



Policy on complaints about the Commissioner's office

March 2017

1. Purpose

Commitment to the safety of children and young people:

Children and young people are entitled to live in a caring and nurturing environment and to be protected from harm and exploitation. Children and young people should be safe, feel safe and be respected wherever they are. The Commissioner for Children and Young People prioritises the safety and wellbeing of children and young people in all work of the office and in our work with other organisations.

Policy intent:

This policy details the way CCYP will handle complaints about its own staff and services.

2. Definitions

The Australian/New Zealand Standard defines a 'complaint' as any:

expression of dissatisfaction made to or about an organization, related to its products, services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required.¹

There are many different types of complaints and they can be expressed in many different ways. This policy details how the following types of complaints will be handled:

- i) complaints about CCYP policies, staff or procedures;
- ii) complaints or allegations about a breach of legislation, policy, procedure or contract that may be serious enough to warrant criminal investigation;
- iii) complaints or allegations about misconduct of a CCYP staff member; and
- iv) allegations under Public Interest Disclosure (PID) Registration.

¹ Australian/New Zealand Standard, *Guidelines for complaints management in organizations (AS/NZS 10002:2014)*, SAI Global 2014, p 6.



3. Relevant Legislation/Policy and Guiding Principles

This policy has been informed by the Australian/New Zealand Standard for complaint management², the NSW Ombudsman³, the WA Ombudsman⁴, the WA Corruption and Crime Commission (CCC)⁵, and the Public Sector Commission (PSC)⁶.

It has also been developed with advice from the children and young people who have participated in CCYP's consultations on making complaints processes child-friendly (RM 08/4240) and on child safe organisations (RM 15/5140), and in line with the Commissioner's guidelines *Are you Listening?* (RM 13/4495) and *Child Safe Organisations WA: Guidelines* (RM 16/3871). The Commissioner's *Child Safe Organisations WA: Guidelines* include Child Friendly Complaints Process and Reporting as one of the nine domains of Child Safe Organisations. The Royal Commission into Institutional Responses to Child Sexual Abuse confirmed ten elements of Creating Child Safe Institutions in July 2016 including (6.) Processes to respond to complaints of child sexual abuse are child focused.⁷

The Office has developed information for children and young people to enhance their confidence in making complaints to any organisation with input from children and young people (RM 16/6673 and 16/6674).

The Commissioner is committed to ensuring the continual improvement of the work of the office and the processes to support this and has endorsed these guiding principles based on the Australian/New Zealand Standard AS/NZA ISO 10002—2014, *Guidelines for complaint management in organisations*.⁸ All staff should be mindful of these guiding principles when handling complaints.

A CCYP service charter has been developed using these principles which is available at RM 15/10781.

² The current Public Sector Commissioner's Circular 2009-27 instructs agencies to conform to Australian Standard AS ISO 10002-2006: *Customer satisfaction – Guidelines for complaints handling in organizations (ISO 10002:2004, MOD)* which has since been updated as in 1.

³ New South Wales Ombudsman 2004, *Public Sector Agencies fact sheet No 8: Handling Complaints*, NSW Ombudsman

⁴ Ombudsman Western Australia 2006, *Report by the Ombudsman on Complaints Management Processes in the Department of Education and Training*, Ombudsman Western Australia

⁵ Western Australian Corruption and Crime Commission 2007, *Misconduct Handling Procedures in the Western Australian Public Sector: Department for Community Development*, WA CCC

⁶ www.psc.wa.gov.au

⁷ Royal Commission into Institutional Responses to Child Sexual Abuse *Creating Child Safe Institutions* July 2016 <http://childabuseroyalcommission.gov.au/getattachment/5d0dc659-68c2-46f9-847b-fafd52f58673/Creating-child-safe-institutions>

⁸ Australian/New Zealand Standard, *Guidelines for complaints management in organizations (AS/NZS 10002:2014)*, SAI Global 2014, p 6



The principles of the policy are:

- **Agency Commitment** – the Office is committed to the appropriate resolution of complaints using a customer-focused approach. Staff will provide professional responses to complaints and suggestions and ensure they are dealt with fairly and consistently. [Feedback](#) is welcome and encouraged and all complaints are taken seriously.
- **Child/Young Person Friendly** – the Office takes particular care to ensure that its complaints processes are accessible and responsive to children and young people. There are special provisions in place for children and young people whereby an adult can make a complaint on their behalf. Alternatively, children and young people can make a complaint face-to-face by coming in to the Office and be accompanied by an adult of their choice. Information and Tips for making complaints to any organisation are available on the CCYP [website](#).
- **Visibility** – complaints systems are open and available particularly for children and young people. Information about how and where to [complain](#) are publicised in accessible and appropriate formats, online and in print. A [flowchart](#) that has been specially designed for children and young people outlining what will happen to their complaint is available.
- **Accessibility** – the complaints process is easily [accessible](#) and easy to use. The Office will accept complaints that are made via the Commissioner’s website, fax, phone, letter, email and in person. There are also special arrangements for those with particular access needs.
- **Responsiveness** – Complaints will be acknowledged within three working days and addressed promptly wherever possible. Staff will deal with all people making a complaint in a respectful and courteous manner.
- **Objectivity** – All complaints will be taken seriously and considered fairly. If the complaint is about the Commissioner or one of his staff then another person who was not involved in the issue will be asked to investigate the complaint. Should the person making the complaint not be satisfied with the result, they will be provided with information on how to contact the [Ombudsman’s](#) office.
- **Confidentiality** – Only people who have to know will be given information about a complaint and complainants will be kept informed of who this involves. Personally identifiable information will be available only where needed to investigate the complaint, and will be actively protected from disclosure (unless the complainant expressly consents).
- **Remedy** – Complaints will be resolved as quickly as possible, and outcomes tailored to the underlying cause of the complaint wherever possible. The complainant will be



informed of actions taken, outcomes, reasons for decisions and any resolution to be offered.⁹

- **Accountability** – All complaints and outcomes are written down and reported to the Commissioner and Corporate Executive on a quarterly basis. The Commissioner is informed as soon as possible about any complaint that includes concerns about a child or young person's welfare.
- **Continual Improvement** – As a part of investigating every complaint we will look at what we can do to improve the way we work to stop the same or similar problems from happening again. We will also look at our complaints policies on a regular basis to ensure that it is working well. We will report to children and young people on what we do to improve our services through our website.

4. Process

Different complaints will require different resolutions – some may lead to review of or changes to CCYP policies, others may require negotiation, investigation or disciplinary action, and others may be found after investigation to be minor or unfounded. Remedies to the complainant will also be different depending on the circumstances, and may include:

- an apology;
- information;
- referral;
- technical assistance;
- indication of changes in products, process, policy or procedure arising from complaint; and/or
- other assistance.

CCYP commits to treating each individual complaint on its own merits and endeavours to ensure complete and satisfactory resolution whenever possible.

CCYP will offer the person making the complaint the opportunity to come into the office and discuss their issue face-to-face if they wish to do so. All people making complaints will be advised that they are welcome to be represented or accompanied by an advocate or support person if they prefer.

People making complaints will be offered the opportunity to choose whether and how they would like CCYP to inform them of the progress of any investigation into their complaint.

The complaints flow chart (RM 13/8977) outlines how the Commissioner manages complaints, the associated timeframes and the level of response that can be expected by people making complaints.

⁹ Australian/New Zealand Standard, *Guidelines for complaints management in organizations (AS/NZS 10002:2014)*, SAI Global 2014, p 15 (8.7.4) and Appendix J.



CCYP's process for receiving and responding to complaints about CCYP and incorporates the recommended components of an effective complaints handling process:

- Arrangements for enabling people to make complaints are customer focused, visible, accessible and valued and supported by management;
- Complaints are responded to promptly and handled objectively, fairly and confidentially. Remedies are provided where complaints are upheld and there is a system for review; and
- There are clear accountabilities for complaint handling and complaints are used to stimulate organisational improvements.¹⁰

If at any stage in this process the person withdraws their complaint, verbally or in writing, and/or feels satisfied enough not to pursue it further, staff may consider the matter closed. The Director Research and Policy will still be made aware of all complaints and their outcomes and will ensure appropriate storage of any record. Withdrawal of a complaint should be acknowledged in writing by CCYP in all cases.

Whenever possible, CCYP will endeavour to resolve a complaint within 15 working days. However, if for any reason the complaint cannot be resolved within the set timeframes, the person making the complaint and, if applicable, their advocate will be contacted by telephone and letter explaining the status of their complaint and the measures being taken to address it. Unless the person has requested a different approach, these update letters will be sent every 25 working days until the matter is resolved.

5. Reporting

To maintain and improve the quality of services provided by CCYP, all feedback received will be used to identify business improvement strategies. All complaints will be logged using the Complaints Form (RM 13/7783) and stored confidentially by the Director Policy and Research. A report on all complaints received will be included in the quarterly complaints report to be considered by Corporate Executive.

¹⁰ Ombudsman Western Australia 2016 *Guidelines on Complaint Handling*



6. Process outline – Complaints about CCYP staff or services

Allocation

- a) All complaints received by email or letter will be processed as standard correspondence and allocated for action to the relevant officer. Where required the relevant officer should contact the person making the complaint within 3 working days to clarify any issues.
- b) Complaints by telephone or in person should be referred initially to a Principal Policy Officer. If no Principal Policy Officer is available, urgent matters should be expedited to the Director Policy and Research, for other matters a message should be taken and referred to the Principal Policy Officer for action within 3 working days.
- c) Complaints involving the Commissioner or a staff member will be referred to the Director Policy and Research for allocation to someone who was not involved in the issue for investigation.

Responding – Role of the allocated investigating officer:

Stage One

1. Explain the parameters of confidentiality to the complainant and your role. Provide a copy of the [Complaints process flowchart](#).
2. Use active listening skills to hear the complaint of the individual and any particular outcome the person would like to see to resolve their complaint.
3. Document the nature of the complaint and any other relevant material and check details with the complainant to ensure accuracy.
4. Where any immediate threat to a child or any person's safety is of concern the person should be advised to contact emergency services as appropriate.
5. If the complaint is about another agency see Complaints Policy – Other Organisations (RM 08/3900).
6. If the complaint can be effectively resolved at this stage, for example by the provision of information or an explanation, the details of the complaint should be recorded on the Complaints Form (RM 13/7783) and sent to the Director Policy and Research.

Stage Two: If the matter requires further investigation:

1. Ask the person making the complaint how they would like to be kept informed of the progress.
2. Examine issues presented and, in consultation with the Director Policy and Research establish appropriate measures to investigate/remedy matter.
3. Brief the Commissioner and seek formal approval of proposed remedy.



4. Keep the person who has made the complaint informed of progress as they requested.
5. Within 15 days of receipt, the person should be advised in writing of the outcome of their complaint detailing any action taken to resolve the matter. The person should be advised that if they are unhappy with the outcome they may take the matter to the WA Ombudsman. A brochure on the WA Ombudsman should be included in the letter.
6. The details of the complaint should be recorded on the Internal Complaints form (RM 13/7783) and sent to the Director Policy and Research.
7. Dealing with abusive or threatening behaviour:
 - Abusive or threatening calls should be terminated after one warning to stop the abusive or threatening behaviour and this should be noted in the complaints record.
 - Abusive or threatening people attending in person should be asked to leave, if they refuse and the abuse continues the WA Police should be called.
 - Staff should debrief after these situations with their line manager.

Special note

For matters relating to misconduct of a public officer or a public interest disclosure see Appendix A.



7. References/Supporting Documentation

Australian/New Zealand Standard, *Guidelines for complaints management in organizations (AS/NZS 10002:2014)*, SAI Global 2014 (see RM 16/8214).

Australian Standard *Customer satisfaction—Guidelines for complaints handling in organizations* (R 110)

Commissioner for Children and Young People WA *The Art of Complaining* – Report of CCYP’s consultation with children and young people about what makes a complaints process child-friendly (RM 08/5481).

Commissioner for Children and Young People WA *Are you listening?* – CCYP guidelines for making complaints processes accessible and responsive to children and young people (RM 10/1279).

Commissioner for Children and Young People WA *Child Safe Organisations WA: Guidelines* (RM 16/3871)

Commissioner for Children and Young People WA *Service Charter* tells the public the standard of service they can expect from CCYP, including when making a complaint or providing feedback (RM 15/10781).

Commissioner for Children and Young People WA *Resource Guide of WA Services and Programs* – information to assist staff in referring complaints and enquirers to relevant agencies (RM 08/1997).

Commissioner for Children and Young People WA *Roles and Responsibilities of Complaint Handling Agencies in WA* – a CCYP guide (RM 09/14440).

Commonwealth Ombudsman *Better Practice Guide to Complaint Handling* – (RM 10/892).

New South Wales Ombudsman, *Public Sector Agencies fact sheet No 8: Handling Complaints*, March 2004 (RM 08/834)

New South Wales Ombudsman *Guidelines for Dealing with Youth Complaints* - (2008) This publication provides useful, practical advice about how to engage with children and young people when they are lodging a complaint. It gives guidance about managing expectations, and the best ways to communicate with children and young people throughout the process (RM 08/5941).

Ombudsman WA *Guidelines on Complaint Handling* March 2016 (RM 16/8230)

Ombudsman WA *Managing Unreasonable Complainant Conduct Practice Manual* - (see TRIM 10/872).

Ombudsman WA *Dealing with Unreasonable Complainants* – WA Ombudsman (RM 08/5943)

Public Interest Disclosure Act 2003 1 July 2003. (RM 16/10519).



Public Sector Commissioner's Circular *Complaints Management* – to promote effective complaints management across the sector (RM 09/4747).

Public Sector Commissioner and Corruption and Crime Commission - *Notification of misconduct in Western Australia*, 1 July 2015 (RM 16/10518)

<https://publicsector.wa.gov.au/conduct-integrity/minor-misconduct/reporting-minor-misconduct-psc>

Royal Commission into Institutional Responses to Child Sexual Abuse

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<http://childabuseroyalcommission.gov.au/getattachment/5d0dc659-68c2-46f9-847b-fafd52f58673/Creating-child-safe-institutions>

Western Australian Corruption and Crime Commission *Misconduct Handling Procedures in the Western Australian Public Sector: Department for Community Development*, 2007 (RM 08/5903)



Appendix A – Handling complaints about misconduct and PID allegations

Misconduct

As employees under the *Public Sector Management Act 1994*, CCYP staff are defined as “Public Officers” under the *Corruption, Crime and Misconduct Act 2003* (CCM Act). As such, the Commissioner is required to notify the CCC if he or she reasonably suspects that misconduct may have occurred.

From 1 July 2015, changes to the CCM Act became effective with the Corruption and Crime Commission (CCC) and Public Sector Commission (PSC) working in partnership to ensure that misconduct in public authorities is managed more effectively and efficiently. The legislation now separates serious and minor misconduct and provides different, but complementary, roles for the CCC and for the PSC.

In practice, this means the Commissioner has to make an informed decision about whether a matter should be considered as misconduct under the CCM Act and, where a matter does meet that threshold, whether it should be treated as **serious** and reported to the CCC or as **minor** and reported to the PSC.

The full PSC and CCC joint information resource - *Notification of misconduct in Western Australia*, 1 July 2015 is available at <https://publicsector.wa.gov.au/conduct-integrity/minor-misconduct/reporting-minor-misconduct-psc> and in RM 16/10518.

This resource describes the two categories of misconduct:

Serious misconduct occurs when a public officer:

- acts corruptly or corruptly fails to act in the course of their duties; OR
- corruptly takes advantage of their position for the benefit or detriment of any person; OR
- commits an offence which carries a penalty of two or more years imprisonment.

Minor misconduct occurs if a public officer engages in conduct that:

- adversely affects the honest or impartial performance of the functions of a public authority or public officer, whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct;
- involves the performance of functions in a manner that is not honest or impartial;
- involves a breach of the trust placed in the public officer; or
- involves the misuse of information or material that is in connection with their functions as a public officer, whether the misuse is for the benefit of the public officer or the benefit or detriment of another person;

and



- constitutes, or could constitute, a disciplinary offence providing reasonable grounds for termination of a person's office or employment.

The Commissioner is required to make a notification as soon as practicable after forming a reasonable suspicion of misconduct. Establishing a 'reasonable suspicion' may involve some local preliminary enquiries being made to make an appropriate notification decision. Where a matter includes both serious and minor allegations that are directly related or cannot be separated the Commissioner must notify the CCC.

When the PSC or the CCC have been notified of alleged misconduct, the Commissioner's obligation to notify will have been met.

Staff who become aware of any action that may be considered as misconduct should initially discuss this with the Commissioner, their line manager or Director Policy and Research. Any such discussion will be treated in the strictest confidence.

Notification

The specific information required by CCC or PSC in a notification, is detailed in their respective online forms and guidelines.

Generally, the Commissioner is to include the following information in the notification

- How and when the principal officer became aware of the matter, name and contact details of the notifier
- Relevant details including the names, positions and contact details of the public officer/s who may be involved or who are aware of the matter
- A brief description of the alleged or suspected events and any dates, times and places in which the events occurred
- The approximate values of goods or amounts of money that maybe involved
- Any detriment, risk or danger to any persons or the public
- A brief analysis of why the events in question may be serious or minor misconduct
- Any evidence that supports the suspicion, including the details of witnesses, any documents, emails and other materials
- What action has been taken to date, and what further action is proposed

Public Interest Disclosure (PID)

The *Public Interest Disclosure Act 2003* (the PID Act) came into effect on 1 July 2003. It was last updated in December 2014 in line with changes to the CCC Act (RM 16/10519). The PID Act facilitates the disclosure of public interest information by providing protection for those who make disclosures and those who are the subject of disclosure.



Public Interest Information means information that tends to show that, in relation to its performance of a public function (either before or after the commencement of this Act), a public authority, a public officer, or a public sector contractor, is, has been, or proposes to be, involved in–

- (a) improper conduct;
- (b) an act or omission that constitutes an offence under a written law;
- (c) a substantial unauthorised or irregular use of, or substantial mismanagement of, public resources;
- (d) an act done or omission that involves a substantial and specific risk of –
 - i. injury to public health;
 - ii. prejudice to public safety; or
 - iii. harm to the environment; or
- (e) a matter of administration that can be investigated under section 14 of the *Parliamentary Commissioner Act 1971*.

Any person (including members of the public) can make a disclosure, however the information must be specific to one of the following areas:

- Improper conduct;
- An offence under State law, including corruption;
- Administration matters;
- Irregular or unauthorised use of public resources;
- Substantial unauthorised or irregular use of, or substantial mismanagement, of public resources; or
- Conduct involving a substantial and specific risk of injury to public health, prejudice to public safety or harm to the environment.

CCYP is committed to the aims and objectives of the PID Act. The Public Interest Disclosure Officer of the CCYP is the Director Policy and Research, who is therefore responsible for receiving disclosure of public interest information relating to matters falling within the sphere of responsibility of the CCYP.

Where a staff member is unsure whether the matter relates to CCC or PID legislation, it should be raised with the Commissioner, the line manager or the Director Policy and Research.