



# THE OFFICE OF THE LEGAL SERVICES COMMISSIONER

## Complaints about OLSC Service

### Policy

The following procedure *should be applied* when the complaint received within the office is about service offered by the OLSC during administrative functions and the conduct of OLSC staff.

It *IS NOT to be applied* when the complaint is about:

- A decision of the office in relation to a complaint
- Staff not dealing directly with the complainant
- A refusal to reopen or re-examine a complaint
- Any request to compel a third party to act, or refrain from acting in a particular way

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

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

### Key Principles

This policy is based on a set of ten key principles, which are outlined below. The principles also provide useful guidance to keep in mind, when handling any individual complaint.

## **We value complaints from clients**

Complaints help us to improve our services. Responding to a complaint is also an essential part of providing a quality service.

## **We make it easy for clients to make a complaint**

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

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

Complaints can be made via the counter, over the phone and in writing. All complaints should be recorded, however in cases where the complaint is made verbally, and involves concerns, which are beyond the control of the OLSC, no record needs to be kept.

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

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

## **We resolve complaints at the earliest opportunity**

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

The time standards for OLSC responses to formal complaints are:

- Complaints are acknowledged in writing within three business days of receipt
- Written responses are sent to the complainant within three calendar weeks of receipt. If this is not possible, an interim response is sent to the complainant within three calendar weeks and the complainant should be advised in writing of the reasons for the delay
- Notification of the outcome of the handling of the complaint should be communicated to the complainant by letter

The three tiered approach to handling complaints set out below has more information on how to resolve different levels of complaints.

## **We treat all complaints fairly and impartially**

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

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

## **We communicate effectively with complainants**

Effective communication with complainants throughout the process can help avoid complaints escalating further. Staff should acknowledge all complaints and keep complainants informed about the progress of their matters, particularly when delays occur. Upon accepting a complaint clarify with the client the outcome, which he or she is seeking, especially when that has not been clearly specified. Responses to formal complaints should always be in writing.

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

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

The following rules should be used to decide who deals with the complaint:

- If the complaint is about administration service or administration staff the complaint should be forwarded to the Administration Manager.
- If the complaint is about a service offered by Mediation and Investigation Officers (MIOs) the complaint should be forwarded to the Complaints Manager.
- If the complaint is about service offered by the Legal and Policy Service or about a member of its staff then the complaint should be forwarded to the Assistant Commissioner (Legal).
- If the complaint is about service offered by the Information Services & Systems Unit or about a member of its staff then the complaint should be forwarded to the Manager, Information Services & Systems.
- If the complaint is about service offered by the Practice Management Unit or about a member of its staff then the complaint should be forwarded to the Practice Review Officer.
- If the complaint is about a senior member of staff the complaint should be forwarded to the Legal Services Commissioner.
- If the appropriate senior officer is not available the complaint should be forwarded to another senior officer.
- Once senior management obtains this information a reasonable opportunity should be afforded the staff member being complained about, to resolve the complaint. If the complaint is not resolved it must be handled by the staff member's supervisor who will be advised of the nature of the complaint and

give the staff member an opportunity to put forward their version of events in response to the complaint. The staff member should be advised of the outcome of the complaint. It should be emphasised, however, that this process is independent of any performance review or disciplinary procedure. The process should be implemented without fear by complainant or staff member and staff who are the subject of a complaint should be supported.

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

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

It is the responsibility of senior management to keep an accurate record of all complaints. When the senior officer receives the complaint the complaint details and all relevant data and conversation should be captured. It is important to classify a complaint as soon as practicable after it is received. This is to ensure that the appropriate resolution to the complaint is identified early and so that data about the type and number of complaints received can be collected and analysed. It is recognised that often the complaint received will concern a number of issues or will not be a perfect fit for any one classification.

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

A key function of any complaints process is to help identify areas that need improvement. Careful analysis of complaint trends will assist decisions about planning and resourcing those improvements. It is the responsibility of the Manager, Information Services & Systems to collate and analyse all complaint information annually and on request of senior management.

We protect the privacy of complainants and, where requested, the confidentiality of a complaint. As well as our obligations under the Government Information (Public Access) Act 2009, we must respect requests from a client for a complaint to be handled confidentially or anonymously.

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

Ensuring overall consistency in our practices and compliance with Ombudsman standards demonstrates our commitment to quality service.

### **The three tiered approach to handling complaints**

Staff are to utilise a three-tiered approach to complaint handling for complaints about OLSC service. The tiered approach is designed to lead to fast and effective resolution of complaints at the earliest opportunity. The aim is to promote client satisfaction and ensure the most efficient use of the OLSC's limited resources.

### ***Tier 1 Resolution by frontline service staff***

It is essential that frontline service staff in the OLSC have the opportunity to resolve a complaint before it escalates further. This approach is most likely to:

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

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

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

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

### ***Tier 2 Internal review by the OLSC***

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

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

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

- Relevant aspects of the complaint, and the outcome sought by the client, have been understood by the OLSC and comprehensively addressed in the OLSC's response
- Any remedy offered by frontline staff remains appropriate to the circumstances
- Any other, alternative remedies are available that it may be appropriate to offer to the client
- The OLSC's handling of the complaint has been timely and effective

### ***Tier 3 Escalation outside the OLSC***

For a complaint about the Commissioner's decision, the complainant may request an internal review of the decision. Under the Legal Profession Uniform Law (NSW), the Commissioner has the absolute discretion of deciding whether to hold a review or not. The complainant may, if they wish, seek independent legal advice about whether she/he has an administrative law remedy, at their own expense.

If a complaint is about the OLSC's processes, the complainant may escalate the matter to the NSW Ombudsman. If the complainant has concerns of a more serious nature eg corruption, she/he can contact the Independent Commission Against Corruption.

The complainant has the right to escalate a complaint to such external agencies at any time.

In limited circumstances, it may be appropriate for the OLSC to escalate a complaint to an agency external to the Department such as the Independent Commission Against Corruption (ICAC) or NSW Ombudsman.

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