



**DEPARTMENT OF DISABILITY, HOUSING AND COMMUNITY
SERVICES**

Complaint Management and Feedback Guide

POLICY AND PROCEDURES

February 2009

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DHCS COMPLAINT MANAGEMENT AND FEEDBACK POLICY

POLICY TITLE

Complaint Management and Feedback Policy [the *Policy*]

COMMITMENT

The Chief Executive of Department of Disability, Housing and Community Services (DHCS) has demonstrated a committed to ensuring an efficient and effective complaint management system through the development of an internal review team who report directly to the Chief Executive and who provide policy direction.

The Chief Executive encourages a culture of continuous improvement through:

- all staff becoming familiar with the Policy and Procedures
- the development, adoption and dissemination of quality policies;
- the promotion of the purpose and objectives of effective complaints management;
- the coordination of data systems across the department for tracking complaints;
- ensuring performance against recognised standards; and
- the publishing of statistics about client feedback in Annual Reports (scheduled).

POLICY OWNERSHIP

This Policy is approved by the Chief Executive of DHCS and is to be reviewed every three (3) years by Consumer Advocacy and Quality Service (CAQS).

APPLICATION/SCOPE OF THE POLICY

The Feedback and Complaints Management Policy [the *Policy*] and Procedures [the *Procedures*] is a guide on how discretionary decision making powers may be exercised. The Policy clarifies meaning and facilitates consistency and fairness in decision-making. The **Procedures** describe the steps involved in achieving the specific policy purpose and also encourage consistency in practice across DHCS Business Units and their complaints management provision.

The *Policy* and *Procedures* aim is to establish the consistent practice; systematic collection of data; and analysis of client feedback information across DHCS to:

- identify areas for service improvement;
- better target resources or amend policy;
- identify service deficiencies that need corrective action;
- indicate where client expectations of service levels exceed what a program can afford, or is designed to deliver; and
- understand the experiences of clients in similar circumstances who have chosen not to complain.
- Provide a mechanism for the recording and collation of positive feedback.

QUICK LINKS TO BUSINESS UNITS COMPLAINTS MANAGEMENT AREAS

Click on the following links to easily access all DHCS Business Unit's complaint management procedures-

[Complaints Management](#) - All of Department

[Disability ACT](#)

[Office for Children, Youth and Family Support](#)

[Housing and Community Services](#)

[Therapy ACT](#)

[Multicultural, Aboriginal and Torres Strait Islander Affairs](#)

[Women, Ageing and Community](#)

MODEL FOR COMPLAINTS MANAGEMENT

Independent Internal Review function

The independent internal review function is undertaken by the Consumer Advocacy and Quality Service (CAQS), which sits within the Policy and Organisational Services (POS) Branch in cooperation with the Business Units of DHCS. CAQS will assist with complex complaints, provide advice to all staff; make recommendations to the Chief Executive to assist with decision making; and, if required, refer complaints for external review.

Elements of effective complaint resolution

An effective and efficient complaint handling system and culture of continuous improvement:

- assesses client satisfaction and improves services
- reduces complaints through the identification of system-wide issues;
- enhances DHCS' reputation as accountable and transparent;
- improves staff satisfaction by providing training and support to help them deal with dissatisfied clients;
- enables staff to do the job right the first time.
- reduces the risk of complaints escalating and multiplying; and
- lowers the number of complaints to external review bodies and courts.

These benefits lead to:

- cost effective service delivery for individuals and government;
- reduced adverse publicity; and
- more responsive services to meet client need.

Fairness

The complaints process must be fair to both the complainant and the Business Unit or individual against whom the complaint is made. Complaints will be treated as legitimate and the complaint will be investigated without prejudice. Complaints will be acted upon and complainant feedback sought. Complaints and feedback received will inform quality service provision.

Complainants and respondents will be afforded natural justice throughout the complaint process. Natural justice involves the following principles:

- the Business Unit or individual who is the subject of the complaint must know all the allegations in relation to the policy and practice of concern;
- the Business Unit or individual who is the subject of the concerns must have a full opportunity to respond to the complaint;
- all parties to the complaint have the right to be heard;
- all relevant submissions and evidence must be considered by the investigator of the complaint;
- matters which are not relevant must not be taken into account; and
- the decision maker must be fair and just.
- The investigator will not have a conflict in investigating a client complaint.

Clients have the right to:

- raise matters of concern;
- provide feedback on complaint management and organisational/business unit policy
- expect that the concerns raised will be handled in a fair, confidential and responsive manner.

Resources

The allocation of adequate resources for complaints management with sufficient levels of authority, and seniority delegated to those involved in the investigation and decision-making process is essential to effective complaint resolution.

DHCS officers managing complaints are empowered to deal with them at the first point of contact and possess:

- positions in DHCS that; provide timely and accurate transmission of outcomes to senior staff.
- a responsibility to make a recommendation to a delegated authority.
- unhindered access to all relevant information;
- competence to act with tact, discernment resolve;
- a strong continuous improvement focus; and
- a broad knowledge of DHCS and it's organisational structure to enable them to find people who can inform them and suggest solutions.

Each business unit within DHCS will have a designated complaints management officer who may undertake this role or as part of a number of duties (see Feedback and Complaints Management Procedures).

CAQS provides an Independent Internal Review Function for DHCS. When required, CAQS supports the Business Unit in resolving complaints as well as investigating those complaints which are complex and sensitive; are unable to be resolved by the Business Unit; are likely to involve adverse publicity; are required to be resolved immediately; and/or the complainant has self referred to CAQS (see Procedures).

Staff training

People are the single most important resource in the complaints management process.

Specific training will be provided to staff including senior staff likely to be involved in investigating and/or responding to complaints. Complaint Officer Network forums with DHCS staff that investigate complaints will occur on a regular basis.

Visibility

DHCS demonstrates a commitment to making their complaints management process highly visible by promoting it internally and externally. Complaint management is promoted through the [DHCS Website \(DHCS Feedback Form\)](#) and the **Client Feedback Form** ([Online Feedback Form](#)) which is available at the points of service delivery.

Access

The complaint management process is easily accessible to all complainants. CAQS and all DHCS Business Units' specific contact details are available on the DHCS website. CAQS and DHCS' general contact details are also on the Client Feedback Form. People with disabilities and people from non-English speaking backgrounds are encouraged through the Client Feedback Form to seek assistance with lodging their complaint and are provided with the contact details of the relevant agencies.

Remedies and apologies

The Chief Executive or a delegate will liaise with the complainant and when required, appropriate government and non-government agencies, where the complainant is requesting financial and/or material compensation, refunds, repair and/or technical assistance.

Where DHCS acknowledges that practice has not been made within service standards or mistakes or omissions have been made in the administration of its services the Director of a Business Unit or the

Executive Director, Policy and Organisational Services (POS) has the authority to prescribe a remedy, or make an apology.

Where an apology is deemed to be appropriate, it should be clearly stated and linked to the relevant complaint area.

Data collection

A systematic record of complaints and their outcomes enables DHCS to monitor the progress of complaints.

DHCS uses databases and client/complainant files in order to meet the reporting requirements of the Chief Executive and to monitor compliance with relevant legislation.

Each Business Unit is to develop and maintain a database and when requested, the Business Unit is to provide up to date data to CAQS for inclusion into the DHCS data base. This will enable complaints received by DHCS to be available when required.

Systematic and recurring problems

Complaints are to be classified or categorised so that systemic and recurring issues can be identified and rectified. Even where anonymous complaints are received, the information can inform systemic problems if not individual cases. Analysis of the classified complaints in relation to the severity and frequency of the problem will form the basis for effective risk assessment and service improvement.

Reporting requirements

The Executive Director, POS will report the performance by CAQS and the Business Units to the Chief Executive for inclusion in the Annual Report. The Executive Director, POS will also provide a regular report to the Chief Executive.

EFFECTIVENESS AND ACCOUNTABILITY

The number of complaints received by DHCS; the average amount of time taken to resolve complaints; and the service improvements made as a result of the complaints received are to be provided to the Chief Executive as requested and for inclusion in the Annual Report. CAQS will survey a representative sample of complainants every six (6) months to determine their satisfaction with the complaints process. This assists in the collection of performance information and also clearly demonstrates DHCS' commitment to service improvement. At the Chief Executive's discretion, complaints statistics may also be published on the DHCS website.

Record keeping requirements

It is good practice for agencies to properly document and record decisions relevant to an inquiry or investigation.

ACT agencies are required to have approved records management programs under Section 16 of the [Territory Records Act 2002](#). Each agency should ensure that its records management program is in accordance with appropriate file management practices for information relating to investigations, as set out above.

Reviews

The complaint management process is to be reviewed regularly to ensure efficient delivery of effective outcomes.

Statutory obligations

DHCS is subject to specific requirement within statutory obligations to investigate and report on complaints for example, the [Department of Disability, Housing & Community Services Collective Agreement 2007-2010](#); [Public Interest Disclosure Act 1994](#); [Public Sector Management Act 1994](#); and [Freedom of Information Act 1989](#) ([Appendix A](#) for further impacting Legislation).

Corrupt and criminal conduct

Allegations of conduct that could be corrupt or criminal should be discussed with a line manager or Senior Officer of a Business Unit and then reported to the Police.

Managing expectations

It is not always possible to ensure that a complainant is satisfied with the outcome of a complaint. DHCS is bound by policy and legislative requirements, which means that it is not always possible to provide an outcome or finding that satisfies a Complainant. In many cases, the best DHCS can do is to ensure that the process of resolving the complaint meets the components of the [Australian Standard on Complaints Handling](#).

To ensure that complainants are better informed about what to expect upon making a complaint, a list of the [Rights and Responsibilities](#) of DHCS can be provided to the complainant at the time of receiving the complaint. This may also negate the development of unrealistic expectations being generated by a complainant.

Unreasonable complainant conduct

The DHCS recognises the right of people to instigate a complaint about a DHCS service they have received. This right should not be unnecessarily or inappropriately curtailed, however, vexatious complaints can result in an inappropriate use of complaint management resources.

DHCS officers who are responsible for resolving complaints may wish to discuss the possibility of determining that a person is a vexatious complainant with their Senior Manager or Director prior to making the decision to cease dealing with the complainant or refer to CAQS if so determined by the Executive Director, POS, Senior Manager and/or Director.

COMPLAINANT TIMEFRAMES (FOR FURTHER INFORMATION SEE *PROCEDURES*)

Response:

An acknowledgement or response will be provided to all complainants within 5 (five) working days. The acknowledgement may be in the form of face-to-face contact, via telephone, through email or by post.

Investigation and Outcome:

The investigation and the response to the complainant are to be completed within 30 (thirty) working days of the receipt of the complaint. **If there is some delay the complainant must be advised of the circumstances and their agreement to extend the deadline is to be sought.** The complainant is to be contacted by day 40 (forty) to obtain feedback. This feedback should be recorded (database) by the Business Unit.

If the complaint is unresolved within the specified time period or is complex the Executive Director of the Business Unit may refer the complaint to the Executive Director, Policy and Organisational Services.

COMPLAINTS EXCLUDED FROM THIS POLICY

Issues in the complaint are subject to legal action (Cause of Action in law)

The subject of the complaint is being pursued through legal action by the Complainant. If a complaint has already been initiated under the statutory procedures then the process should be suspended until the final outcome of legal action. There is no requirement to suspend the complaints process if the complainant is simply seeking legal advice from a private provider, or is taking legal action against DHCS on a matter not directly related to the complaint, or has instructed their lawyer to represent them only in the matter of the complaint.

Complaint involves allegations of a serious nature

The complaint involves allegations against staff of a serious nature, for example professional incompetence, dishonesty or criminal behaviour. In such cases, a relevant Executive Director, Senior Director or Senior Manager may determine that other processes should be used to deal with the complaint, for example child protection procedures, formal disciplinary procedures or criminal investigation. In this case the complainant will be advised and referred to the relevant area.

Complaints of a criminal nature must be referred by DHCS staff to the Director of the business area or Executive Director, POS for referral to the Australian Federal Police. The complainant will be informed of this requirement.

Complaint is beyond the scope of DHCS

The subject of the complaint is the behaviour of an individual who is not employed by DHCS, nor employed by a third party contracted to provide services on behalf of DHCS, nor in receipt of payment from DHCS to provide a service.

The subject of the complaint is a non-DHCS policy and/or procedure.

Complaint that is a staff grievance

This complaints policy does not apply to complainants who are employed by DHCS and have a grievance against another DHCS staff member. Staff Grievances must be submitted to the Human Resource Manager or Human Resources Business Partner. Grievance processes are also outlined in sections S and T of the [Department of Disability, Housing & Community Services Collective Agreement 2007-2010](#)

Public Interest disclosure

Public Interest Disclosure's are managed separately within the Department and are excluded from this Policy. Public Interest Disclosures require special arrangements in relation to 'whistleblowers' as required by the [Public Interest Disclosure ACT 1994](#), that is people who make disclosures of public interest information. Public Interest information is defined as information that tends to show that, in relation to its performance of a public function, a public authority, public officer or public section contractor is, has been or purposes to be, involved in

improper conduct:

- a) an act or omission that constitutes an offence under written law;
- b) substantial unauthorized use or irregular use of, or substantial mismanagement of, public resources;
- c) an action done or omission that involves a substantial and specific risk of-
 - (i) injury to public health;
 - (ii) prejudice to public safety;
 - (iii) harm to the environment; or
- d) a matter of administration that can be investigated by the Ombudsman.

The key contact for public interest disclosures is the Senior Executive Responsible for Business Integrity and Risk (SERBIR). The DHCS SERBIR is the Executive Director, Policy and Organisational Services.

**DHCS COMPLAINTS MANAGEMENT AND FEEDBACK
PROCEDURES**

The following procedures are to be used as a guide to practice and should be adapted to each Business Unit needs. All Business Unit's are to ensure that their complaint's procedures comply with the DHCS [Feedback and Complaints Management Policy](#).

PRINCIPAL LEGISLATION, POLICY AND STANDARDS

DHCS officers dealing with complaints should acquaint themselves with the relevant sections of the following principal legislation, Policy and Standards:

[Children and Young People Act 2008](#)

[Disability Services Act 1998](#)

[Housing Assistance Act 1987](#)

[Human Rights Act 2004](#)

[Adoption Act 1993](#)

[Residential Tenancies Act 1997](#)

[Public Interest Disclosure ACT 1994](#)

[ACT Integrity Policy](#)

[Standards for conduct of inquiries and investigations for ACT Agencies](#)

[Australian Standard Complaints Handling](#) (AS 4269-1995)

[Territory Records Act 2002](#)

[Unreasonable complainant conduct: interim practice manual](#)

(Australian Parliamentary Ombudsman, August 2007)

OVERVIEW OF THE COMPLAINTS PROCESS

There are nine stages in the management of complaints directed to DHCS:

Management, Resolution & Investigation

- 1. Response:** An acknowledgement or response will be provided to all complainants within 5 working days.
Level 1 complaint - the response may be made by immediate phone contact and should be confirmed in writing within 5 days.
Level 2 complaint - may also be responded to initially by phone contact, and followed up in writing within 5 working days.
- 2. Exploration and analysis:** A staff member is assigned to manage the complaint. Business Unit exploration of a complaint is to be completed within 25 working days of the receipt of the complaint.
- 3. Complaint confirmation:** A response to the complainant summarising the validity or otherwise of the complaint, and further options available to the complainant will be provided within 30 working days. If there is some delay the complainant must be advised of the circumstances and their agreement to extend the deadline may be sought. All extensions of time must be recorded (database) and the Senior Manager, CAQS, if involved, is to be informed by email.
- 4. Complaint resolution:** In the event that a complaint, or elements of a complaint are upheld the Business Unit should engage with the complainant in resolving the issues identified and ensuring ongoing practice minimizes the likelihood of presentation of the same, or similar complaints.
- 5. Feedback:** The client should be contacted within 35 working days to obtain feedback. This feedback should be aimed at establishing the extent to which the complainant was satisfied with how their complaint was handled, views on the resolution of the complaint, seeking positive feedback and service comment. This feedback should be recorded (database) by the Business Unit.

6. **Review:** The Executive Director of the Business Unit involved may sign all Level 2 responses or delegate this responsibility on an individual case by case basis to a Director or Senior Manager. If the complaint is unresolved within the specified time period or is complex the Executive Director of the Business Unit may refer the complaint to the Senior Manager, CAQS or Executive Director, POS.

Data & Development

7. **Recording:** The Business Unit will maintain a record (database) of all complaints including copies of the original complaint, investigation notes and final response.
8. **Effectiveness:** CAQS and Business Units will review the system for effectiveness. Information gathered is to be used to recommend improvements to policy and practices within Business Units.
9. **Accountability:** Summary data about the number, nature, outcomes and recommendations arising from the complaints received by DHCS will be utilised and provide information for publication in the DHCS Annual Report.

Structural overview

The complaints handling structure comprises four tiers outlined below. This overview acknowledges that a complainant may refer their complaint to a higher level at any time, although the goal of the four tier system is to resolve the complaint successfully at the earliest possible stage. Please also see **Appendix C** for a diagram/flow chart that includes timeframes.

LEVEL 1 - Frontline

Level 1 - complaints relating to staff that have direct contact with clients including Disability Support Officers, Housing Managers, Therapists, Child Protection staff and staff working with children and young people. Staff are to distinguish a complaint from other requests and feedback. Staff are to resolve the complaint, provided they have the required delegation, and by agreement with the client or where appropriate refer the complaint to their manager or Business Unit complaints area. If the initial contact is handled well it will build confidence in the Department.

Examples of these types of complaints may include:

- incorrect address;
- lack of information or provision of reasonable advice;
- failure to respond to correspondence or telephone calls; and
- errors in records.

All identified Level 1 complaints must be recorded consistent with the Business Unit record keeping system. The establishment of good record keeping practice for Level 1 complaints will assist in any further investigation and in the process of implementing quality improvements.

Staff who are unsure of how these complaints are handled within their Business Unit, should refer to the Complaints Management Policy in their area.

Escalation of the complaint to Level 2 occurs if:

- frontline staff are unable to deal with the complaint, that is they do not have the authority to remedy the complaint;
- the conduct of frontline staff is the subject of the complaint;
- the client requests a higher-level decision maker; or
- the complaint has not been resolved at a Level 1 status.

LEVEL 2 - Business Unit Complaints

Level 2 - complaints are referred to staff that have expertise to coordinate the resolution of complaints within the timeframes prescribed in this Guide. Escalation to Level 2, involves investigation and looking at the detail of the complaint and providing possible remedies.

Referring to Level 3

Complaints identified at Level 1 or 2 may be referred from the Executive Director, Director or Senior Manager of a Business Unit to the Executive Director, POS. The following criteria should be considered:

- a Level 2 response has not been provided within the timeframe;
- the complaint is exceedingly complex or sensitive;
- the type of complaint occurs frequently;
- additional resources are required to resolve the complaint (human, financial or time);
- the capability to resolve the complaint is limited or not available;
- the complaint is likely to involve adverse publicity;
- the complaint is required to be resolved immediately;
- there is a high risk of an adverse event; or
- the complainant seeks to have the outcome reviewed (self referral).

LEVEL 3 – Independent Internal Review Function

Level 3 – provides the Internal Review function for the Department and the Chief Executive.

The advice of the Senior Manager, CAQS or Executive Director, POS may be sought, before a response to a complaint is made, if a degree of discretion is required and in the following instances:

- complaints subject to judicial review or another cause of action in law;
- anonymous complaints;
- a complaint on behalf of a group of service users (advocacy complaint);
- the same complaint is received from a number of individuals in such a way as to suggest an organized campaign;
- abusive or threatening complaint;
- a persistent or vexatious complaint; and
- a previous complaint which has received a formal response.

CAQS also coordinates requests for information by external review bodies (Level 4 Complaints). Liaison may also occur with the Minister's Offices to refer complaints to the relevant area.

Staff in CAQS will assist with complex complaints, provide advice to all staff, make recommendations to the Chief Executive and refer complaints to external review if appropriate.

Referring to Level 4

Where appropriate, the Executive Director POS may refer any complaint lodged with DHCS to Level 4 for external merit or judicial review. A client may refer their complaint direct to any external review agency (self referral).

LEVEL 4 – External Merits Review or Judicial Review

Level 4 - External Review comprises merits review and judicial review. Merits review is a quasi-judicial process and involves an independent expert who will review the merits and facts of a matter. Some options for Merits review include approaching:

- the Ombudsman;
- the ACT Human Rights Office;
- the Office of the Public Advocate;
- the ACT Auditor General;
- the Privacy Commissioner; and
- various Tribunals including the ACT Administrative Appeals Tribunal.

Judicial Review is conducted in court and is determined in accordance with the Administrative Decisions (Judicial Review) Act 1989. Applicants seek rectification or remedy for 'a decision of administrative character' made under an ACT law. It may be necessary for clients to complete the merits review process and consult with a solicitor before seeking judicial review.

Access and grounds for complaints

Making a complaint

The **Client Feedback Form** and **[Rights and Responsibilities](#)** are to be displayed in DHCS offices and facilities advising clients of their right to complain and giving details on how a complaint may be submitted.

Client Feedback Forms and *Rights and Responsibilities* are to be distributed to local groups who represent clients, particularly providers of independent advocacy. When a client has difficulty in communicating, or in accessing or comprehending written information, staff will assist clients to gain representation or make a complaint. For children and young people this will in most instances include their parents or carer.

A complaint provided by a client or advocate requires assessment to establish what Level of response is necessary.

Complaint received by Business Unit

In the event that the content of the complaint indicates a Level 1 or 2 Complaint, the matter should be directed to the appropriate staff for management and response.

If the complainant seeks to have the complaint reviewed with a degree of independence from the Business Unit then they should be provided with a copy of the DHCS *Client Feedback Form* within 5 (five) working days of receipt of the complaint and encouraged to direct their complaint to CAQS. The complainant or advocate should be advised of the role and functions of CAQS and the purpose of this onward referral.

If information provided indicates the need for a Level 3 or 4 response then the details of the complaint and complainant should be forwarded to CAQS within 5 (five) working days of receipt of the complaint. The complainant or advocate should be advised of the role and functions of CAQS and the purpose of this onward referral.

A copy of the DHCS *Client Feedback Form* should be forwarded to the client within 5 (five) working days.

Complaint received by CAQS

When a complainant or an advocate contact CAQS directly, the opportunity will be given for completion of the DHCS *Client Feedback Form*, and where appropriate, refer the complainant to the relevant Business Unit.

In the event that it is not appropriate to refer to a Business Unit, CAQS will consider the information and summarize the key themes and incidents of concern. These will then be provided to the complainant for agreement and CAQS will then advise on the complaint management process thereafter.

When the specific terms of the complaint are clarified, CAQS will notify the Business Unit and seek information to allow a response to the complaint and the establishment of any resolution strategies.

The *Client Feedback Form* includes:

- The title, address and telephone number for Consumer Advocacy and Quality Service;
- A clear statement outlining DHCS' commitment to clients;
- A step by step guide to completing the form and lodging a complaint; and
- Agencies the complainant can contact if experiencing difficulties completing the form.

Rights and Responsibilities includes:

- The complainant's rights;
- The complainant's responsibilities;
- DHCS' responsibilities.

Grounds for making a Complaint (See [Exclusions to this Policy](#))

Possible grounds for making a complaint include:

- a service is not being provided;
- a service is being provided but does not align with relevant established service standards;
- an unreasonable delay in the provision of a service;
- discrimination in the provision of a service; and
- DHCS staff being unreasonable or rude.

Time limitations

The Executive Director, Director or Senior Manager of a Business Unit or the Executive Director, Policy and Organisational Services, may decide not to investigate an act, practice or omission, or the last in a series of acts, practices or omissions that took place more than 12 months before the lodgement of the complaint.

Responsiveness to complaints raised

Responsiveness

All complaints are to be acknowledged within 5 (five) working days.

Complaints are to be dealt with as quickly as possible. The 30 working day response time is to be taken as the maximum, not the standard, period for complete response.

An effective response is facilitated when all parties:

- communicate with respect;
- provide full and factual information; and
- clearly establish expectations and objectives.

Fairness

The complainant is to be properly informed about the process and their rights.

Upon receipt of any complaint, the main concerns in the complaint, which require redress, are to be clarified and noted in writing. If the concerns are not clear, the receiving officer is to contact the complainant for further information.

Complainants are to be reassured that their complaint will be treated in confidence and will not affect the delivery of services.

Information on complaints is to be recorded in separate files in a secure cabinet and not stored with the personal records of clients.

Assisting the Complainant

Complainants are assisted to provide feedback when required. This may include undertaking a home visit and completing a feedback form for the complainant's signature.

Support is also available to DHCS staff who are the subject of a complaint or are involved in the assessment or investigation of a complaint. In such circumstances, staff should speak to a line manager or the Senior Manager, CAQS, if they believe assistance in managing this process is necessary.

Responses to Oral Complaint

If a complainant makes an oral complaint staff receiving the complaint are to:

- document the complaint on a Client Feedback Form; or
- suggest that the complainant put their issues in writing, if the complainant wishes.

Responses in Writing

All complaints are to be acknowledged. Written complaints are to be acknowledged in writing within 5 working days. A Level 1 complaint may only require a record. The acknowledgement must:

- identify, by name or title, the person who will arrange the investigation;
- the date by which the complainant can expect a formal response to his or her complaint; the complaint process; and
- if available, other possible remedies.

Details of the complaint and action taken are to be recorded on the Business Unit's database.

Resolution of complaints

Complaints are to be resolved as close to the point of service delivery as possible and as quickly as possible.

Responses are to address all concerns raised by the complainant in the complaint and should comment on whether it has or has not been possible to offer the redress requested by the complainant. Responses should indicate how the complainant might proceed if they remain dissatisfied with the response. Records of responses must be maintained for future reference and accountability purposes.

Time-Frames for Resolution

The objective is to resolve complaints within 30 (thirty) working days of receipt of the complaint. It is expected that resolution of complaints received by the Business Unit will occur well within that time frame. The date the complaint is received by DHCS is to be recorded as the investigation commencement date. This date is to be included in the letter of acknowledgement. It is not the date the complaint was passed to the relevant investigating officer.

If it is not possible to provide a response to a complaint within 30 (thirty) days then the complainant must be advised of the circumstances and their agreement to extend the deadline sought. In certain circumstances, adherence to a timeline for resolution of a complaint is beyond the authority or influence of the Department. Examples of these would be complaints that are particularly complex or being facilitated through any oversight agency, such as the Ombudsman's Office, the Privacy Commission or the Human Rights Commission. In these instances, the complainant should be advised that the Department may not be able to comply with an identified timeframe and the reasons for this.

Failure to respond to a complaint within the required time frame

If a copy of the line area response has not been received within the Business Unit's Complaints Area within 25 (twenty-five) working days after receipt of the complaint, the Complaints Area will write to the line area investigating officer and prompt them to either reply within 5 (five) working days or gain the consent of the complainant to an extension.

If the response to the complainant has not been received and agreed to by the Executive Director of the Business Unit within 30 (thirty) working days after receipt of the complaint and no extension has been requested, the Executive Director, Policy and Organisational Services and the complainant must be informed that there has been a failure to respond. The Executive Director, Policy and Organisational Services will then review the case and establish contact with the complainant.

Requirements for Written Responses

On conclusion of investigation the investigating officer will prepare a formal written response to the complainant for the Executive Director, or delegated Officer's signature.

This response is to contain:

- a response to all issues raised by the complainant in the original complaint and during the course of the investigation;
- an explanation on whether or not it has been possible to offer the redress requested by the complainant and if not why not;
- where the complaint has been upheld, a clear and unequivocal apology;
- an offer of internal review by the Executive Director, Policy and Organisational Services if the complainant is dissatisfied; and
- advice to the complainant that they have the right to refer the matter to external review authorities and the contact details for those authorities.

INVESTIGATIONS

The Investigating Officer

On receipt of a complaint, the relevant officer in the Business Unit will nominate an investigating officer who is qualified and has been provided by the Chief Executive or delegated Executive Officer with authority to undertake investigations. If a complaint is received about staff, then this complaint should normally be passed to the staff member's line manager.

The investigating officer is to make an initial determination including:

- Is the complaint within the jurisdiction of DHCS?
- Should the complainant be referred to the appropriate agency, if so, how is this referral going to occur?
- Are the concerns clearly outlined in the complaint?
- What primary or secondary legislation and/or DHCS policy is the complaint about?
- Is the redress required by the complainant clear?
- Will it be possible to fully explore the circumstances of the complaint; and
- If upheld, can the redress requested by the complainant be offered without further reference to the complainant?

If all these determinate conditions are met, then the investigating officer may proceed to investigate and respond to the complaint. In these circumstances, there is an expectation that the matter will be completed within the 30 (thirty) working day deadline.

Complaint investigator's role

Client complaint investigator positions are designated by the Chief Executive of DHCS for the purpose of investigating Business Unit complaints and undertaking internal reviews.

The client complaint investigator is responsible for the following:

- Monitoring, analysing and reporting on complaints and compliance with the Policy and Procedures;
- Ensuring all staff are aware of the Policy and Procedures; and
- Reviewing and recommending improvements to increase client satisfaction.
- Where appropriate, liaise and consult with Business Units and community stakeholders on specific and general complaint issues.

Natural justice and procedural fairness

Conflict of Interest

If a complaint is received about the actions of an Executive Officer, then this should be forwarded to the Executive Director, Policy and Organisational Services. For the purpose of this Policy, an Executive Officer may be defined as the Chief Executive, Deputy Chief Executive, an Executive Director, Senior Director, Director or Senior Manager.

A complaint must not be investigated or received by the staff member who is the subject of the complaint, whose family member is the subject of the complaint or where any other conflict of interest presents e.g. a close friend or close working colleague.

Bias

Being unbiased is an important aspect of natural justice. It is important for the investigating officer to recognize if there is the potential for bias and if so, to remove themselves from the investigation as early as possible and let the Executive Director of the Business Unit know about potential bias on the investigator's part.

Bias can be made up of a number of different things for example, favouring one person over another; being closed-minded and not listening or taking into account what someone has to say; or having a conflict of interest between finding the facts and gaining some personal advantage or avoiding personal disadvantage.

A person whose interests will be affected by the decision is to be given an opportunity to comment on the decision before that decision is finalised.

It is an important feature of complaints resolution that the complainant is given every opportunity to fully state their views on the circumstances of the complaint. This assures the complainant that the matter is being investigated thoroughly and avoids additional issues being raised during the investigation process. It is also important that any person whose interest will be affected by the decision is provided with an opportunity to comment on the decision before that decision is finalised.

Delay in the Investigation

If in the process of investigating the complaint, it becomes clear that the complaint will not be able to be concluded within the 30 (thirty) day timeline, the investigating officer will, at the earliest opportunity, contact the complainant by telephone or in person to seek consent for an extension and if necessary, clarify the issues, circumstances of the complaint. The investigating officer will also advise the Executive Director of the Business Unit the reasons for the delay and that the complainant has agreed to the extension. The investigating officer will seek agreement to the extension from the Executive Director. The maximum extension period is 30 (thirty) working days. When contacting the complainant, the investigating officer is to keep a formal record of the outcome of this contact. Particular regard must be given to additional issues brought forward and the consent to extend the deadline obtained from the complainant.

In the event that a complainant does not agree to an extension, any reasons provided by the complainant for this are required to be recorded. The reasons for a necessary extension period should then be confirmed to the complainant in writing by the Executive Director or delegated Officer and the investigation should then proceed within the re-scheduled timeframe.

The Executive Director, Policy and Organisational Services must be notified of the delay, and any instances of non-consent, by the relevant Executive Director or delegated Officer, as there is an increased risk that the complainant will elevate their complaint through to CAQS.

Remedies

Where DHCS acknowledges that practice has not been made within service standards or mistakes or omissions has been made in the administration of its services the Executive Director of a Business Unit or Executive Director, Policy and Organisational Services has the authority to prescribe a remedy. Remedies could include:

- an apology;
- repealing a decision and making it again;
- stopping a decision before it may be made;
- making a decision that should have been made as part of the duties of the Business Unit;
- undertaking to educate staff or provide a training program to improve the service;
- amending and developing policies; and
- staff discipline as per the [Public Sector Management Act 1994](#).

EFFECTIVENESS AND ACCOUNTABILITY OF THE SYSTEM

Record keeping requirements

The Business Unit's Complaints Area will maintain a record of all complaints including copies of the original complaint, investigation notes and final response. A Summary Report will be provided to CAQS when requested. CAQS will include the information provided in the compilation of statistical data, monitoring and ongoing quality improvements.

Complaints are to be classified and categorised by the Business Unit so that systemic and recurring problems can be identified and rectified.

Complaints are to be classified as follows:

- Number of complainants
- Complainant name
- Action taken
- Active/closed complaint
- Receipt date of complaint
- Outcome
- Closure date of complaint
- Total days complaint was active
- *Level 1, 2, 3 or 4 complaint;*
- Respondent
- Referral to external investigator,
- External complaint source.

Complaints are to be recorded under the following categories:

- Access to services
- Attitude of staff, including misconduct
- Breach of human rights
- Breach of privacy
- Conflicting information provided
- Financial cost of service provided
- Inappropriate enforcement of Court Orders
- Insufficient consultation by Business Unit
- Poor communication with Business Unit
- Dissatisfaction with decisions made

If the complaint encompasses more than one category the complaint should be recorded in each distinct category.

Accountability

The number of complaints received by DHCS; the average amount of time taken to resolve complaints; and the service improvements made as a result of the complaints received are to be provided to CAQS, as requested. CAQS will collate the information for the Chief Executive and for inclusion in the Annual Report.

Reporting Requirements

As requested, Business Unit's will provide CAQS with up to date statistical data for inclusion into CAQS reports to the Senior Director Governance, Advocacy and Community Policy; CAQS monthly report to the Chief Executive; reports to the Board of Management; DHCS Executive; and the Annual Report.

Assessing Improvement to the Quality of our Services

Ongoing assessment and regular reviews of the system will occur as part of continuous improvement.

This will occur through a variety of ways including:

- Complainant feedback forms;
- Business Unit complaints area survey;
- Feedback on this Policy and Procedure;
- Discussions at the Complaint Contact Officer Network; and
- Reports to Board of Management and DHCS Executive.

NON-STANDARD COMPLAINTS

Complaints from Complainants who are acting on another's behalf

Advocates

Upon receipt of a complaint from a complainant who is acting on another's behalf, complaints management staff need to ascertain the status of that person in order to comply with relevant legislation regarding secret and protected information and maintain privacy and confidentiality. Staff are to consider if the person:

- meets the definition of 'advocate' (see **dictionary**); or
- can provide evidence from the client that he/she is acting on their behalf (**Release of Information/Exchange of Information**); or
- is choosing to make a complaint on their own behalf.

Complaints from legal practitioners

Upon receipt of a complaint from a solicitor or other legal representative, complaints management staff are to ascertain the following:

- is the complainant representing the client in relation to a complaint;
- is the complaint being made in the context of legal action against DHCS; or
- is the solicitor or other legal representative choosing to make a complaint on their own behalf.

If the complaint is made in the context of legal action against DHCS the complaints procedure must be suspended pending the outcome of legal action. Correspondence is to be forwarded to the Executive Director, Policy and Organisational Services who will advise the complainant as to the procedures in place.

Anonymous complaints

Anonymous complaints can provide insight into systemic concerns and are to be recorded in statistical databases. In the event of a complainant not wishing to provide any identifying details about themselves, the Business Unit's complaints management area should advise the complainant that the requirements of anonymity may restrict the ability to fully investigate the complaint; affect the complainant's right to access information as the status of the complainant will not be able to be ascertained; and may have implications for the right of the complainant to have their complaint reviewed or referred.

Complainant who requests their identity be withheld

The complainant may request that their identity is not disclosed when a complaint is made. The complainant should be advised by the Business Unit that anonymity cannot be guaranteed in an investigation. The complainant's wishes for anonymity will be respected where reasonable and possible.

How to deal with an anonymous complaint

The Business Unit complaints area will explain to the complainant the operation of the complaints procedures and advise whether their complaint can be guaranteed anonymity. The Business Unit may include the following measures to assist with maintaining the complainant's anonymity:

- the identity of the complainant being disclosed only to the Business Unit complaints area and Investigating Officer; and
- no identifying details being recorded.

Unreasonable complainant conduct

Business Units must keep in mind that unreasonable conduct does not preclude the existence of a valid concern.

Many complainants act reasonably, however, some do not. Some are upset, angry and may be difficult to engage because they believe they are caught up in some wrong. Others may present as difficult for reasons that go beyond the circumstances of their case and engaging such individuals can be challenging. They can take up an inordinate amount of time and resources and can cause much stress to staff and, indeed, themselves. Apart from the impact on staff and resources, there are also equity issues in relation to the resources available to deal with other complaints.

It is very common for difficult complainants to change the focus of their complaints from the central issue, to how their complaint is being handled by an agency or particular staff. The same complaint can also often be found in a number of agencies at the same time; it can form the basis for FOI applications and ultimately may end up as a review application, or a string of review applications, to relevant external review bodies. Unreasonable complainants often want what DHCS' complaint management system cannot deliver for example, vindication, retribution or revenge.

Unreasonable complainants must be viewed as owning their concerns, whilst the investigator owns the complaint process. The investigator should focus on the complainants 'observable conduct' rather than on the assessment of the complainant's psychological state or possible motive for complaining. Focusing on the unreasonable conduct provides the following:

- Allows for the clear engagement with a complainant on the presenting conduct. Addressing the conduct through a planned strategy will then allow greater focus to be given to the resolution of the actual complaint;
- Allows for complaint investigations to be undertaken by people who are not mental health professionals or social workers;
- Facilitates greater transparency in interactions between investigators and complainants for the purpose of responding to or dealing with unreasonable conduct (indicating to a person that you believe they are acting unreasonably is likely to have a more positive result than indicating that a person is being vexatious, querulous, or even difficult); and
- Facilitates the separation of behaviour from the nature of the complaint so that the complaint can be effectively addressed.

The various types of complainant conduct that can be unreasonable can be grouped into 5 (five) categories:

1. unreasonable persistence
2. unreasonable demands
3. unreasonable lack of cooperation
4. unreasonable arguments
5. unreasonable behaviour

Persistent complainants

Unreasonable persistence includes:

- persisting with a complaint even though it has been comprehensively considered and addressed;
- reframing a complaint;
- showing an inability to accept the final decision;
- persisting in interpreting the law or policy in a way that is not in accordance with generally accepted or expert views on the issues and insisting that actions be taken accordingly;
- persisting in wanting to know where to go next when it has been explained there is nowhere else to go;
- demanding a review because it is available and not arguing a case for a review;
- making an issue out of everything; and
- getting gratification from the process of regular contact with the investigating officer, possibly including inventing unnecessary reasons for having such contact.

Management of persistent complaints may involve applying boundaries e.g. one review only.

Managing unreasonable persistence may also include:

- Managing expectations from the outset, including ensuring initial expectations are realistic;
- Adopting a firm and authoritative communication style both in writing and verbally; and
- Defining the key issues and keeping the focus on them.

Verbally abusive and or threatening complainant conduct

Unreasonable complainants must be provided natural justice, however, if their conduct is abusive and/or threatening and their conduct does not change after being advised that their conduct is not acceptable, the investigator is to provide details of the complaint to the Business Unit's Executive Director or Senior Manager, CAQS, with an attached record as to the nature of the conduct. The Executive Director or Senior Manager may review the case and where necessary:

- write to the complainant requesting that they modify their behaviour in future or otherwise face limitations on the investigation of their complaint;
- instruct the investigating officer to investigate and respond to the complaint without contacting the complainant for further information or clarification of the complaint and advise the complainant accordingly; and
- advise the complainant that in future, complaints will only be accepted if submitted in writing to the Business Unit's Complaints Area and that staff will not engage in dialogue with the complainant.

If the complaint's officer has not been able to record the full details of the complaint due to the complainant's conduct being offensive, they should write to the complainant, where possible, enclosing a Client Feedback Form and asking the complainant to re-submit their complaint in writing to the complaints section.

Scripts for tactical actions, dealing with unreasonable demands and persistence, dealing with threats and abuse, for responding to dissatisfaction and disappointment may be considered from the Joint Ombudsman Project - [Unreasonable complainant conduct: interim practice manual](#)

Abusive Complaints in writing

Where unreasonable complainants submit their complaint in writing and include abusive and/or threatening language, the acknowledgement of the complaint should make reference to the complainant's unreasonable conduct and advise that staff are not required to tolerate such conduct. The complainant should also be advised that ongoing unreasonable complainant conduct will limit the ability of staff to investigate and respond to their complaint/s.

Actions to be taken if complainant's unreasonable conduct continues

If, after instituting all measures outlined, the relevant Executive Director or Senior Manager decides that the complainant is so abusive as to place an unreasonably onerous burden on staff within the Complaints Area, then a written submission will be prepared for consideration by the Executive Director, Policy and Organisational Services with a view to declaring the complainant an 'unreasonable complainant'.

If the Executive Director or Senior Manager considers the complaint does not merit a response then the complaint will be neither acknowledged nor responded to.

AT NO TIME SHOULD STAFF FEEL COMPELLED TO CONTINUE CONTACT WITH AN UNREASONABLE COMPLAINANT IF THE STAFF MEMBER IS UNABLE TO UNDERTAKE THEIR DUTIES EFFECTIVELY DUE TO THE CONDUCT OF THE COMPLAINANT AND/OR STAFF MEMBERS ARE FEELING PERSONALLY THREATENED.

In the event that such communication occurs staff should seek to de-brief with a colleague or line manager. If required, other support options should be explored.

Previously disposed complaints

If the Business Unit's complaints management area receives a complaint which they consider has already been actioned (either internally or externally) the Business Unit is to consider whether the complaint:

- a) is a new complaint and is to be investigated and responded to as normal; or
- b) need not be re-investigated but is to be responded to again. In these circumstances, the complainant is to be clearly advised that the complaint has been dealt with before and that the complainant may exercise their rights to have the complaint reviewed or referred to the Executive Director, Policy and Organisational Services if they remain dissatisfied with the response on this occasion; or
- c) need not be re-investigated or responded to, but that the complaints section will write to the complainant stating the matter has been actioned and will not be responded to again, whilst confirming the rights of the complainant to submit complaints on other issues in future.

Individuals or previous complainants shall retain the right to complain about alleged repeated failures of DHCS to deliver services on different occasions. These complaints should merit a response consistent with these Policy and Procedures.

If staff believe that the complaint area has been addressed and/or the complainant's conduct continues to minimize the opportunity for resolution of the complaint, this Section of the procedures is applicable.

Staff named in a complaint

Some clients may name DHCS staff in a complaint about service provision or provide negative feedback about their conduct. The process identified below seeks to involve the staff member and their manager in the resolution of a complaint. The aim is to provide the decision-maker with sufficient information to make a decision about the veracity of the complaint.

In the event that CAQS receives a complaint of this nature directly, it will provide the senior manager of the staff member with a Minute about the complaint and provide as much detail as possible including the allegation and a date and time of the incident.

The relevant Director and the Manager, Workplace Relations and Safety will also be provided with a copy of the Minute.

Process

If the allegation is about staff misconduct the staff member's manager will be advised to deal with this matter as an informal discussion with the staff member. The purpose is to gain information about the incident. The process to follow is as outlined in the [DHCS Collective Agreement.htm](#)

The Minute will inform the manager of the following steps they may wish to undertake to satisfy the requirements in the Certified Agreement including to:

1. Inform the staff member of the allegation;
2. Discuss with the staff member their response to the allegation;
3. Decide whether the allegation has merit or not, make an informal record of the discussion including time, date, issue and any instructions for improvement (if pertinent).
4. Consult with the staff member's previous manager to determine if a similar complaint has been made in the past; and
5. Advise the Senior Manager, Consumer Advocacy and Quality Service of the outcome of the discussion with the staff member within seven days.

Managers will also be informed that the Workplace Relations Unit in the Department is able to provide advice on any questions related to the above process. The Department's *Guide to Disciplinary Procedures* will also be provided to the manager as a guide for the informal discussion.

Serious Misconduct

Allegations of serious misconduct will continue to be dealt with under the provisions of the [DHCS Collective Agreement.htm](#)

Specific advice will be provided to the Manager, should such a complaint be received.

Complaints by groups/organised campaigns

Who deals with Complaints by Groups and Organised Campaigns

Complaints may be made by, or on behalf of, a group of people. Complaints may cross Business Units: i.e. Disability and Housing. Whenever a complaint is received on behalf of a group of clients, the matter is to be referred, through the relevant Executive Director, to the Executive Director, Policy and Organisational Services who will consult with Directors and Senior Managers and advise whether the complaint is to be dealt with as a complaint or by other means.

If a complaint is submitted by a number of individuals in circumstances, which suggest that they are campaigning as an organised group, then advice is to be sought as per above.

Single Point of Contact

In order for a group complaint to be dealt with under the complaints procedures it is necessary that the group nominate a single point of contact to whom the response will be sent and who will assume responsibility for distributing the response to the group. If the group is unable to nominate such a person then the complaint will not be dealt with as a complaint.

Disclosure of confidential information

Almost inevitably, fact-finding enquiries are about sensitive issues. Particular attention should be paid to protection of the confidentiality of persons and materials.

Investigations not possible without disclosure of confidential information

Occasionally, it may not be possible to fully investigate or respond to a complaint without disclosing confidential information which:

- a) relates to a third party who has not consented to disclosure;
- b) is sensitive information relating to the client;
- c) may cause serious harm to the client or another person if disclosed; and
- d) has an implication for the prevention, detection or prosecution of a crime.

Seeking Permission

In these circumstances, the Business Unit's investigating officer is to make every effort to proceed with the complaint investigation by:

- a) seeking the permission of third parties to disclose information to the complainant or their representative;
- b) seeking the permission of the client to disclosure of or sensitive information; and
- c) explaining the difficulties to the complainant and seeking their agreement to deal with the complaint within the imposed limits of legislation and confidentiality.

Legal advice from the ACT Government Solicitors Office may also be sought prior to

- disclosing confidential and/or sensitive information; and/or
- in circumstances where the Court order disclosure of confidential and/or sensitive information; and/or
- during criminal investigations.

DHCS procedures relating to access of the ACT Government Solicitor's Office require to be followed.

If agreement is reached under the above then the investigating officer must make it clear that the limits will also apply to any further internal review of the complaint by DHCS.

No Permission Granted

If it is not possible to provide a full response due to the imposed limits of confidentiality the complainant is to be informed as to other options including external review.

Complaints by children and young people

Special considerations apply to complaints made by children or young people. These procedures include specific information on the arrangements for children in foster care, kinship care and residential care, and in institutions and shelters, that is, Bimberi Youth Justice Centre and Marlow Cottage respectively.

Providing information to children and young people

Information provided to a child and/or young person regarding the investigation process should be presented in a way that it meets the individual's needs, for example, information must be culturally appropriate and age appropriate.

Who deals with complaints by children and young people?

When a complaint by a child or young person is received, a decision must be made by staff receiving the complaint regarding whether the complaint should be dealt with through Child Protection Procedures or the Business Unit's complaints procedures.

Principles and Procedures for responding to Children and Young People Complaints

In order to respond effectively to complaints by children and young people there are two perspectives to consider in the complaints process:

- 'Child's Voice' (the individual child or young person's right to exercise choice and make a complaint);
- 'Best interests' (the baseline requirements believed to be necessary to secure a child's or young person's welfare).

As a first step the emphasis is to be on problem resolution where relationships of trust and openness are encouraged. Complaints that can be resolved by DHCS staff who work directly with the child; young person; or collective complainants, are to be initially addressed by these staff.

If a resolution cannot be achieved or the complainant is dissatisfied with the outcome or the complainant expresses the wish to have the complaint dealt with more formally, he or she may:

- make a complaint to the Business Unit's Complaints Area; or
- raise concerns with another worker or another adult who can instigate the complaints procedure on their behalf; or
- If after the above has been implemented and resolution cannot be achieved, the complainant may lodge a complaint with DHCS' internal review service - Consumer, Advocacy and Quality Service (CAQS).

All complaints are to be recorded, even if the complaint is withdrawn, and outcomes are to be monitored. At all times age-appropriate language should be used whilst corresponding with children and young people.

Aboriginal; Torres Strait Islander; and culturally and linguistically diverse children and young people

All complaints are to be recorded and investigated in a culturally sensitive manner. Where possible, consultation throughout the complaint management process should occur with Aboriginal and/or Torres Strait Islander units and/or culturally and linguistically diverse units within DHCS.

If an interpreter is required the Director, Business Unit, or the Senior Manager, CAQS are to be advised of this requirement prior to the service being arranged.

Children and Young People in Institutions, Shelters or Refuges

Complaints relating to institution, shelter or Refuge contracted by DHCS to provide services to children or young people can be dealt with by either:

- DHCS front line staff;
- The Business Unit's complaints management area
- Executive Director, Policy and Organisational Services;
- the Official Visitor;
- [the Office of the Public Advocate](#);
- [the ACT Human Rights Commission](#); or
- [the ACT Ombudsman](#).

There are certain circumstances by which a child or young person in an institution, shelter, or refuge can lodge a complaint. This is provided for in the *Children and Young People Act 2008* with the Official Visitor.

The role of the Official Visitor with respect to complaints is to hear the complaint and act as an advocate to promote and protect the best interests of children and young people.

The child or young person can address their complaint to the Official Visitor in various ways including email, letter or verbally. Where the Official Visitor assesses that the complaint requires action outside the institution or shelter, they can escalate the complaint to:

- The Executive Director, Policy and Organisational Services;
- The Public Advocate; or
- The Children and Young People Commissioner.

Complaints by people with disability

Providing information to people with a disability

Information provided to a person with a disability regarding the investigation process should be presented in a way that meets the individual's needs.

Access and Freedom from Discrimination Principles

People with disabilities have the same right as others members of society to receive services that least restrict their rights and opportunities.

People with disabilities can make complaints whether or not they are considered legally capable.

Where persons have been appointed proxy decision makers under the ACT [Guardianship and Management of Property Act 1991](#), they will be automatically accorded the status of advocate in the context of complaints under the procedures. DHCS will respond to complaints by these persons on behalf of the client without requesting any further mandate.

In other cases where a person seeks to represent an adult with incapacity in the matter of a complaint, staff receiving the complaint will need to satisfy themselves as to the basis of authority by which that person seeks to act. Should there be any doubt about this, the advice of the Business Unit's Complaints Area should be sought on a case-by-case basis.

Legislation

In considering the application of the essential element of "access" to complaints management, agencies should take into account the requirements of relevant Territory and Commonwealth legislation including the Commonwealth [Disability Discrimination Act 1992](#) and the ACT [Disability Services Act 1998](#).

Assistance to make a complaint

If a person with a disability would like assistance to make a complaint the staff member should agree to assist and also give the option of approaching an independent advocacy body for people with disability in the ACT.

People with disability's access to ACT Government guidelines need to be taken into consideration when preparing or distributing information about the complaints process.

Complaints about funded community organisations

Complaints in relation to funded community organisations should be managed according to the funding arrangement outlined in the relevant Service Funding Agreement (SFA).

The SFA should include a requirement for the funded agency to have an established complaints management process.

The SFA will also include a capacity for the Department to engage in a quality assurance process with the agency, including, where appropriate, a review of complaints received by the agency about funded services they provide.

Shared investigation with other agencies

A Memorandum of Understanding (MOU) will be developed in relation to joint working protocols with Professional Boards and/or other agencies for example, the Australian Federal Police.

Complaints to the Ministers

Complaints made directly to Ministers may be referred to the Executive Director, Policy and Organisational Services by the Minister's Office or directly to a Business Unit.

Upon receipt of a complaint by CAQS, they will liaise with Minister's offices to refer and track complaints with the relevant Business Unit.

In some instances processes are in place within individual Business Units to respond to Ministerial complaints independently of CAQS.

Human Rights compliance

From 1 January 2009, the Human Rights Act 2004 (ACT) enacted an obligation on public authorities to comply with its legislative requirements. The Act expressly requires public authorities to:

- act consistently with human rights; and
- when making decisions, give proper consideration to relevant human rights.

Individuals have a direct right of action to apply to the Supreme Court to seek a remedy for an alleged contravention of this obligation.

The Human Rights Commission (HRC) provides guidance on the requirements of public authorities to comply and outlines measures that department staff can take to comply with this obligation.

This information is available on an HRC Factsheet at <http://www.hrc.act.gov.au/publicauthoritiesfactsheet.pdf>

All HRC complaints should be directed to CAQS. A request for information to inform a response to the HRC will be provided to the relevant Executive Director or Director. CAQS will then prepare a response for Executive sign-off and provision back to the HRC.

Customer satisfaction and service feedback

There are a number of reasons why customer satisfaction is important to our Department.

Context:

- Meeting the needs of the customer is the underlying rationale for the existence of community service organisations. Customers have a right to quality services that deliver outcomes.
- Organisations that strive beyond minimum standards and exceed the expectations of their customers are likely to be leaders in their sector.
- Organisations that provide high quality services instil confidence in their customers and stakeholders.
- Customers are recognised as key partners in shaping service development and assessing quality of service delivery.
- Obtaining feedback on organisational performance is a valuable tool for quality and continuous service improvement.

It is therefore important that in the instances where clients indicate satisfaction with the service we provide, that this is noted and acknowledged.

Ultimately, this provides a platform toward achieving an increasingly positive working culture, to enhance and celebrate positive practices and to acknowledge the individual or staff groups whose practice is being applauded.

Process: Customer Satisfaction or Compliments

- In the event that a staff member or manager receives positive feedback about practice or services provided, a summary of the compliment should be provided to a line manager and the Senior Manager, CAQS.
- CAQS will then detail the nature of the compliment and departmental staff concerned to the Chief Executive, who in turn will write to the staff concerned thanking them for the service provided, on the Department's behalf.

Process: Service Feedback

- In the event that a client is seeking to provide comment on a service they have received, such information should be noted and provided through line management to the relevant Senior Manager.
- This process should be concluded by a letter to the client thanking them for their comment and consideration by the Senior Manager of any service or system implications generated by the comment provided.

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APPENDIX A

GLOSSARY - KEY TERMS FOR THE PURPOSE OF THE POLICY PROCEDURES

KEY TERM	DESCRIPTION
Acknowledgement letter	The first letter sent by DHCS acknowledging the complaint as registered.
Advocate	<p>A person recognised to complain on behalf of a client including:</p> <ul style="list-style-type: none"> • A person providing care to a client without being employed for that purpose ('private carer'); • For clients under the age of 18: <ul style="list-style-type: none"> ○ The client's parents ○ A person with parental rights and responsibilities towards the client ○ A foster parent caring for the client; • A person appointed by court of law as having power of attorney for a client; • A professional or citizen advocate from an organisation recognised by DHCS to be a provider of independent advocacy; and • Any person with a written mandate (<i>Release of Information</i>) to represent a client in the matter of complaint. A mandate is required before a person can represent a client in the matter of a complaint.
Business Unit (within DHCS)	The term indicates distinct areas of function and responsibility in DHCS. They include Disability ACT; Housing and Community Services; Office for Children Youth and Family Support; Therapy ACT; Multicultural and Aboriginal and Torres Strait Islander Affairs; Women, Ageing and Community; and Policy and Organisational Services
Carer	A person who supports and cares for children; young people or people with disability. This includes foster carers, relatives and kinship carers for children and young people as well as those other individuals and/or services or professionals that provide support.
Child	A person who is under 12 years old
Client	A person, including a person under the age of 18 years: <ul style="list-style-type: none"> for whom DHCS provides a service either directly or indirectly; whose request for such a service has been refused by DHCS; and whose need or possible need for a service, which DHCS has a power or a duty to provide, has come to DHCS' attention.
Complaint	A formal expression of dissatisfaction with DHCS policies, procedures, fees, employees, or quality of service provided. Complaints can be lodged with DHCS: verbally via telephone or in person; in writing (letter, email feedback on DHCS website); or on a <i>Client Feedback Form</i> .
Complainant	Any person who submits a complaint. A complainant may be a client, carer, significant other, advocate or any other person including departmental staff.
Complaint receipt date	The date that DHCS receives and/or confirms the complaint details not the date the Business Unit receives the complaint.
Consumer Advocacy and Quality Service	The Team within the Governance, Advocacy and Community Policy section of Policy and Organisational Services charged with undertaking DHCS' independent internal review function.
Database	The system that the Business Unit uses to record complaints.

Decision maker	The decision maker will make a decision based on the evidence provided. The Chief Executive is the final decision maker, however, when the complaint is investigated by the Business Unit (and is not determined to require a Level 2 or 3 response the decision maker can be a Director or Senior Manager of a specific Business Unit (see Feedback and Complaints Management Procedures).
Informed choice	The complainant had been advised of their rights under the complaints procedure before deciding on a response. They may be advised verbally by staff or given a copy of the relevant complaints leaflet. It is the duty of staff to inform complainants of their rights and the right of complainants to decide how a complaint should be responded to. This is not at the discretion of staff. If a complainant has not made an <i>informed choice</i> to waive their rights to a formal response then it should be assumed that they require a formal response.
Investigator	A DHCS employee with authority to gather relevant evidence in relation to a complaint and provide the evidence in an unbiased manner to the decision maker.
Investigating Officer	Staff who are authorized to conduct complaint investigations.
Judicial Review	Judicial review is not the re-hearing of the merits of a particular case. Rather, it is where a court reviews a decision to make sure that the decision-maker used the correct legal reasoning or followed the correct legal procedures.
Merits Review	Merits review is the process by which an external body can reconsider the facts, law and policy decisions of the original decision and determine what is the correct and preferable decision.
Policy	The Feedback and Complaints Management Policy
Procedures	The Feedback and Complaints Management Procedures
Public Interest Disclosure	The reporting of any corruption, fraud or maladministration in a government agency. It also includes the reporting of any potential maladministration that an officer or member of the public has reason to suspect.
Response	The formal response of DHCS to any complaint registered
Self Referral	Where a complainant requests a higher level of consideration, i.e. Level 2 to Level 3.
Staff	Persons employed by DHCS
Unreasonable complainant	<i>Unreasonableness</i> is determined by the complainant's conduct that goes beyond the norm of situational stress that many complainants experience. An unreasonable complainant is someone or a group of persons whom submit complaints in terms that are threatening, racist, sexist, rude; and/or employs inappropriate imagery within the context of the complaint and/or is a persistent or habitual complainant.
Young person	A person who is 12 years old or older, but not yet an adult. The Legislation Act 2001 defines an adult as an individual who is at least 18 years old.

APPENDIX B

LEGAL REQUIREMENTS

The *Policy* is consistent with the -

[Public Sector Management Act 1994](#)

[ACT Public Service Customer Service Standard Best Practice Complaints Handling Standards](#)

[A Good Practice Guide for Complaints Handling](#) (revised version available February 2008 - Commonwealth Ombudsman)

[ACT Integrity Policy](#)

[Unreasonable complainant conduct: interim practice manual](#) (Australian Parliamentary Ombudsman. August 2007)

The *Policy* should be read in conjunction with the following legislation:

DHCS Principal Legislation

[Children and Young People Act 2008](#)

[Disability Services Act 1998](#)

[Housing Assistance Act 1987](#)

[Adoption Act 1993](#)

[Residential Tenancies Act 1997](#)

[Territory Records Act 2002](#)

Other Relevant Legislation

[Health Records \(Privacy and Access\) Act 1997](#)

[Privacy Act 1988 \(Cth\)](#)

[Freedom of Information Act 1989](#)

[Auditor-General Act 1996](#)

[Public Interest Disclosure Act 1994](#)

[Financial Management Act 1996](#)

Legislation Relating to External Review

[Ombudsman Act 1989](#)

[Human Rights Act 2004](#)

[Human Rights Commission Act 2005](#)

[Human Rights Commission \(Children and Young People Commissioner\) Amendment Act 2005](#)

[Community and Health Services Complaints Act 1993](#)

[Administrative Appeals Tribunal Act 1989](#)

[Administrative Decisions \(Judicial Review\) Act 1989](#)

[Human Rights and Equal Opportunity Commission Act 1996 \(Cth\)](#)

[Age Discrimination Act 2004 \(Cth\)](#)

[Racial Discrimination Act 1975 \(Cth\)](#)

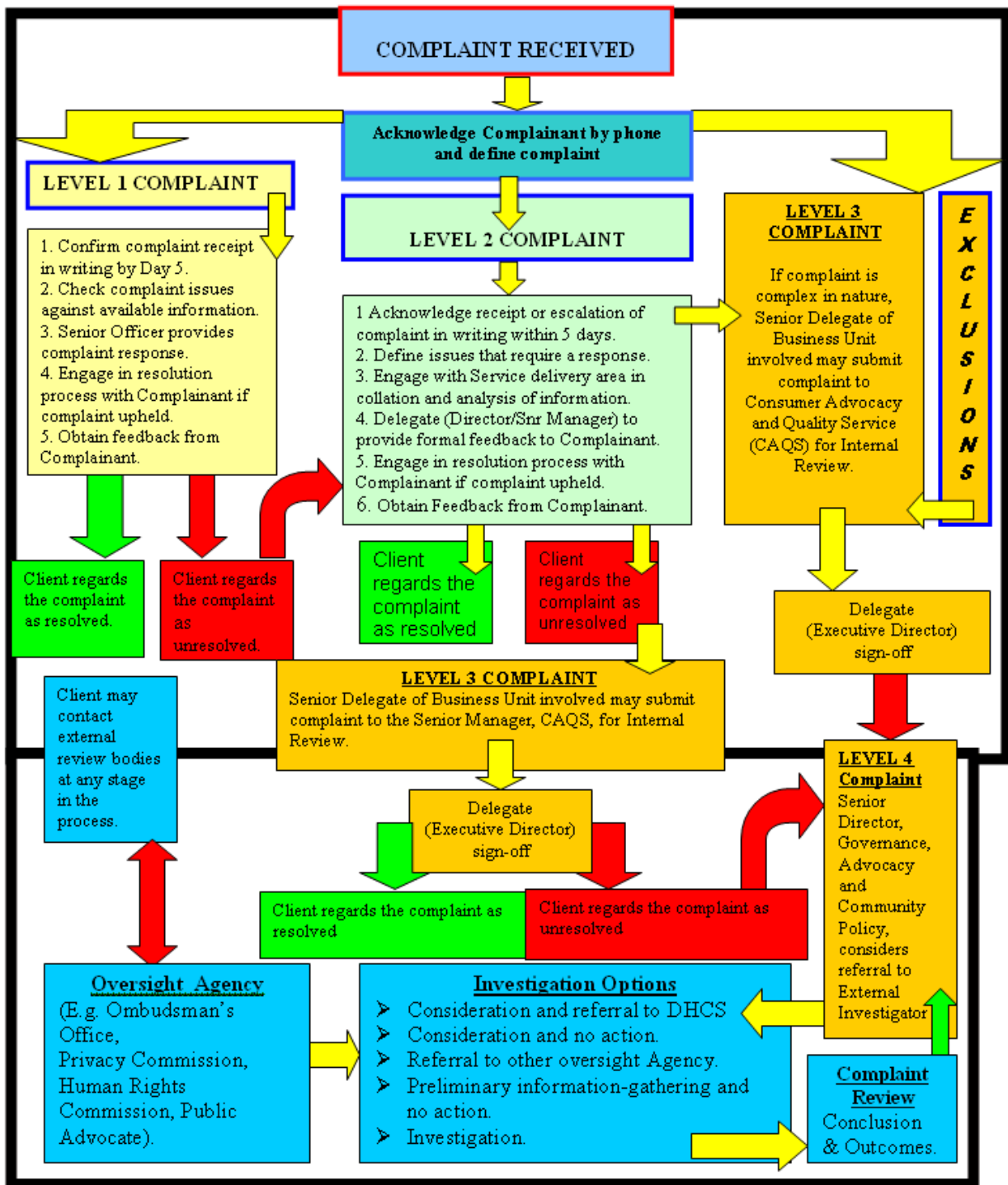
[Sex Discrimination Act 1984 \(Cth\)](#)

[Disability Discrimination Act 1992 \(Cth\)](#)

[Public Advocate Act 2005](#)

APPENDIX C

COMPLAINTS MANAGEMENT FLOWCHART



APPENDIX D

RIGHTS AND RESPONSIBILITIES FOR COMPLAINANT

In order for DHCS to ensure a high standard of service and to meet its occupational health and safety and duty of care obligations to its staff, the following rules will be observed by DHCS staff and complainants respectively.

YOUR RIGHTS

A person making a complaint can expect to:

- have complaints treated as genuine and properly investigated;
- be given appropriate and easily understood information regarding the complaints process; and
- participate in decisions relating to the resolution of their complaint.

YOUR RESPONSIBILITIES

You are expected to:

- clearly identify the issues of complaint, or ask for help from DHCS staff or another appropriate person, to do this;
- give DHCS all the available information in support of your complaint in an organized form at the time of making the complaint
- cooperate with DHCS' enquiries and investigations
- treat DHCS staff with courtesy and respect.
- inform the investigating officer of any changes to the nature of your complaint (another investigation may be commenced)
- inform the investigating officer if you no longer wish your complaint to be investigated.

DHCS' RESPONSIBILITIES TO YOU

DHCS will:

- deal with complaints professionally, efficiently and impartially;
- make the complainant aware of the progress towards the resolution of their complaint;
- provide clear reasons for decisions reached; and
- treat complainants with courtesy and respect.

