct 2009*, available at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au) under 'Publications'. The NSW Ombudsman also provides training on this subject.

Even where a complainant's conduct is deemed unreasonable, the substance of the complaint may nevertheless be legitimate and must still be addressed.

## **D.12 Departmental sources of advice and assistance**

### *About clients with a disability*

Diversity Services is responsible for the Department's Disability Strategic Plan (DSP) and provides advice on flexible service delivery for clients with a disability.

If a complainant raises concern about access to our services for a person with a disability, Diversity Services can be consulted before the business centre provides its formal response. In addition, Diversity Services can also provide useful advice about alternative methods of responding to a complaint from a person with a disability, even if the complaint itself does not relate to disability access issues.

### *About clients from Culturally and Linguistically Diverse (CALD) communities*

Diversity Services is also responsible for the Department's Culturally Diverse Communities' Access Plan and can provide advice on serving clients who are from culturally and linguistically diverse communities.

Before issuing a formal response about access to services for such clients, business centres can consult with Diversity Services. Diversity Services can also advise on communicating with people from CALD communities.

### *About privacy*

The Legal Services Branch has a Privacy Contact Officer, who is a first point of contact for both staff and clients for all matters related to privacy and personal information.

### *About legal issues and litigation*

The Legal Services Branch provides instructions to the Crown Solicitor on behalf of the Attorney General, the State of NSW and public officials within the Attorney General's portfolio in a wide range of litigation.

If a complaint raises legal issues that are beyond the expertise of the business centre, the Legal Services Branch can be consulted in the first instance. If a complaint threatens litigation or is likely to lead to litigation, advice from the Legal

Services Branch must be obtained before acting upon, or responding to, the complaint.

*About alternative dispute resolution*

The ADR Directorate coordinates and drives ADR policy, strategy and growth in NSW. The ADR Directorate can assist business centres with general enquiries about the use of ADR in the complaint handling process. Under section D.5, business centres can also request a referral to mediation services by contacting Community Justices Centres.

*About staff misconduct*

The Employee Relations Unit acts as the central point for management of staff disciplinary matters in the Department. It also provides advice and guidance on employee relations issues, including dealing with allegations of misconduct.

*About this policy and complaint handling practices generally*

The Community Relations Unit is responsible for providing general advice to business centres about this policy and its application across the Department.

## **E Reviewing and escalating complaints**

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### **E.1 Authority to conduct internal reviews**

Each business centre must specify a nominated officer, or category of officers, authorised to conduct an internal review of a complaint.

### **E.2 Procedures for internal reviews**

Each business centre's detailed procedures for complaint handling should contain guidance about:

- how a client may request an internal review of a complaint
- in what circumstances the business centre should conduct an internal review
- which nominated staff position(s), or category of staff positions, are authorised to conduct an internal review of a complaint
- general procedures for conducting an internal review
- the time standard for conducting an internal review. This should generally be three weeks from the date of the request for an internal review
- how the business centre should acknowledge a request for an internal review and keep the client informed of the progress of an internal review. Keeping the client informed of progress is particularly important where the time standard is unable to be met
- how a client should be advised of the outcome of an internal review.

### **E.3 Records of internal reviews**

Each business centre must retain official records of internal reviews, including copies of relevant documents which formed the basis of the decision.

### **E.4 Matters requiring investigation or referral**

Where an internal review involves very complex or sensitive issues, it may be more appropriate to undertake a more formal investigation. In this case, the investigation should be undertaken by an officer of appropriate seniority who has an understanding of investigatory procedures. The NSW Ombudsman's *Complaint Handler's Tool Kit, Investigating Complaints* provides useful guidance on this task.

If an internal review indicates that staff misconduct may have occurred, any further investigation should be conducted by the Employee Relations Unit of the Department.

### **E.5 Escalating for further review**

Where it is necessary for a business centre to escalate a complaint for further review by an external body, the following protocols must apply:

- referral by the business centre of a matter to the Community Relations Unit should be approved by the staff member who conducted the business centre's internal review of the matter, or other senior manager
- referral of staff misconduct to the Employee Relations Unit should be approved by the business centre manager
- referral of a matter to the NSW Ombudsman or the Independent Commission Against Corruption (ICAC) should be signed by the Director General
- reporting to the NSW Police Force of a criminal offence allegedly committed by a staff member should be done with the authority of the business centre manager (unless it is an emergency) and also reported to the Employee Relations Unit
- reporting to the NSW Police Force of a criminal offence allegedly committed by any other person should be done by a supervisor or manager (unless it is an emergency).

## F Reporting about complaints

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### F.1 Business centre reporting processes

Each business centre's detailed procedures on complaint handling must include an established process for reporting within the business centre about complaints.

For example, larger business centres may wish to report complaint numbers and subject areas on a monthly basis. In smaller business centres, it may be more efficient to report complaints to a nominated officer or the business centre manager immediately upon receipt.

### F.2 Reporting to the Executive

Business centres must report on complaint statistics as required by the Executive.<sup>2</sup>

### F.3 Protocol for counting complaint numbers

Each business centre's quarterly and annual reporting of complaint statistics must adhere to the following counting protocol:

- any expression of dissatisfaction about the standard of service, policies, procedures, costs, or staff of a business centre is counted as a complaint, regardless of how the complaint was expressed (for example, whether it was expressed in writing or verbally)
- each instance of a client expressing dissatisfaction is **counted as one complaint**
- each subsequent instance of the same client expressing dissatisfaction about any new or additional issue is **counted as one new complaint**
- however a subsequent instance of the same client expressing dissatisfaction about the same substantive issues already raised (ie without raising any new issues) is **not counted** for statistical purposes
- a single instance of a client expressing dissatisfaction about multiple subject areas of complaint within a single business centre is **counted as one complaint**
- a single instance of a client expressing dissatisfaction about more than one business centre is **counted as one complaint in each of the affected business centres.**

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<sup>2</sup> Currently business centres are required to report the number of complaints received during a quarter in the Report Card. The numbers of complaints received by category (service, cost, policy, other) are included in the Department's Annual Report.

## **G Analysing complaint trends**

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### **G.1 Conducting systematic analysis**

Each business centre's detailed procedures must include an established process for analysing complaint trends and suggestions, for the purpose of improving services and informing planning.

For business centres that receive only a small number of complaints and suggestions, it may be more efficient to review any emerging trend and possible responses immediately upon receipt of each matter.

Where higher volumes of complaints or suggestions are involved, the business centre's process for analysis should generally involve:

- a scheduled timing for conducting analysis, such as at the conclusion of each quarterly or half-yearly reporting period
- nomination of a staff position which is responsible for conducting the analysis and reporting to management on conclusions and recommended responses
- referring to the complaint analysis, as well as any suggestions received, during the business centre's planning process and including recommended responses in business plans.

It is generally good practice for a nominated officer to be advised of all complaints and suggestions as soon as they are received, rather than waiting to include them in the next monthly or quarterly report. This enables any emerging trends to be identified at the earliest opportunity.

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