COMMUNITY SERVICES DIRECTORATE
COMPLAINTS HANDLING CHARTER

Transparency and Accountability

Document History

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APPROVALS

This document requires the following approvals:

_Endorsed by the Strategic Board of Management for the Community Services Directorate._

This document will be reviewed periodically, or as required by the Director of Quality, Complaints and Regulation on behalf of the _Director-General for the Community Services Directorate._
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Quality, Complaints and Regulation (QCR) Complaints Responsibility

QCR has the responsibility to ensure that service users seeking to make a complaint have an objective and impartial pathway and mechanism to voice their concerns. It also has the responsibility of drawing policy and practice lessons from targeted analysis of investigations and translating these lessons to specific business areas and the broader Community Services Directorate (CSD).

The Internal Complaints Review framework is a predetermined process for the investigation and resolution of complaints and it is the role of QCR to ensure this process is completed within prescribed timeframes. The framework describes how the findings and recommendations resulting from the review are to be reported to the Executive Director of the relevant Business Unit.

Purpose

This document, to be known as the CSD Complaints Handling Charter, is a formal statement of purpose, authority and responsibility with regard to the Complaints Handling function within CSD. The role of the CSD Complaints Handling Charter is to establish the appropriate actions to be undertaken to enable a review of an administrative decision, or to investigate a complex complaint in relation to CSD.

- **Charter** — Formal statement of purpose, authority and responsibility with regard to the Complaint Handling oversight functions of Quality, Complaints and Regulation.

- **Policy** — Comprehensive clarification of key concepts and principles relating to the complaints management system of the Community Services Directorate.

- **Procedures** — Step by step explanation of operational complaint handling processes across the Community Services Directorate.

- **Supporting Documents** — Includes links to legislation, templates, checklists and other customised information specific to Business Units to ensure consistency of practice.

- **CSD Training** — Supports a culture of excellence and ensures staff are aware of their complaint handling responsibilities and practices.
Benefits of the Charter

The CSD Complaints Handling Charter is a framework which helps the Directorate to deliver a robust approach to managing and resolving customer complaints. The Complaints Handling Charter will define a clear purpose and authority for the handling of complaints and will clearly delineate responsibility for Complaints Handling oversight. The underlying purpose of this Charter is to ensure quality service delivery and improvement in the services we provide to the community.

The benefits for CSD are:

- clear performance expectations of staff are set;
- the role and responsibilities of all staff are defined;
- the implementation of best practice service delivery;
- a quality culture, and continuous improvement activities are encouraged; and
- a systematic, disciplined approach to the evaluation and improvement to the efficiency and effectiveness of complaints handling.

The benefits for service users are:

- an assurance of best practice in relation to engaging with services;
- an impartial avenue to have concerns heard; and
- an opportunity to improve CSD policy and practice.

Oversight Authority for Quality, Complaints and Regulation (QCR)

CSD seeks to ensure that all business operations are conducted in accordance with the ACT legislative framework.

To assist in this endeavour, business practices, procedures, and controls must be systematically reviewed. This generates evidence that can be provided to CSD leadership to indicate performance targets against business requirements are being met. For this purpose, all QCR staff are authorised to have full, free and unrestricted access to all functions, databases, records, information, files, and other documentation deemed necessary to fulfil their investigative requirements.

Investigations undertaken in relation to service user complaints must remain impartial and independent. It is therefore mandatory that the investigation is not compromised or unduly impeded by other staff or business areas, including the Executive of CSD. To facilitate this approach QCR will operate independently and be responsible directly to the Deputy Director-General.

Standards, Legislation and Guidelines

QCR investigations and reviews must be conducted in a manner that demonstrates best practice. This requires compliance with standards for the conduct of inquiries and investigations for ACT Agencies and the following:

Legislation underpinning the application of this policy, which includes but is not limited to:

- ACT Aboriginal and Torres Strait Islander Elected Body Act 2008
- ACT Civil and Administrative Tribunal Act 2008
- Adoption Act 1993
- Annual Reports (Government Agencies) Act 2005
- Crimes (Sentence Administration) Act 2005
- Freedom of Information Act 2016
- Health Records (Privacy and Access) Act 1997
- Human Rights Act 2004
- Human Rights Commission Act 2005
• Human Rights Commission (Children & Young People Commissioner) Amendment Act 2005 (ACT)
• Information Privacy Act 2014
• Official Visitor Act 2012
• Ombudsman Act 1989
• Public Advocate Act 2005
• Public Interest Disclosure Act 2012 (ACT)
• Public Sector Management Act 1994

Operational legislation, which includes but is not limited to:
• Children and Young People Act 2008
• Disability Services Act 1991
• Health Professionals Act 2004
• Housing Assistance Act 2007
• Residential Tenancies Act 1997
• Territory Records Act 2002
• Work Health and Safety Act 2011
• Working with Vulnerable People (Background Checking) Act 2011

Other relevant references:
• Community Housing Providers National Law (ACT) – Act 2013
• United Nations Convention on the Rights of Indigenous Peoples
• United Nations Convention on the Rights of Persons With Disabilities
• United Nations Convention on the Rights of the Child

**Functions of Quality, Complaints and Regulation**

**Planning**

Each investigation will be notified by a brief prepared with an associated Terms of Reference and presented to the Executive Director of the branch related to the investigation.

The particular activities to be investigated will be identified by QCR in consultation with the complainant.

**Public Interest Disclosure**

The *Public Interest Disclosure Act 2012* applies in respect of disclosures/complaints which suggest serious or systemic concerns that may bring harm directly or indirectly to the general public, now, or in the future. Where such complaints are considered to be more serious than just a technical breach of policy or procedures, and to involve action or inaction that has a significant or widespread negative impact, they may be accepted as public interest disclosures and dealt with under the provisions of the *Public Interest Disclosure Act 2012* and *Public Interest Disclosure Guidelines 2017* (Notifiable Instrument NI2017-290) rather than this Charter.

Public interest disclosures may be about matters relating to corrupt conduct, e.g. accepting money or other benefits in exchange for helping someone to avoid prosecution, win a contract or gain Government approval; fraud or theft, e.g. falsifying documents or information, or stealing an employer’s property or funds; official misconduct or maladministration, e.g. gaining personal benefit by not revealing a conflict of interest; harassment, intimidation or discrimination, e.g. assaulting a person during the course of carrying out their work functions, duties or responsibilities; or practices endangering the health or safety of staff, the community or the environment.
If a complaint is at a level that may potentially be considered a public interest disclosure, it should be referred to a Designated Disclosure Officer who will determine if it should be accepted as a public interest disclosure or dealt with under alternate provisions. The Designated Disclosure Officers for CSD are:

- Deputy Director General
- Senior Director, Corporate Services
- Director, People Management
- CSD Executive holding the position as a Senior Executive Responsible for Business Integrity Risk (SERBIR)

Reportable Conduct Scheme

The Reportable Conduct Scheme is **allegation based**. Employers (designated entities) covered by the Scheme must report allegations, offences or convictions relating to child-related misconduct by an employee to the Ombudsman. It does not matter whether or not the employee engaged in the conduct in the course of employment or whether a child consents to the conduct. The Reportable Conduct Scheme **does not interfere with reporting obligations** to ACT Policing or Child and Youth Protection Service (CYPS) or any other relevant professional bodies. If employers suspect criminal conduct has occurred, they should report to the police in the first instance.

Reportable Conduct Contact Officers have been appointed for the Directorate and if a complaint is considered a potential breach under the Reportable Conduct Scheme, it will be referred to CSDs People Management (HR) and a report will be made to the ACT Ombudsman.

**Fraud and Corruption**

Where fraud or corruption is suspected, CSD will investigate and respond to the allegations, and if proven, will respond with actions to restore any losses and integrity. Finally, CSD will implement procedures to further minimise the likelihood of a fraud occurring again.

If a complaint is a matter related to potential fraudulent activity, the CSD Executive holding the SERBIR position will be notified and kept informed throughout the course of the investigation in accordance with the CSD **Fraud and Corruption Control Framework**.

**Methodology**

Complaints investigations will generally include:

- Planning, including the establishment of the complaint scope, objectives and criteria;
- Developing a Terms of Reference;
- Thorough examination and evaluation of information (databases, client files, policies, procedures and legislation);
- Communication with all stakeholders;
- Production of a Findings and Recommendations Report; and
- Follow-up on implementation of recommendations.

**Reporting**

The Director, Quality Complaints and Regulation shall submit a quarterly report summarising all complaint investigation trends and outcome activities undertaken during the period. The data will include:

- The number of investigations or review engagements completed or in progress during the reporting period;
- Outcomes of each engagement undertaken; and
- Recommendations implemented or in progress.
The Director, Quality, Complaints and Regulation will make available all internal investigation reports to the Community Service Directorates Director-General.

**Staff Competencies**

Personnel engaged in complaint investigations should possess the necessary experience, knowledge, skills and disciplines to enable the complaint investigation objectives to be achieved. Some examples include:

- appropriate qualifications and experience in disciplines appropriate for the particular review; engagement in a program of continuing professional development to remain abreast of current developments in the field;
- skills in communicating with people, understanding human relations, maintaining appropriate relationships, and engagement of clients; and
- skills in oral and written communications to clearly and effectively convey such matters as engagement objectives, evaluations, conclusions and recommendations.

**Conflict of Interest**

QCR staff investigating complaints shall not participate in the investigation of any matter in which they have had direct involvement over the preceding 12 month period. Where previous involvement exists, and the time period since involvement is greater than 12 months, the extent to which the staff member may be involved shall be determined by the Director Quality, Complaints and Regulation on a case-by-case basis.

Instances of potential, or perceived, or actual conflicts of interest by QCR staff are to be immediately reported to the Director, Quality, Complaints and Regulation and an agreed management strategy be recorded.

**Procedural Fairness**

The law of natural justice, also referred to as ‘duty to act fairly’, applies to any decision affecting the rights, interests or expectations of an individual in a direct or immediate way. The right to a fair hearing requires that individuals should not be penalised by decisions affecting their rights or legitimate expectations unless they have been given prior notice of the case, a fair opportunity to answer it, and the opportunity to present their own case.

Where a complaint makes reference to the administrative decision of a staff member, further consideration will be given to what avenues of support will be made available to minimise undue distress. This may include but is not limited to:

- the Employee Assistance Program (EAP);
- the Respect, Equity and Diversity (RED) contact officer network.

**Amendment of the Charter**

Any changes to this Complaints Handling Charter shall be endorsed by the Director, Quality Complaints and Regulation and approved by the CSD Director-General.

**APPROVED BY:**

Strategic Board of Management

Community Services Directorate

7 March 2018