



Privacy Commissioner
Te Mana Mātāpono Matatapu

Complaint Handling Policy

complaints about services provided by OPC

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1. Purpose, objectives and principles

Effective complaint handling is fundamental to the provision of a quality public service.

People have a right to make comments or raise concerns and expect them to be heard. In addition, there are benefits the Office can gain from providing an effective complaints process as complaint handling may identify systems improvements that can be made to our services.

1.1. Our objectives and principles

The principles underpinning our complaints process are:

- Fairness
- Accessibility
- Responsiveness; and
- Efficiency

The objectives of OPC's complaints review process are therefore the following:

- To provide a user-friendly process for people to raise concerns about OPC services
- To respond as soon as possible and provide explanations where appropriate
- Clear procedures are in place for staff to deal with complaints

1.2. Enables quick resolution

Good complaint handling can help OPC to resolve a problem quickly. An effective complaints process will enable the complaint to be considered by the Office at first instance. This provides an immediate opportunity for us to review the matter. Complaints that are not addressed quickly can create significant additional workload, both in terms of staff time and resources required. Resolving complaints internally, promptly and close to source will help to avoid this.

1.3. Promotes good decision making

Having an effective complaints process in place can help to encourage good decision making in the first instance. Complaints can provide a window for the Office into the effect of its day to day operations and can be a source of information about any problems or inefficiencies that might be occurring. Effective monitoring of complaints provides us with an opportunity to identify any problems and sort them out before they escalate.

1.4. Fosters good relations with the public

Operating an effective complaints process will help promote good relations with the public by assuring them that OPC is both committed to resolving problems, and willing to improve public satisfaction with the services provided. People with a concern about the service provided by us might be feeling angry or frustrated, find it difficult to explain the problem, or just not feel comfortable raising their concerns. Having an effective complaints process means there is somewhere for people to go. In addition, people who have problems that are quickly resolved

tend to be as understanding and co-operative as those who never experienced a problem in the first place.

2. Receiving a complaint about OPC services

When a complaint is received the person receiving the complaint will consider how the matter can be resolved quickly and easily. If necessary, the complaint should be referred to the staff member's manager and acknowledged promptly.

If a complaint is received in person, or over the telephone, the staff member receiving the complaint should consider whether it needs to be put in writing. A written complaint may not be needed if the matter can be resolved quickly. Assistance should be given to the complainant to put their complaint in writing if necessary, especially if there are issues of disability for the complainant.

A record should be made of the complaint and the date the complaint is received in Objective.

2.1. Assessing a complaint

After receipt, the complaint should be assessed. Complaints should be handled by frontline staff in the first instance. Team Managers have responsibility for supporting their team members to assess complaints received and action a response. Team Managers can also consult internally within OPC where issues raised are novel, technical or complex, where the complaint is serious or raises risks for OPC.

Matters to consider include:

- what the complaint is about;
- how serious or urgent the complaint is;
- whether the complaint may indicate a systemic problem;
- what risks the complaint raises for OPC; and
- what kind of resolution the complainant is seeking.

After considering these matters, a decision can be made as to whether the complaint can be resolved quickly and informally:

- no action should be taken and an explanation given to the complainant for this; or
- a review of the matter is needed.

Most complaints can be addressed at an informal level and will not require a formal review. Many complaints involve communication problems that can be resolved by discussion with the complainant. Other complaints involve misunderstandings about rights under the Privacy Act and the scope of OPC's jurisdiction, the limits of OPC's investigation and dispute resolution processes and the Privacy Commissioner's functions and discretions. These may require discussion and information to assist the complainant to understand OPC's role. Complaints about an OPC decision are an opportunity to check that the decision and reasons have been clearly communicated and that the complainant has had an opportunity to be heard and to provide relevant information that could alter the decision. However, some complaints will not produce further relevant information or alter the decision that has been made.

Complaints about matters such as delays or failures to reply can be resolved by clarifying when matters can and will be actioned.

Where the matter does not need to be reviewed, the complainant should be advised in the most appropriate way, and that advice to the complainant should be recorded. Whether a review is required will depend on the nature of the concern and the circumstances of the concern raised, rather than the view of the complainant that a review is required. OPC will act fairly and independently to assess the appropriate way to respond to the concern that is raised.

2.2. Planning a review

For concerns or complaints that the OPC decides require review, the next step is to plan the review. Matters to consider include:

- what the review will be about (i.e. what is the act or decision that has been complained about);
- who will undertake the review;
- who needs to be kept informed of the review;
- what priority will be given to the matter;
- what information or evidence needs to be gathered (e.g. relevant policies or procedures etc); and
- when the review should be completed.

Team Managers are responsible for supervising the handling of complaints within their teams and supporting team members to resolve the issue or to communicate the outcome. Team Managers have responsibility for deciding whether the review is carried out within their team and when to consult internally on locating the review or peer review in a different team. This will depend on the seriousness of the issues raised and the level of previous engagement with the complainant.

If the complaint is a challenge to the OPC's decision making (such as a decision not to investigate a complaint under the Privacy Act), the complaint should be assessed as to whether the complaint requires internal review of the decision or requires further information or explanation. If a review is appropriate, the staff member should consult internally and decide who should carry out the review.

We aim to ensure people we engage with are treated fairly, whatever their background. We will accommodate the needs of anyone with disabilities to the best of our ability in accordance with the Human Rights Act 1993 [[contact us](#)]. People can contact us with their preferred communication method and can give us feedback about how we can improve our services. If the complaint is about the way in which OPC has accommodated an individual's disability, then the staff member should assess OPC's engagement with the individual in light of the complaint to see if reasonable measures can be put in place and consult internally on the outcome of this assessment.

If the complaint is about a privacy breach caused by OPC, refer also to the OPC privacy breach policy.

2.3. Conducting the review - a fair process

Any review that is undertaken must be fair.

To ensure a fair process, the reviewer/s should:

- deal with complaints on the merits;
- act independently and have an open mind;
- take measures to address any actual or perceived conflict of interest;
- consider all information and evidence carefully;
- keep the complaint confidential, with the complaint considered in private and information only discussed internally as necessary to properly review the matter of concern; and
- act without undue delay.

The complainant must be given a fair chance to present their position, and be advised of the findings.

Providing the person with an opportunity to comment in these cases can assist you to:

- check you have the correct facts; and
- identify any major issues that may be of concern to the person and which they may seek to challenge later if they are not addressed.

2.4. Completing the review

Once all relevant information and evidence has been gathered, the matters of concern should be assessed, and conclusions reached.

Depending on the nature of the concerns that have been raised, and the proposed outcome of the complaint, the conclusions may only need to be brief or may need to be more detailed.

If it has been identified that something has “*gone wrong*”, the conclusions should include action that can be taken to resolve the complaint. This may include internal action such as changes to policies, procedures or practices.

If nothing wrong is identified, the reasons why the OPC’s actions are considered fair and reasonable should be set out.

The conclusions can be referred to a member of OPC’s management team for a “*second person check*” or approval, before it is actioned. This can help to ensure a robust decision is made.

2.5. Communicating the outcome of the review

Once the review is complete, the complainant should be advised of:

- the outcome of the complaint review;
- the reasons for any decisions that have been made;
- information about any other remedy that might be available, such as to seek a review or appeal, or complain to the Ombudsman.

As far as possible, any communications with the complainant should focus on the actions of OPC as a whole and how that may have affected the complainant, rather than focusing on the actions of individual staff members. This is on the basis that staff members do not act on their own behalf, but as representatives of OPC. The Privacy Commissioner is ultimately responsible for ensuring good administrative conduct across the Office.

2.6. Resolving complaints

Action to resolve a complaint may be required where it has been identified that:

- there was an unreasonable delay;
- inadequate advice, explanation or reasons were provided;
- OPC policies or procedures were not followed correctly;
- there was an inadequate or unfair process followed;
- there was a factual or legal error;
- there was unprofessional behaviour or misconduct by a staff member;
- the act or decision complained about was unfair or unreasonable; or
- the act or decision was just plain “*wrong*”.

Complaints can be resolved in a number of ways, including by:

- acknowledging what has happened, including in a culturally safe setting;
- providing an explanation, assistance or reasons;
- providing an apology;
- taking action if there has been a delay;
- reconsidering or changing a decision;
- amending records;
- changing policies, procedures or practices;
- creating guidance on information for OPC’s website to address an issue that has arisen (to benefit others).

2.7. Record keeping

A record of the complaint should be kept in Objective including:

- communications with the complainant about the complaint; and
- the conclusions and outcome of any review.

2.8. Learning from the complaint

A good complaint handling process allows us to learn from the problems that arise and take steps to improve internal processes. It is therefore important to build in a system of review.

The complaints that have been received, their outcome, and any proposed internal improvements should form part of our reporting and planning processes. Team Managers are

responsible for identifying learnings and process improvements from individual complaints. Any systemic issues, serious risks, or areas for improved practices can then be identified by senior management for appropriate action.

2.9. Managing unreasonable complainant conduct

Sometimes a complaint about our service represents the individual's dissatisfaction with an outcome or decision made by OPC.

Most complainants act responsibly. However, some complainants are difficult to satisfy and occasionally the conduct of some complainants can be challenging because of:

- unreasonable persistence;
- unreasonable demands;
- unreasonable arguments;
- unreasonable behaviour; and/or
- unreasonable lack of co-operation.

It is important to remember that even where a person's conduct may be unreasonable, they could have a valid complaint and that complaint should be handled appropriately. The key to managing unreasonable complainant conduct is to give fair consideration to the complaint, while ensuring there is no undue imposition on OPC or staff in doing so.

Where these behaviours are encountered, refer to the separate OPC policy for managing unreasonable complainant conduct, and the guidelines for managing and responding to threats, aggressive behaviour and violence from members of the public.

Information about the complaints process regarding a service received from our Office

Raising concerns with our service

Have a query or complaint?

While we always try to get it right sometimes this is not the case. So, if you have questions or a complaint about the service you have received, you can contact us. We will look into your concerns and get back to you.

What should I do first?

As a first step, contact the staff member you have been dealing with and explain your concerns. That staff member will try to resolve the matter straight away. If they can't, they may refer your concerns to another staff member to consider or to a manager.

What do I do if I have a question?

If you have a query, you can contact us and we will discuss this with you.

How do I send a complaint?

You can write to us with the details of your complaint, email, or contact our enquiries team to discuss your concerns.

Contact us:

By post: Office of the Privacy Commissioner
PO Box 10094
Wellington 6143

By email: enquiries@privacy.org.nz

By phone: 0800 803 909

Please also provide a short, clear description of the reasons for your complaint together with any relevant supporting documents.

Next steps

If you have sent us a complaint and given us an email address, we will send you an email confirming we have received your complaint. Otherwise, we will write to you acknowledging your complaint.

We will look into your complaint and contact you to work through the issue. You should expect a response from us within 1 – 3 weeks. If we need to take longer because, for example, we need to get additional information or it is a detailed matter, we will let you know.

What should I do if I am not satisfied with the outcome of the complaint?

If you are not satisfied with the outcome of this complaint you have the right to raise your concerns with the Ombudsman.

By post: Office of the Ombudsman
PO Box 10152
Wellington 6143

By email: info@ombudsman.parliament.nz

By phone: 0800 802 602

The Ombudsman can consider complaints about the administrative acts and decisions of state sector agencies. The Ombudsman will ask you if you have first tried to resolve the matter with us directly and will also consider whether you have any other remedy available. The Ombudsman may look into your complaint and make a recommendation to us regarding the concern you have raised.

Contact	General Manager
Approval Authority	Privacy Commissioner
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