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### Complaint Handling Overview

The Office of the Commonwealth Director of Public Prosecutions (CDPP) contributes to a fair, safe and just society by delivering an effective, independent prosecution service in accordance with the *Prosecution Policy of the Commonwealth*.

In performing this role, the CDPP values all feedback and uses what it learns to improve its processes and practices.

The CDPP’s Legal Business Improvement area (LBI) is responsible for coordinating the complaint handling process, with ultimate responsibility for co-ordination resting with the Assistant Director, LBI.

### Complaints

Complaints from members of the public, including witnesses, victims, defendants and others may be made to the CDPP via our [Feedback and Complaints e-form](#) or via email: [feedbackandcomplaints@cdpp.gov.au](mailto:feedbackandcomplaints@cdpp.gov.au)

A complaint may relate to a particular matter, such as a decision not to proceed with a prosecution<sup>1</sup>, a sentence handed down or a decision not to appeal. It may also relate to the conduct of CDPP staff, including prosecutors, witness assistance service officers, administrative staff or members of the Bar briefed by the CDPP in a particular case.

The CDPP encourages complainants to provide as much specific detail about the matter as they can, including:

- details of the decision/case/issue/incident, including a CDPP file number (if known)
- details of what the complaint is about
- details of who was involved
- details of the outcome or action the complainant is seeking to resolve their complaint.

<sup>1</sup> The complaints mechanism is a separate mechanism from, and subsequent in time to, the process available to some victims in relation to the internal review of certain decisions in the prosecution process.

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All complaints received will be considered:

- confidentially
- quickly
- impartially
- as informally as possible.

When a complaint is received, an acknowledgment is sent to the complainant within two business days, setting out, in plain English:

- an acknowledgment of receipt
- advise that the complaint has been referred to a particular person, e.g. Practice Group Leader (PGL)
- a timeline within which the complaint is likely to be dealt with.

**Feedback** can also be provided to the CDPP in the ways outlined above. The CDPP notes that such feedback can be positive and relate to the way a CDPP staff member, a barrister briefed by the CDPP or the CDPP as a whole has dealt with a matter, or, it may, without constituting a complaint, highlight procedural or related issues encountered by the person providing feedback from which the CDPP can learn.

Any feedback provided to the CDPP will also be acknowledged within two business days.

### **Sensitive or Significant Complaints**

Complaints from members of the public, including complaints about the conduct of prosecutions that, in the view of the relevant Practice Group Leader, are particularly sensitive or significant, or where they relate to a sensitive or significant matter, will be referred to the Commonwealth Solicitor for Public Prosecutions (CSPP) for consideration. To assist the CSPP in considering the matter, a report will be provided by the PGL to the CSPP setting out:

- the background of the matter, including all communications received from the complainant
- the issues raised in the complaint
- any recommendations made by the PGL .

### **Complaints that Involve Consideration of Paying Compensation for Defective Administration, Making an Ex Gratia or Act of Grace Payment**

#### **Ex Gratia or Act of Grace Payment**

Complaints that involve consideration of making a payment to the complainant, such as an ex gratia payment or an act of grace payment, will be referred to the Chief Financial Officer and may, subsequently, be submitted to the Secretary, Department of Finance for consideration.

#### **Compensation for Detriment Caused by Defective Administration (CDDA)**

Complaints that involve consideration of making a payment for defective administration will also be referred to the Chief Financial Officer and may, subsequently, be submitted to the Attorney-General for consideration.

## Guidance

**Steps in the Complaint Process for Complaints Received from Members of the Public****1. Background**

The Commonwealth Ombudsman's [Better Practice Guide to Complaint Handling](#) describes five elements of effective complaint handling:

- Culture - Agencies must value complaints as a means of strengthening their administration and improving their relations with the public.
- Principles - An effective complaint handling system must be modelled on the principles of fairness, accessibility, responsiveness, efficiency and integration.
- People - Complaint handling staff must be skilled and professional.
- Process - The seven stages of complaint handling – acknowledgment, assessment, planning, investigation, response, review, and consideration of systemic issues – should be clearly outlined.
- Analysis - Information about complaints should be examined as part of a continuous process of organisational review and improvement.

These guidelines provide useful guidance and should be referred to when considering complaints.

The following steps are intended as a guide. There may be some complaints that require additional steps or do not require all the steps listed below.

**2. Acknowledgment**

A letter or reply email acknowledging receipt of the request should be sent by LBI within 2 clear business days of the complaint being received.

**3. Assessment**

This step involves considering the possible responses to the complaint. This may require clarifying the outcome the complainant is seeking. Some complaints may need to be given priority, especially if there are time limits on some of the possible outcomes.

The case officer (i.e. the person handling the complaint) should also ensure the complaint has been made to the appropriate agency. If the complaint is more properly dealt with by another agency, the case officer should inform the complainant and refer them to the appropriate agency.

The complaint should be thoroughly investigated, as determined by the relevant PGL. The level of investigation required will depend on the nature of the complaint. A file should be created which contains all relevant documentation relating to the complaint.

The PGL should give consideration to whether the complaint should be dealt with by the PGL or by the CSPP or, in some cases, whether the complaint needs to go to the Director for a decision. If it does, a minute highlighting the issues for the Director's attention should be prepared.

**4. Response**

The response provided to the complainant should be in writing, setting out the complaint and the response. This will include reasons for the action taken by the CDPP.

**5. Reflection on CDPP policies or practices**

If the complaint identifies a systemic issue where consideration of changes to national practice or policy is needed, a report will be prepared by LBI for the Executive Leadership Group's (ELG) consideration. If, as a result of considering the issues raised, the ELG is of the view that changes to the Office's practice or policies is required, consultation should occur with LBI.

In addition, LBI will conduct an annual review of complaints with a view to identifying possible systemic or recurrent issues and problems that require further investigation and possible action by the CDPP on a 'whole

of agency' basis in an endeavour to improve its efficiency and effectiveness. Having conducted an annual review LBI will submit a report of its findings to ELG each June.

#### 6. Confidentiality of Complaints

Regard should be had to the sensitivity of the complaint. Consideration of the material and allegations made will determine the level of confidentiality required. Complaints dealing with allegations against staff of the CDPP, particularly in a personal capacity, should be handled with care to ensure the privacy of the individual is respected.

#### 7. Publication of Complaints Data

After the end of each financial year, LBI will arrange for the CDPP to publish anonymised data regarding complaints on its website relating to the previous year.

#### 8. Complaints that Involve Consideration of Paying Compensation for Defective Administration, Making an Ex Gratia or Act of Grace Payment

The Chief Financial Officer should be provided with a report setting out any background, consideration of the issues raised in the complaint and any recommendations made by the Assistant or Deputy Director, including whether particular legislation or schemes would apply.

- Section 65 of the *Public Governance Performance and Accountability Act 2013* applies to Act of Grace payments.
- The CDDA Scheme is an administrative scheme established under the executive power of section 61 of *The Constitution* in relation to making payments arising from defective administration.