

# Effective Complaints Management

## 13: External Review

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This Fact Sheet forms part of a series designed to assist public sector agencies to ensure they have appropriate procedures in place to effectively manage customer complaints.

The Fact Sheet series has been kindly made available by the Queensland Ombudsman. It has been adapted for use in the Northern Territory.

For further information or advice, please contact the Northern Territory Ombudsman's Office on 08 8999 1818.

### External complaints handling

An external complaints handling body is an independent avenue for customers to lodge a complaint if they are unable to reach a satisfactory conclusion with your agency.

Essentially, review by an external body or tribunal aims to ensure that agencies' decision-making is fair and reasonable and that proper procedures are followed in making decisions.

### Receptiveness to external review

Decision-makers need to be receptive to the benefits of external review. Some people regard it as intrusive or even a challenge to their decision-making abilities. In many cases, this perception stems from a lack of understanding of the role of external review and how it benefits the decision-making process.

External review does not only benefit the complainant. By working with the external reviewer, your agency may detect opportunities for better administrative practice that decision-makers may not be aware of because the processes are largely working.

A 'don't fix it if it isn't broken' mentality or distance from operational decision-making may also hinder senior managers from embracing a need for change identified during investigation of a complaint.

### Complaints about administrative decisions and actions

The decisions and actions of public agencies can have a significant impact on people's lives. The community demands a service that is responsive to its needs and operates in a lawful, balanced, fair and consultative manner.

When people have cause to complain, they need an appropriate avenue for redress and agencies need to take steps to restore the community's confidence.

### Useful tip

Let complainants know they have a right to independent review.

The Northern Territory Ombudsman's role is to ensure that NT public agencies – that is, Government departments and bodies and local governments (councils) – do the right thing by people whose lives they affect. We provide an independent, impartial and responsive avenue of administrative review.

We also have a statutory role to help agencies improve their decision-making and internal processes.

Because the Ombudsman is often the last avenue of recourse, we generally ask that people first try to resolve their problem with the agency in question. This is why it's important for agencies to have effective complaints management systems.

An added benefit is that if agencies have appropriate complaints handling systems, it is less likely we will be called in to investigate complaints against their decisions.

### Inform customers about external review

Customers should be encouraged to use any special internal, non-statutory appeal rights or options you have created specifically to deal with an issue in the first instance. For example, Territory Housing has set up an internal Appeals Mechanism for customers who wish to appeal against a range of public housing decisions. However, customers have the right to seek to have their complaints resolved via external means at any time.

Taking steps to inform them of this option demonstrates that your agency is open to external scrutiny.

As a matter of course, agencies should advise the public of any relevant statutory appeal rights, for example, an appeal to the Motor Accidents (Compensation) Appeal Tribunal within 28 days in the case of a motor accident compensation determination.

## EFFECTIVE COMPLAINTS MANAGEMENT – EXTERNAL REVIEW

### Improving administrative processes through external review

A property owner complained that Darwin City Council had wrongly increased the general rates payable on her property and then refused to refund the full amount overcharged after reverting to the original (correct) rate. Investigations revealed that Council had carried out an inspection for the purposes of setting rates during the owner's absence. On the basis of a comment to the Council inspector by another person residing at the property, Council had determined that the property contained two Residential Units. A Residential Unit is defined in the *Local Government Act* as a dwelling house, flat or other substantially self-contained residential unit.

The complainant was aggrieved that Council apparently based its decision on the word of the person residing at the property and that it failed to either notify her of the proposed rate increase or give her an explanation of the increase.

As a result of the Ombudsman's recommendations, Council established a policy of giving prior notice to ratepayers of a rate inspection and also notice of any proposed increase in rates as a result of reassessment of the property's status. In this letter Council invites the ratepayer to forward any objections to the Revenue Section.

### Dealing with Ombudsman inquiries

Working cooperatively with public sector review bodies towards a common goal is the best way for agencies to enhance public sector decision-making and ethical behaviour.

You should respond to our inquiries in a thorough, prompt and consistent manner and address all specific issues we raise.

Generally, we find agencies very cooperative when we are conducting investigations, but if that is not the case, we have the power to formally summon and question agency officers and to require production of documents.

It would be helpful if your agency developed a policy on how to respond to our inquiries to clarify the processes involved in developing a response, the extent of response, the levels of authority that should deal with the response and timeframes in which to reply.

As a basic framework, the following checklist may prove helpful when responding to our inquiries. Do:

- respond promptly
- describe the actions taken by your agency
- give a factual, clear, succinct and complete picture of the essential circumstances
- answer all questions fully
- give due consideration to points of view put forward by the complainant
- be willing to admit error if it is the case and show you are prepared to make a fresh decision
- consider if complaints expose inadequacy in policy or procedures that need to be fixed promptly to avoid repeat complaints.

For further information, refer to *Dealing with a Northern Territory Ombudsman Investigation – Information for agencies*, which is available from our website.

### Measures to avoid external review

Complainants may have limited confidence that an internal review will overturn an agency's original decision. Regular communication during the process and providing information about external review or appeal options may go some way to raise confidence in your processes.

Good internal complaints review processes should:

- lead to lawful decisions supported by evidence
- ensure complainants are properly informed of reasons for decisions
- provide natural justice for complainants
- be transparent.

Agency structures can also raise confidence. For example, ensure appropriate independence for review staff and provide training for complaints staff on the role of external review. However, some complaints are so serious they may not be appropriate for internal review.

### Avenues of external review

Depending on the circumstances, customers can approach a number of external review organisations and tribunals (as well as courts) if they are unsuccessful in resolving their complaint with an agency. They include:

- Anti-Discrimination Commissioner
- Building Appeals Board
- Gaming Commission
- Information Commissioner
- Land and Mining Tribunal
- Motor Accidents (Compensation) Tribunal
- Northern Territory Licensing Commission
- Various professional registration boards
- Work Health Court.

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