



### Feedback and Complaints

Last Update: October 2021

- FEEDBACK AND COMPLAINT HANDLING OVERVIEW..... 1**
- COMPLAINTS ..... 2**
  - COMPLAINTS MADE TO THE WITNESS ASSISTANCE SERVICE (WAS) .....2
  - COMPLAINTS MADE DIRECTLY TO A PRACTICE GROUP.....3
  - COMPLAINTS MADE TO EXTERNAL BODIES.....3
  - SENSITIVE OR SIGNIFICANT COMPLAINTS.....3
  - COMPLAINTS THAT INVOLVE CONSIDERATION OF PAYING COMPENSATION FOR DEFECTIVE ADMINISTRATION, MAKING AN EX GRATIA OR ACT OF GRACE PAYMENT .....3
- FEEDBACK..... 4**
- GENERAL ENQUIRIES ..... 4**
- SECURITY CONCERNS ..... 4**
- STEPS IN THE PROCESS FOR COMPLAINTS AND FEEDBACK..... 4**
  - BACKGROUND .....4
  - MANAGING COMPLAINTS WITHIN CASEHQ ..... 5
  - CONFIDENTIALITY OF COMPLAINTS..... 5
  - REFLECTION ON CDPP POLICIES OR PRACTICES..... 5
  - PUBLICATION OF COMPLAINTS DATA..... 6

### FEEDBACK AND COMPLAINT HANDLING OVERVIEW

1. 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*.
2. In performing this role, the CDPP values all feedback and uses what it learns to improve its processes and practices.
3. 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. This is a coordination role only. LBI does not have an active role in the investigation or preparation of responses arising out of a complaint.
4. 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 to the Feedback and Complaints inbox [feedbackandcomplaints@cdpp.gov.au](mailto:feedbackandcomplaints@cdpp.gov.au). LBI monitors this mailbox.
5. LBI will open a non-prosecution file in caseHQ to capture each complaint or feedback received via the Feedback and Complaints inbox. LBI will triage the complaint to determine if it is an ‘assessable complaint’. It is not an assessment of the merits of a complaint, and it does not automatically follow that a submission that is determined to be an ‘assessable complaint’ will or must be investigated. Where the complaint is an assessable complaint (that is, a complaint that on its face should be referred to the PGL for investigation), LBI will acknowledge receipt within 2 clear business days of the complaint

**Last update: October 2021**

being received. LBI will then refer the complaint to the relevant PGL or Commonwealth Solicitor for Public Prosecutions (CSPP) to determine whether to conduct an investigation. Further guidance is outlined below.

6. While the CDPP welcomes enquiries, feedback and other interactions with members of the public, those interactions must be respectful. The 'Contact Us' page on the CDPP website reminds members of the public that it is a criminal offence to use the phone or email to communicate in a way that a reasonable person would regard as being menacing, harassing or offensive. LBI may choose, in consultation with the relevant PGL or CSPP where appropriate, to not respond to complaints or feedback of that nature.
7. Correspondence is sometimes received from members of the public that on its face may appear to be a complaint but could also be commentary or feedback. In these circumstances, the nature of the complainant may determine whether the correspondence is treated as a complaint (e.g. if the complainant is a party to a proceeding such as a defendant or witness) or feedback (if the complainant is a member of the public who is not a party to the proceeding).

## COMPLAINTS

8. 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.
9. 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.
10. All complaints received will be considered:
  - confidentially
  - quickly
  - impartially
  - in accordance with the procedures set out in this NLD.
11. 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

### Complaints made to the Witness Assistance Service (WAS)

12. Witnesses and victims referred to WAS are advised by WAS of their ability to provide feedback or make

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<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

**Last update: October 2021**

complaints. WAS template letters direct these witnesses and victims to the CDPP website to ensure that they are aware as early as possible of the opportunity to provide feedback and make complaints.

13. At the conclusion of a matter, WAS also sends a feedback form to these witnesses and victims. Where the feedback form is returned and contains a complaint, it will be forwarded to LBI to co-ordinate the complaint handling process.
14. WAS do not work with all victims and witnesses involved in matters prosecuted by the Office. CDPP lawyers are responsible for ensuring that the Office meets its policy obligations as set out in the Victims of Crime Policy and the Prosecution Policy, and this includes advising victims and witnesses of their ability to provide feedback or make complaints via the CDPP website.

#### **Complaints made directly to a Practice Group**

15. Complaints are sometimes made directly to a Practice Group. Where the Practice Group Leader determines correspondence to be a complaint (and not feedback), this should be forwarded to Feedback and Complaints inbox to enable LBI to coordinate the complaint handling process.

#### **Complaints made to External Bodies**

16. Occasionally, complaints by defendants are made directly to the external bodies, such as the Commonwealth Ombudsman or the Australian Human Rights Commission (AHRC), which in turn request information (generally under notice) from the CDPP via the Feedback and Complaints inbox to assist in their investigation of the complaint. These types of complaints are managed in the same way as complaints made directly to CDPP. It is important to remember that the Commonwealth Ombudsman and the AHRC may have strict statutory timelines that apply for responses to these requests for information. It is the responsibility of the Complaint Officer (ie the person who is conducting the investigation into the complaint) to ensure compliance with these time frames.

#### **Sensitive or Significant Complaints**

17. Complaints from members of the public, including complaints about the conduct of prosecutions that, in the view of the relevant PGL, are particularly sensitive or significant, or where they relate to a sensitive or significant matter, will be referred to the 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**

18. 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 Branch Head or PGL, 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.

## FEEDBACK

19. Feedback can also be provided to the CDPP in the ways outlined above. Feedback is not a complaint. 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.
20. Feedback does not always require a response or acknowledgment. Sometimes, it will be sufficient to forward the feedback to a PGL for their information only, without the requirement to formally reply to the person who provided feedback.
21. Where it is determined that the particular feedback be acknowledged, that feedback will be acknowledged within two business days.

## GENERAL ENQUIRIES

22. General queries from members of the public in relation to various issues, including reporting crimes, are often sent in error to LBI via the Feedback and Complaints Inbox. LBI does not deal with general queries from members of the public unless it relates to a complaint concerning the CDPP, a staff member or a current or prior CDPP prosecution, or is feedback of the nature outlined above.
23. General enquiries from members of the public that are not complaints or feedback (as above) are managed via the monitored mailbox at [inquiries@cdpp.gov.au](mailto:inquiries@cdpp.gov.au).

## SECURITY CONCERNS

24. Correspondence that contains abuse, harassment and/or threatening language will not be tolerated. CDPP staff are required to advise the Agency Security Advisor of any threat or security concern, including those made in a complaint or feedback received via email or via the Feedback and Complaints E-Form. Please email [security@cdpp.gov.au](mailto:security@cdpp.gov.au) for more information.

## STEPS IN THE PROCESS FOR COMPLAINTS AND FEEDBACK

### Background

25. The Commonwealth Ombudsman's [Better Practice Guide to Complaint Handling](#) describes a strong complaint handling system as one that embeds the Ombudsman's complaint handling cycle. The cornerstone of good complaint handling is a culture where staff understand the value of complaints and are committed to delivering a high-quality service. Strong systems are:
  - underpinned by a commitment from all staff to provide a quality complaints service
  - designed and delivered in a way that meets better practice principles
  - continuously improving.
26. There are eight steps to deliver a high-quality complaints service:
  1. Identify and log the complaint
  2. Acknowledge the complaint
  3. Assess and triage
  4. Resolve early or investigate
  5. Consider potential remedies

Last update: October 2021

6. Communicate the outcome
  7. Finalise or escalate
  8. Feedback systemic issues
27. The [Better Practice Guide to Complaint Handling](#) provides useful guidance and should be referred to when considering complaints.

#### Managing Complaints within caseHQ

28. Fact Sheets are available on e-hub to assist in the management of complaints within caseHQ. The facts sheets are modelled on the caseHQ workflows and provide a step-by-step guide to:
- [Creating a new complaint file in caseHQ](#)
  - [Triage \(conducting an initial assessment\) a complaint file](#)
  - [Conduct and manage an investigation into a complaint file](#)
29. These processes do not relate to disclosures or complaints lodged under the *Public Interest Disclosure Act 2013*. Please refer to the Governance team for information on these complaints.
30. As part of the triage process, LBI determines whether or not a complaint is 'assessable', meaning that it fits within certain criteria. These will typically include complaints relating to a particular matter, such as a decision not to proceed with a prosecution, 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. It does not automatically follow that a submission that is determined to be an 'assessable complaint' will or must be investigated. It is referred to the Practice Group Leader to determine whether an investigation will be commenced.

#### Confidentiality of Complaints

31. Regard should be had to the sensitivity of any 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.
32. Within caseHQ, file restrictions are applied to complaint files, automatically restricting access to LBI staff, the CSPP and the Director when a complaint file is opened. Any further access (including to the PGL) does not automatically occur when the file is opened. LBI will request access via the File Restriction Request template available in caseHQ for the PGL as part of the triage process.
33. The PGL for the Practice Group to which the complaint relates will decide who else should have access to the complaint file in caseHQ. When additional staff need to be given access, such as a Branch Head assisting with the investigation into a complaint, a request should be sent (approved by the PGL) to LBI to facilitate this access.

#### Reflection on CDPP policies or practices

34. 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.
35. 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

**Last update: October 2021**

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an annual review LBI will submit a report of its findings to ELG each June.

**Publication of Complaints Data**

36. LBI reports to the Executive Leadership Group (ELG) statistical information regarding complaints and feedback received each financial year. The data is also included in the Annual Report.