

## COMPLAINTS AND FEEDBACK POLICY AND PROCEDURE

### 1. Overview

This Policy relates to complaints made in respect to the Office of the Disability Services Commissioner (DSC). Whilst the term complaint is used primarily throughout the policy, this also relates to feedback received about DSC operations.

This Policy provides guidance for responding to complaints about the DSC, including the manner in which we perform our functions or duties. This Policy can be applied to the handling of a complaint lodged with the DSC about a registered disability service provider, including current complaints that are before the DSC. The progress of a complaint about a registered disability service provider lodged with this office will not be affected by a subsequent complaint made pursuant to this policy. Raising a complaint will not result in any adverse consequences for the person complaining in relation to current or future contact with the DSC. Having complained previously does not preclude any person from raising a further complaint under this policy.

Complaints covered by this policy include:

- Complaints about communication between members of the public and staff of the DSC;
- Complaints about the performance of DSC functions, duties, or a conflict of interest;
- Complaints that allege wrongdoing or inappropriate behaviour by an DSC staff member;
- Complaints about the conduct of DSC during the conciliation process pursuant to s116 of the *Disability Act 2006* (the Disability Act); and
- Complaints about unacceptable delay in or inappropriate carrying out of any DSC function, power or duty.

**Specific complaints the DSC does not consider are in relation to actual outcomes or decisions made by this office for complaints lodged regarding disability service providers.**

This Policy must be read in conjunction with other relevant Policies and Standards of Conduct applicable to the DSC and VPS staff and supporting Codes of Practice. Where a complainant raises dissatisfaction with the conduct of an DSC member of staff, the *Public Administration Act 2004* (Vic) and the Code of Conduct for VPS Employees are relevant to the DSC's response.

Complaints made pursuant to this policy are assessed by the Internal Complaints Assessment Officer. Complainants will be kept informed of the progress of their complaint and of the final outcome. Complainants will be advised of avenues for further review of their complaint, if not satisfied with the outcome/findings.

This Policy does not duplicate the mechanisms and remedies available to some complainants under discrete Policies or Acts of Parliament, including:

- The Code of Conduct for Victorian Public Sector Employees;
- The *Freedom of Information Act 1982* (Vic);
- The *Whistleblowers Protection Act 2001* (Vic); and
- The *Information Privacy Act 2000* (Vic) and the *Health Records Act 2001*.

## 2. Policy statement

Consistent with the stated values and principles of the DSC, and the core business of the DSC, we welcome the opportunity complaints provide us to reflect on our practice and continue to improve what we do and how we do it. We welcome feedback that affirms and further enhances our practice.

## 3. Key Policy Principles

The principles of the DSC which underpin this policy and associated procedures are:

**Accessible:** Information about how to complain or provide feedback to the DSC is available on our website and through other materials. We endeavour to make this information as easy to understand as possible to clearly outline the process for making complaints. There are no costs associated with lodging a complaint about the DSC.

**Person centred:** We endeavour to respond to complaints and feedback in a way which recognises, promotes and protects an individual's right to complain about their dealings with the DSC. We will respond to the complaint in an individualised and person centred manner. When seeking to resolve complaints we focus on achieving the best possible outcome for the person involved;

**Responsive:** In responding to complaints and feedback we ensure that these are acknowledged in a timely way. Complainants will be regularly advised of the progress of their complaint. We seek to resolve the complaint at the earliest opportunity wherever possible and to the satisfaction of the complainant as far as practicable. The response will focus on the specific issues raised in the complaint that can be considered under the legislative mandate that governs the DSC.

**Accountable:** This policy and its associated procedures are designed to ensure the DSC is transparent in the way it approaches complaints and feedback.

This approach will be explained to complainants as appropriate and the outcome of a complaint will be conveyed to the complainant in a timely way. All decisions made by the DSC in dealing with a complaint pursuant to this policy will be fair, objective and consistent, taking into account all relevant circumstances, factors and available evidence. Where appropriate it may be necessary to implement remedies, practice improvements and/or apologise. Complaints will be recorded, assessed and reviewed on a regular basis to ensure responsiveness and as part of an ongoing commitment to service excellence.

**Excellence:** All complaints and feedback received are seen as an opportunity to gain valuable insight into, and improve the effectiveness of the DSC. The documentation of complaints and feedback on a register which is regularly reviewed by the Principal Officers and the Commissioner will provide an opportunity to make improvements to the work of the office as a result of issues identified through complaints and feedback.

## 4. Complaint handling procedures

### 4.1. How to complain:

- Complaints and feedback about the DSC can be provided in any form (for example, in person, by telephone, facsimile, email or in writing). Whilst this policy and associated

procedure specifically relates to people external to the DSC bringing complaints, DSC staff are equally encouraged to raise any issues or complaints with their manager or the Commissioner.

- Issues or concerns may be raised with a DSC staff member directly or with the Principal Officer of the team involved. The DSC staff member or Principal Officer may respond directly and attempt to resolve the issue. The option of lodging a complaint with the Internal Complaints Assessment Officer will also be offered. If the person advises that they do not wish to make a complaint through this process, the DSC staff member or Principal Officer will offer to respond to the concern by letter and outline the outcome, such as explanation provided or undertaking of action to be taken. Information on the internal complaints assessment process will be provided with the letter, should the person decide that they wish to make a complaint using this process.
- As part of the complaints process, the Internal Complaints Assessment Officer will explain the complaints process, and what will happen once a complaint has been lodged.
- Where a verbal complaint is lodged (by telephone or in person) it must be made with the Internal Complaints Assessment Officer. The complainant must be advised that the capacity to resolve the issue may be limited to a general response to the concerns raised.
- Where a complainant is unable to, or requires assistance in formulating a complaint, assistance can be requested, or may be offered to that person either by an DSC staff member (other than any member/s of staff directly involved in the content of the complaint) or through referral to a relevant advocacy organisation. This assistance may include assisting the person to form their complaint.
- Where a person requires the assistance of an interpreter or other type of assistance, this can be arranged. The attached Complaint and Feedback form can be used by complainants who wish to use it. It is not essential that this form be used in lodging a complaint.
- Where the complainant does not wish to make a formal complaint, the complainant must be advised that the capacity to resolve the complaint may be limited to providing a general response to the concerns raised.
- The complainant has a right to request that the complaint be assessed confidentially. Anonymous complaints will be registered as such. Where sufficient details are provided the complaint will be considered, however a detailed review or response to the complaint may not be undertaken.
- The receipt of written complaints will be acknowledged in writing within 14 business days of receipt.

#### **4.2. Recording of complaints on register:**

- All complaints and feedback will be recorded on the DSC's Complaints and Feedback Register. This will include issues or complaints raised with DSC staff that are dealt with informally. Once a complaint or feedback is received by the Internal Complaints Assessment Officer, the relevant details will be recorded on the register. This is to ensure reliable identification of trends in the number, regularity and subject matter of complaints and feedback and their outcomes.

- When received, information will be registered and used in a de-identified manner for organisational learning and quality purposes<sup>1</sup> and for the management of complaints. Information gathered during the complaint and feedback process is protected in accordance with current legislative requirements and is only used to process the complaint or address broader issues arising from the complaint or feedback. Information is shared with DSC staff on a need to know basis. This includes ensuring the outcomes arising from complaints received and other shared knowledge are communicated in a way that does not identify the complainant.
- An overview of the key trends emerging from complaints and feedback data will be provided in the Annual Report.

#### **Process for responding to complaints**

**(Note: The remaining procedures relate specifically to complaints)**

Please refer to flow chart on p8

#### **4.4. Initial assessment of the complaint**

- The complaint will initially be forwarded to the Internal Complaints Assessment Officer, who will determine the appropriate officer to assess the issue/s raised in the complaint. In allocating the matter, where possible, consideration will be given to the independence of the DSC staff member in terms of not having previous involvement with the complainant. The Internal Complaints Assessment Officer provides a consistent contact point for complainants to deal with throughout the complaints process. If the complaint relates to the Internal Complaints Assessment Officer, it will be transferred to the Disability Services Commissioner or one of his delegates.
- The Internal Complaints Assessment Officer will initially assess the complaint to identify the issue/s and to see whether the complaint can be resolved without a review occurring, or whether the matter is more appropriately handled under another procedure such as the Department of Human Services Code of Conduct.
- The Internal Complaints Assessment Officer has the authority of the Commissioner to make such inquiries as necessary to effectively manage the complaint handling process.

#### **4.5. Complaints where no review is required**

- Where a matter can be resolved informally by direct communication with the complainant (either via the Internal Complaints Assessment Officer or directly with the respondent) or by other means that meet the desired outcome of the complainant (for example, by a procedural change) a review will not be required.
- It may be appropriate to contact the complainant with a request for further and/or specific information where a complaint is expressed in a way that makes it difficult to identify an issue to which the DSC can respond, or appears to be misconceived or raise no discernable issue. Alternatively, and where the complainant accepts, it may be appropriate to offer the complainant the opportunity to speak with a third person who can clarify the issues the complainant is attempting to raise. If these steps do not provide the necessary clarification, the DSC may respond that it does not intend to review the complaint. The response will be provided as soon as possible upon receipt of any additional information or clarification relating to the complaint.

---

<sup>1</sup> To ensure effective tracking of information, file progress, timeframes, and to monitor complaints/feedback handling process.

- If a review cannot be initiated, the complainant will be advised that the DSC cannot take any action in relation to the complaint and will provide the reasons for this response.
- All other complaints will be treated in the manner outlined below under "Review of complaints".

#### **4.6. Complaints made about the conduct of conciliation pursuant to s116 of the Disability Act 2006**

- Any party to a conciliation conducted by the DSC may make a written complaint to the DSC about the method of conducting the conciliation either during the course of the conciliation or after the conciliation has been completed.
- If the complaint is made during the conciliation process, the DSC may, using the same considerations outlined in section 4.4 above –
  - Suggest possible directions as to how to proceed with the conciliation;
  - Conduct a review of the complaint; or
  - Decline to act on the complaint.
- Where a complaint is made during the course of the conciliation process, it will be immediately directed to the attention of the Principal Officer- Conciliation. Whilst any concerns raised may be addressed at this point, the focus will be on removing immediate obstacles to the conciliation proceeding.
- Where a complaint is made after the conciliation has been completed, the DSC may, using the same considerations outlined in section 4.4 above –
  - Suggest possible directions as to how to proceed with any future conciliation
  - Conduct a review of the complaint; and/or
  - Decline to act on the complaint

However, the DSC will not interfere with the outcome of the conciliation (ie. it will not change the agreed outcomes or decisions made at conciliation).

#### **4.7. Review of complaints**

- It may not be appropriate to conduct a review of every complaint made about the DSC. In particular, where a complaint raises an issue that is self evident, or the complaint is otherwise beyond dispute, the DSC will assess the complaint and respond or otherwise act on the issue/s raised without a review as soon as possible.
- All reviews of complaints must:
  - Be conducted by a person not the subject of the complaint;
  - Provide the respondent named in the complaint (where applicable) with the opportunity to respond to the written complaint;
  - Be conducted within a reasonable time;

- Be comprehensively documented throughout;
- Respect the confidentiality of the complainant and any staff member subject to the complaint or consulted in relation to the complaint (other than reasonable disclosure required to review the complaint);
- The complainant and respondent will be kept informed of the progress of the review. Any delays or interruptions in conducting the review will be immediately explained to the complainant and, where appropriate, confirmed in writing;
- The findings of a review will be discussed with the complainant and the staff member/s involved in the course of the review of the complaint. The review will then be finalised and a report prepared.
- The Internal Complaints Assessment Officer must prepare a review report, which will contain:
  - An outline of the Internal Complaints Assessment Officer's understanding of the complaint, its facts and issues;
  - The Internal Complaints Assessment Officer's findings and conclusions regarding each allegation/issue and the reason/s on which each conclusion is based; and
  - Recommendation/s resulting from the assessment and subsequent review (whether or not those recommendations relate to an issue directly disclosed by the complaint).
- A copy of the review report will be provided to the Disability Services Commissioner, the relevant Principal Officer and all parties to the complaint within 90 days.
- Recommendations contained in the review report will be considered by the Disability Services Commissioner (and where appropriate the relevant Principal Officer) and a decision reached within 30 days of completion of the review report.
- Where appropriate, an implementation plan may be developed to ensure any actions flowing from a review of a complaint are implemented in a timely way.
- Periodically an audit of these review reports is conducted to confirm the accuracy of data recorded on the register.

#### **4.8. Written response to the complainant**

- The Internal Complaints Assessment Officer shall provide a detailed written response to the complainant on completion of the review, including provision of a copy of the review report. The response will include information on any changes that have or will be implemented as a result of the complaint and information on other avenues to have the complaint reviewed - such as the Ombudsman.
- Within 6 months after the response has been provided, the Principal Officer – Capacity Development will initiate contact with the complainant (without specific knowledge of the complaint details) as part of a broader quality assurance and organisational learning strategy, seeking feedback regarding the complaint handling process, separate from the actual outcome achieved.

#### **4.9. Support for staff members participating in an assessment of a complaint**

- Where complaints relate to the behaviour or approach of a particular member of DSC staff, appropriate support will be provided to that staff member. Referral to the



Employee Assistance Program or another suitable support person may be appropriate and will be offered.

- Staff receive appropriate training and ongoing support in complaints handling, as this is seen as an integral part of their work. They are encouraged to respond positively to complaints. Individual staff approaches to complaints are also reviewed through the staff performance process to ensure that any development needs are identified in a timely way.

#### **5. Further information**

Further information or advice is available from the DSC's Senior Legal and Policy Officer on 8608 5784 and on the DSC website.

#### **6. Review and Improvement**

Continuous improvement of the Complaints Policy is a DSC objective and as such, this Policy is reviewed on an annual basis, or earlier as required.

## DSC Internal Complaints/Feedback Flowchart

