



Office of the
Children's Guardian

Complaints Management Policy and Procedures

This Policy and Procedures provides guidance on the key concepts of the complaint management process for Office of the Children's Guardian (OCG) employees and those people who wish to make a complaint.

Policy/Procedure Document Title	Complaints Management Policy and Procedures
Summary	This Policy and Procedures document outlines the process for making a complaint about the Office of the Children's Guardian (OCG).
Status	Final
Policy/Procedure Number	2020/01
Version Number	V1.0
File Reference	Objective Ref: A4624272
Compliance Level	Mandatory
Compliance Detail	All Staff
Category	Governance
Related Policies	Code of Ethics and Conduct Fraud and Corruption Control Policy and Strategy Public Interest Disclosures Policy Grievance Policy and Procedures
Superseded Policy Ref	OCG Complaints Handling Policy and Procedures 2015 – Objective Ref: A2519047
Public Availability	This policy will be publicly available on the OCG website
Feedback	Feedback should be provided to the Director Business and Executive Service
Date Issued	May 2020
Review Date	May 2022

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1. Policy overview

1.1 Purpose

This Policy and Procedures document provides guidance on the process for making a complaint about the Office of the Children's Guardian (OCG).

The document outlines how the OCG will respond to all complaints in a fair, efficient and effective manner.

1.2 Scope

This Policy and Procedures document applies to complaints that originate from outside the OCG, about the OCG's services, products and/or how it executes its functions. For example, complaints about:

- decisions made by employees of the OCG
- the conduct of employees of the OCG, including the quality of service provided
- policies, procedures and practices of the OCG.

Complaints that are not covered by this Policy and Procedures document include those relating to, for example:

- staff grievances – see Grievance Policy and Procedures (internal OCG policy)
- public interest disclosures – see Public Interest Disclosures Policy and Procedures (internal OCG policy)
- a breach of privacy by the OCG – complaints concerning breaches of privacy will be referred to the Director Legal Services, who will manage the complaint in accordance with the *Privacy and Personal Information Protection Act 1998* and *Health Records and Information Privacy Act 2002*
- a decision regarding access to government information – any complaint of this nature will be referred to the Director Legal Services, who will manage the complaint in accordance with the provisions of the *Government Information (Public Access) Act 2009*
- the conduct of a relevant entity, under section 28 of the *Children's Guardian Act 2019*. Complaints about the way in which the head of a relevant entity has responded to a reportable allegation are dealt with by the Reportable Conduct Directorate in accordance with the information available on the OCG website about section 28 complaints.

In addition, the OCG will exercise its discretion to decline to act on complaints relating to matters that have been previously dealt with or finalised, unless there is new and relevant information to indicate that the matter should be reconsidered.

1.3 Key features

This Policy and Procedures document reflects several objectives, including:

- Commitment - being open to complaints and viewing them to enhance service delivery and improve products, services, practices and procedures.
- Facilitation – publicising information about how and where complaints may be made.
- Resourcing – providing appropriate support and resources to employees to handle complaints, and empowering employees to implement the OCG's Complaints Management Policy and Procedures as relevant to their role.

- Learning – regularly analysing, reporting and reviewing the subject matter and outcomes of complaints to measure the quality of the OCG’s service, for continuous improvement.
- Guidance – providing clarity regarding how complaints will be received, recorded, managed and reported.

1.4 Key responsibilities

This Policy and Procedures document specifies the responsibilities of the Director Business and Executive Services, other Executive members, Managers, Employees and Complainants.

1.5 Risk management

Managing complaints in accordance with this Policy and Procedures document will considerably reduce risks associated with:

- untimely and/or otherwise inefficient handling of complaints
- dissatisfaction by members of the public with OCG services
- unfair or discourteous handling of complaints
- decisions made without transparency and objectivity.

1.6 Monitoring and review

Analysis and evaluation of complaints

The Director Business and Executive Services will provide a biannual complaints report to the OCG Board. This report will highlight the key data relating to complaints managed under this Policy and Procedures document, including the:

- number and nature of complaints received during the reporting period
- number of complaints resolved during the reporting period
- time taken to investigate complaints
- issues arising from complaints
- action taken to address systemic issues (if any)
- proportion of complaints that were confirmed
- number of requests received for external review of complaint handling
- level of complainant satisfaction with the OCG’s procedures for investigating complaints.

The OCG Board will undertake a regular analysis of these reports to monitor trends, measure the quality of services and make improvements.

Monitoring the complaint management procedures

The Director Business and Executive Services will review the complaint management procedures on an annual basis to ensure the policy’s suitability for responding to and resolving complaints.

1.7 References

Relevant legislation

- *Children’s Guardian Act 2019*
- *Government Sector Employment Act 2013*
- *Privacy and Personal Information Protection Act 1998*
- *Public Interest Disclosures Act 1994*

- *Health Records and Information Privacy Act 2002*
- *Independent Commission Against Corruption Act 1988*
- *Government Information (Public Access) Act 2009.*

Relevant guidelines

- Guidelines for Complaints Handling in Organisations, AS/NZS 10002:2014
- Complaint Handling Guidelines 2017, NSW Ombudsman
- Behaving Ethically: a guide for NSW government sector employees, Public Service Commission 2014.

Related internal OCG policies

- Code of Ethics and Conduct, Office of the Children's Guardian
- Fraud and Corruption Control Policy and Strategy, Office of the Children's Guardian
- Managing Public Interest Disclosures, Office of the Children's Guardian
- Grievance Policy and Procedures, Office of the Children's Guardian.

2 Policy Statement

The Office of the Children's Guardian (OCG) is committed to providing services of the highest quality. Key to meeting this commitment is using feedback from the OCG's service receivers as opportunities to improve the quality of the services provided. Feedback can be in the form of a complaint.

A complaint is defined as an expression of dissatisfaction about the OCG, related to its products, services, policies, procedures, practices, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected.

The OCG is committed to ensuring that complaints are handled in a manner that is fair, courteous and respects the privacy of all parties. Further, the OCG is committed to ensuring that reasons are provided for decisions made in relation to any complaint received.

The OCG is also committed to making available simple procedures and the provision of all reasonable assistance to those who choose to make a complaint.

3 Key responsibilities

3.1 Executive member responsibilities

OCG Executive members are responsible for:

- Promoting a culture that values complaints and their effective resolution.
- Establishing the OCG's Complaint Management Policy and Procedures.
- Ensuring complaints are effectively addressed in accordance with the complaint management procedures.
- Providing adequate support and direction to employees responsible for handling complaints.
- Regularly reviewing reports about complaint trends and issues arising from complaints.
- Encouraging employees to make recommendations for system improvements.
- Supporting recommendations for service and/or product improvements arising from analysis of complaint data.

3.2 Director Business and Executive Services

The Director Business and Executive Services is responsible for:

- Oversighting complaint handling and ensuring complaints are investigated and dealt with in accordance with the OCG's Complaint Management Policy and Procedures.
- Ensuring a central Complaints Register is maintained for monitoring and tracking complaints and reporting on actions and decisions.
- Ensuring the promotion of awareness of the complaint management procedures.
- Prompt notification to the Children's Guardian of any serious complaints.
- Annually reviewing the complaint management procedures to ensure the policy's suitability for responding to and resolving complaints.
- Reporting biannually to the OCG Board.

3.3 Manager responsibilities

Managers are responsible for:

- Understanding, complying with and managing individual complaints in terms of the OCG's Complaint Management Policy and Procedures.
- Supporting and empowering employees to resolve complaints promptly and in accordance with the complaint management procedures, to minimise the need for escalation.
- Ensuring complaints are effectively addressed in accordance with this Policy and Procedures.
- Ensuring appropriate records are kept.

3.4 Employee responsibilities

Employees are responsible for:

- Understanding and complying with the OCG's Complaint Management Policy and Procedures.
- Dealing professionally, promptly and courteously with complainants and, where appropriate, providing assistance and information to people looking to make a complaint in accordance with this Policy.

3.5 Complainant responsibilities

Complainants are responsible for:

- Attempting to resolve the matter early by contacting the relevant employee directly to try to settle the issue or concern informally.
- Communicating with the OCG in a respectful manner.
- If unable to resolve the matter informally, following the OCG's Complaint Management Policy and Procedures to lodge a formal complaint.
- Cooperating with the OCG's inquiries.

4 Complaint management procedures

The OCG's complaint management procedures are based on a three-tiered approach to complaints handling, as recommended by the NSW Ombudsman. The procedures recognise that, before a complaint is lodged, every effort will be made to resolve an issue early and informally at the first point of contact.

Three-tiered approach

Informal Resolution →	Formal Resolution →	External Review
Staff empowered to resolve issues early and informally wherever possible	Complaint lodged and investigated - only when issue remains unresolved after informal discussions	Complainant advised of outcome and options available for further review if not resolved satisfactorily

4.1 Informal resolution

Wherever possible, complaints are best resolved early and informally by the employee who the complaint is being made about. This is the most effective and service-focused way to resolve a problem.

Some examples of these types of complaints might be:

- a response to correspondence or telephone call
- an inconsistency in a policy or procedure
- an error in records.

Employees are empowered to resolve these issues wherever possible. As such, they have authority to:

- obtain necessary information to assess the validity of the complaint
- resolve issues or concerns
- inform the complainant of the entitlement to lodge a formal complaint if the issue or concern remains unresolved.

If the matter is dealt with to the satisfaction of the complainant at this stage, the employee concerned must log a basic record of the informal resolution in Complaints Register held by the Director Business and Executive Services.

The basic record in the Complaints Register must contain the following information:

- complaint number
- complainant's contact information, if provided
- type of complaint i.e. related to employee, service, policy or procedure
- complainant satisfaction with the outcome.

4.2 Formal resolution

Where informal resolution of a complaint is not possible, the complainant may lodge a formal complaint with the OCG.

There are four basic steps to deal with a formal complaint which are - receiving, acknowledging, investigating and reporting.

Step 1 - Lodging a complaint

Complaints can be received either orally or in writing. Wherever possible, complaints should be submitted in writing so that all aspects of the complaint can be accurately investigated.

Written complaints can be emailed to ocg@yourfeedback.nsw.gov.au or posted to:

Director Business and Executive Services
Office of the Children's Guardian
Locked Bag 5100
STRAWBERRY HILLS NSW 2012

Oral complaints may be made by phoning the OCG Reception on 02 8219-3600. The OCG Reception will take some basic details before referring the call to the Receiving Officer in the Business and Executive Services team.

The Receiving Officer in the Business and Executive Services team will create a record of the complaint, and will:

- work through the Complaint Form with the complainant, listening carefully to document the complaint as dictated
- provide further information about the complaint management procedures
- have the complainant verify the complaint details
- provide the complainant with a copy of the Form
- refer the record of complaint to the Director Business and Executive Services.

Anonymous complaints

While anonymous complaints are not encouraged, they are accepted. They may be lodged either in writing or accepted by an employee as an oral statement. Complainants are encouraged to provide as much information as possible which may be of assistance when assessing the complaint. It should, however, be noted that an anonymous complaint might be more difficult to investigate as, for example, further details of the circumstances relating to the complaint might be difficult to obtain, and it will be difficult to provide feedback on the complaint.

Providing assistance

The OCG will provide all reasonable assistance to those who need help to communicate in relation to the complaint. Assistance may include, for example, access to an interpreter service or agreement to a personal interview during which the details of the complaint can be written down on the complainant's behalf.

Step 2 - Registering a complaint

All formal complaints must be recorded in the Complaints Register held by the Director Business and Executive Services. The Director Business and Executive Services will be responsible for maintaining the Complaints Register .

The register must contain the following information:

- complaint number
- complainant's contact information, if provided
- type of complaint i.e. related to employee, service, policy or procedure
- name of investigating officer/branch assigned to manage the complaint
- time taken to investigate complaint
- outcome of complaint

- action recommended to address systemic issues (if any)
- complainant satisfaction with the outcome.

To maintain confidentiality, access to the Complaints Register and all associated documents (both electronic and paper based) will be restricted to the Director Business and Executive Services, the investigating officers and other officers approved by the Director Business and Executive Services.

Assessing a complaint

Once a complaint is lodged, the Director Business and Executive Services will undertake a review to ascertain whether the complaint:

- a) has been previously dealt with or finalised
- b) is within the ambit of this Policy
- c) has sufficient substance to act upon
- d) seeks a reasonable and achievable outcome,
- e) would be best managed through an outcome-focused or evidence-focused investigation.

The Director Business and Executive Services will then consider how to allocate the complaint, and will either:

- a) refer the complaint to the appropriate member of the OCG Executive (generally a formal complaint involving a directorate will be managed by the OCG Executive member of that directorate); or
- b) refer the complaint to another member of the OCG Executive if it is not appropriate to allocate the complaint to the OCG Executive member involved, for example if:
 - the complaint relates to the OCG Executive member,
 - there is another actual or perceived conflict of interest
 - the complainant requests it, with sound reasons; or
- (c) engage an external party to investigate the complaint.

The designated OCG Executive member will be responsible for:

- a) nominating a suitable investigating officer; and
- b) ensuring the complaint is managed fairly, confidentially, reasonably and within an appropriate timeframe (refer Step 3 – Resolution timeframes).

In all cases the Director Business and Executive Services is responsible for the overall monitoring of the progress of the response to the complaint and for ensuring the complainant receives a response/decision within 60 days, or otherwise receives an explanation as to when a response will be provided.

Acknowledging a complaint

Complaints should be acknowledged within five working days of receipt of the complaint. The acknowledgment should:

- reassure the complainant that the OCG values complaints
- request any further information that is considered necessary to investigate the complaint

- outline how the complaint will be managed, including an estimated timeframe for conclusion
- establish how progress reports will be provided, if necessary
- provide contact details for the investigating officer.

Step 3 - Responding to a complaint

Conducting an investigation

The process for responding to a complaint about a staff member must be objective, reasonable and conducted in good faith.

The action taken to respond to a complaint will range in scope, commensurate with the nature of the complaint.

Outcome-focused investigations are preferable and suitable for less serious complaints as they can more quickly identify and resolve concerns. Complaints about organisational policies, procedures and practices and general customer service complaints may be suitable for this approach.

An evidence-focused investigation will be warranted when a complaint constitutes an allegation of serious misconduct. This process will involve a rigorous testing of the evidence with consideration to the seriousness of the alleged conduct and the consequences, on the subject staff member, of an adverse conclusion. When appropriate, these investigations will be conducted in accordance with the requirements of the Government Sector Employment Act 2013 and associated Rules and Regulations.

An investigation may or may not include:

- clarifying the details provided in a complaint
- identifying actions taken to resolve the issue before the complaint was lodged
- analysing information from relevant file notes, correspondence and/or other sources
- reviewing details of the complaint
- reviewing documentation submitted by the complainant
- reviewing previous administrative decisions or actions
- interviewing complainants, employees and/or other individuals involved in the complaint
- reviewing relevant policies, procedures, practices and/or legislation
- reviewing any relevant internal holdings.

Resolution timeframes

Complaints will be investigated as promptly as possible. Complaints should normally be resolved within 60 days. However, the OCG recognises that complaints can be sensitive and complex and may require detailed investigation. Therefore, the complexity of, and the resources available for, an investigation into a more complex issue will result in more time being taken to finalise a complaint. In these circumstances, the rationale for the extended time for resolving the complaint must be explained to the Director Business and Executive Services, as well as communicated to the complainant, who will be kept informed on a regular basis of progress on the resolution of the complaint.

Record keeping

The investigating officer will be responsible for ensuring complete and accurate recording of all material relating to an investigation into a complaint.

Details of each investigation should be contained within a discrete confidential complaint file (held on Objective), which should contain all correspondence, file notes of telephone

conversations, interviews and findings from investigations, recommendations and internal approvals. The file should also contain evidence of the steps taken to investigate the complaint including a summary of actions in respect of recommendations (if any) made.

To maintain confidentiality, access to information filed about a complaint (both electronic and paper based) should be restricted to the Director Business and Executive Services, the investigating officers and other officers approved by the Director Business and Executive Services.

Procedural fairness

A decision that directly affects the rights or interests of a person or organisation must be made in accordance with the principles of procedural fairness. A decision maker is required to follow a fair decision-making process, complying with two rules:

- the rule against bias, which is that a decision-maker should have no personal interest in the matter to be decided, have no bias as to the outcome and act in good faith throughout the process. Care should also be exercised to exclude perceived bias from the process.
- the hearing rule, which is that the decision-maker must ensure the affected person is notified that a decision may be made and is given a reasonable opportunity to express their views before that occurs.

The OCG will apply procedural fairness in its handling of complaints made in accordance with this Policy and Procedures.

As set out in Step 2, the OCG will take steps to identify and manage conflicts of interest when allocating the investigating officer. The decision-maker on the complaint (who will generally be the Director Business and Executive Services) will approach each decision with an open mind and act in good faith throughout the complaint handling process.

The OCG will observe the hearing rule through the following steps:

- it will inform the staff member who is the subject of the complaint, about the nature and details of the complaint
- provide the staff member with an opportunity to respond to the complaint
- the investigating officer will present preliminary outcomes/findings and reasons to the decision-maker
- the decision-maker will provide the staff member with an outline, including reasons, for any proposed adverse finding and/or action and give the staff member an opportunity to respond before making a final decision,
- the decision-maker will provide the staff member with reasons for their decision and any appeal options.

Outcome of an investigation

Outcomes that may result from an investigation include, but are not limited to:

- varying a decision
- a written/verbal apology
- an explanation
- changes to a service provided by the OCG
- a review of policies/procedures/practices and changes to those policies/procedures/practices
- staff training
- disciplinary action.

In some circumstances, no further action on a complaint may be recommended. The rationale for this course of action may include:

- there are no or insufficient lines of inquiry to pursue,
- initial inquiries did not support the complaint,
- the matter has been investigated by the OCG and it is considered that all actions to address the complaint have been satisfactorily completed
- the matter is currently being managed by an external agency
- the matter has already been adequately managed by an external agency

Step 4 - Advising the complainant

At the conclusion of the investigation process, a written response setting out the final outcome will be issued to the complainant by the Director Business and Executive Services.

The written response will generally:

- provide the outcome of the complaint and any action to be taken arising out of the complaint, to the extent that it is lawful to provide that information
- the reasons for any decisions that have been made
- any remedy or resolution that has been offered, and
- any options for appeal or review that may be available to the complainant, such as an external review.

Closing the complaint

At the time of closing the complaint the investigating officer will update the Complaints Register and Objective record with the following:

- steps taken to address the complaint
- the outcome of the complaint, and
- any undertakings or follow up action required.

4.3 External review

If a complainant is not satisfied with the outcome of the investigation by the OCG, they can seek an external review of their complaint by, for example, the NSW Ombudsman, the NSW Procurement Board, the Independent Commission Against Corruption (ICAC), the Audit Office of NSW, or the Anti-Discrimination Board of NSW.

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Original concept by the Office of the Children's Guardian Written by the Office of the Children's Guardian Set up and produced in Sydney, New South Wales