



Natural
Resources
Commission

POLICY FOR MANAGING EXTERNAL COMPLAINTS AND ALLEGATIONS

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1 Introduction

Like all other government agencies, the Natural Resources Commission (the Commission) from time to time may receive complaints and allegations about the decisions and actions of the team members and contractors. The Commission is committed to ensuring that these complaints and allegations are promptly and properly dealt with.

Accordingly, the Commission has established systems for assessing and responding to complaints and allegations. These systems are designed to provide an objective assessment of the issues raised, be fair to all the parties involved, and be appropriate for different situations.

The Commission's approach to managing complaints and allegations is based on the standards of customer service, accountability and administrative behaviour set out in guidelines produced by the NSW Ombudsman. These guidelines stress that good complaint handling is not only good client and customer service but is also an important source of management information.

2 Commission's policy on managing complaints and allegations

The Commission welcomes all feedback as an important means to be accountable to the public.

People who make complaints or allegations are entitled to a review of the issues they raise and a considered impartial response.

Each complaint or allegation will be assessed or investigated and resolved as quickly as reasonably possible.

All complaints and allegations will be managed in accordance with natural justice principles for all concerned parties.

All complaints and allegations will be managed confidentially for all parties, where practicable and appropriate until such time as the investigation process is completed.

All complaints and allegations will be meticulously documented, including reasons for all significant decisions.

The Commission will adopt an impartial inquisitorial approach to impartially attempt to ascertain the truth and to uncover all relevant facts, not an adversarial approach. Investigations will only be complete after properly considering any submissions that any affected parties may wish to make. The complaint handler cannot have any real or perceived conflicts of interests.

When errors or systemic problems are identified, the Commission will work to rectify them. When allegations of improper or corrupt behaviour are found to be true, appropriate action will be taken in accordance with the Department of Planning and Environment's guidelines.

This policy is available on our website.

3 Distinguishing complaints and allegations

The Commission makes a distinction between complaints and allegations and has established different processes for dealing with each category. The Commission recognises, however, that in practice the distinction may not always be clear-cut and has therefore taken steps to ensure managers have advice and assistance to help them in making this distinction.

3.1 Complaints

The Commission defines complaints as expressions of dissatisfaction with its service delivery and any associated administrative matters such as decisions and procedures, where the complainant requests or demands that the Commission reconsider a decision or take some form of remedial action. Where people express dissatisfaction with the Commission but do not expect further action to be taken, their views are noted but are not treated as 'complaints' under our complaints handling system. In these cases, their views are treated as valuable feedback.

It is important to clarify with the complainant that they are making a formal complaint. Formal complaints can be made in person, verbally over the telephone or in writing via an email or a letter.

Complaints may concern straight forward issues. They include claims of incorrect advice and expressions of dissatisfaction with delays or with the adequacy of the Commission's actions. They do not include complaints about government policy or claims that the Commission team have acted improperly, abused their powers, or acted corruptly (These latter claims fall into the 'allegations' category).

The purpose of complaints handling is to resolve the matter, rather than to apportion blame. Commission's approach is to establish the facts and put in place any measures necessary to resolve the problem, including dealing with any underlying causes of complaints. We will in the first instance seek to resolve any complaints by discussion, provision of information, negotiation, mediation or conciliation wherever appropriate.

This approach allows speedy handling of complaints without the need for formal investigations.

Some complaints may be resolved quickly without the need for in-depth consideration and assessment or detailed reporting. Others will require more detailed work. In either case, the Commission takes seriously the process for looking into and resolving them.

All complaints will be treated with respect and dealt with promptly and fairly.

Complaints can be about:

Decisions

- The merits of a decision – whether it is correct or not (but not questioning government policy).
- The exercise of discretion – whether unfair, unreasonable, inequitable or inappropriate matters were taken into account.
- The appropriateness of the Commission's response in dealing with an issue – whether it was inadequate or incorrect.

Failure to act

- Failure to provide information, when requested to do so.

Communication problems

- Correspondence was ambiguous, bureaucratic, incomprehensible or otherwise unhelpful.
- Failure or unreasonable delays in responding to correspondence, emails, phone messages or other approaches.

Incorrect or misleading advice

- Incorrect, misleading or incomplete information was provided in response to a request.
- Incorrect, misleading or incomplete information was contained in the Commission publications or on the website.

Behaviour

- An officer was abrupt, rude, unsympathetic or aggressive, in person, on the phone, or in an email or other written correspondence to a member of the public. However, if the alleged behaviour was significantly inappropriate, the matter may be investigated as an allegation.

3.2 Allegations

Allegations concern probity issues or other matters that have the potential to seriously compromise the Commission's public reputation. In general, allegations are more serious than complaints as they allege some form of misconduct, including allegations of corrupt conduct. Sections 8 and 9 of the *Independent Commission Against Corruption Act 1988* provide a detailed definition of what constitutes 'corrupt conduct'.

Examples of allegations include:

- abuse of power, for example, an officer has shown bias, behaved improperly or misused their authority when dealing with an external issue or with external clients
- theft or other misuse of the Commission resources
- corrupt behaviour, for example, taking or offering bribes, dishonestly using influence, blackmail, fraud
- decisions influenced by improper considerations
- undeclared conflicts of interests
- serious and substantial waste, resulting in significant loss or waste of public funds or resources
- public behaviour detrimental to the Commission's reputation, for example, public drunkenness while on duty.

3.3 Exclusions

Complaints and allegations do not include:

- a request for services or information
- dissatisfaction and dispute about the substance of government policy or about the Commission's policies.

4 Managing complaints and allegations

The objective of complaint handling is to resolve issues and problems that are raised by the public, clients or stakeholders. By contrast, when responding to allegations, the Commission seeks to determine if any wrongdoing has occurred. If an impartial fact-finding investigation reveals that it has not, the reputation of the agency and its team is restored. If wrongdoing has

occurred, the Commission's policy is to take appropriate action against those responsible, to maintain and protect our reputation as an ethical organisation.

4.1 Managing complaints

The purpose of complaints handling is to resolve the matter, rather than to apportion blame. The Commission's approach is to establish the facts and put in place any measures necessary to resolve the problem, including dealing with any underlying causes of complaints.

This approach allows complaints to be handled speedily without the need for formal investigations. However, while handling a complaint if information is obtained that suggests that a Commission team member may have acted improperly or corruptly, the matter will be formally investigated:

- in accordance with the Commission's internal investigation guidelines, if there is alleged corrupt conduct
- in accordance with the Department of Planning and Environment's disciplinary guidelines, if there is alleged misconduct, which may or may not be related to alleged corrupt conduct.

Only managers will be able to respond to complaints as they have training and delegation necessary to resolve the complaint. All complaints will be formally recorded by the Commission on a register and reviewed by the Executive Director. The Commission will be notified of any complaints and of their resolution. Wherever possible, all members of the Commission will be notified of the steps taken to address any underlying causes of complaints.

If a complaint is rejected, the Commission will provide proper reasons for such decision.

At least annually, the Director Corporate Services will review the complaints register (TRIM reference D18/2110) and monitor that recommended actions have been taken.

4.2 Managing allegations

As a general principle, the Commission expects all allegations to be investigated, although there may be some circumstances where investigation is not appropriate or needs to be delayed to enable some other overlapping process to be finalised.

The Commission may receive allegations which are based on misunderstandings, or made for improper or tactical purposes, such as to obtain a favourable decision or treatment from the Commission. Accordingly, the investigation procedures have proper safeguards to protect the interests of team members who are wrongly accused of improper or corrupt conduct, including free access to the Commission's Employee Assistance Program team and procedures to maintain confidentiality.

However, if an investigation concludes that a team member has acted contrary to the principles of the Commission's Code of Conduct and disciplinary action is recommended, then such recommendations will be implemented in consultation with the Director Corporate Services.

For criminal allegations, the evidence placed before the court must establish beyond reasonable doubt that the alleged offender is guilty of the charge. For administrative and disciplinary matters, the test is theoretically lower – the evidence must demonstrate on the balance of probabilities that the alleged misconduct was committed. However, there is a requirement that the more serious the allegation, the more compelling the evidence must be to bring an adverse finding. Effectively, this principle raises the standard of proof required in the most serious disciplinary matters to a level approaching the criminal standard.

5 Anonymous allegations

Anonymous complaints and allegations are more difficult to investigate because the complainant cannot be contacted to provide more information about the allegations made. In addition, any consideration of the issues raised or investigation conclusions cannot be reported back to the complainant.

However, the Commission does treat anonymous complaints and allegations seriously. The fact that they are anonymous does not make complaints or allegations untrue. The appropriate response to anonymous complaints and allegations will be determined based on the nature and significance of the information provided. Where the matter raised is serious and sufficient information has been provided to make it feasible, the Commission will undertake an investigation.

6 Making a complaint or allegation to the Commission

6.1 How to make a complaint or allegation

The Commission will deal with any complaint or allegation in accordance with its established procedures, regardless of how that complaint or allegation is received. However, we can most effectively deal with these matters if complaints or allegations are made:

- in writing where possible, as this helps ensure that everyone has the same understanding of the issue and that no aspect of the complaint is overlooked. We understand, however, that not everyone is able or comfortable to make their complaint in writing. Verbal complaints and allegations will still be taken seriously and properly dealt with
- directly to the Commission (at least in the first instance) so that we know about and can deal with the problem quickly
- by providing a name and contact details so that if we need to get further information to help resolve the problem, we can do so.

If you wish to make an allegation of some form of serious misconduct, it is helpful if you write direct to the Executive Director, marking your letter or email 'confidential'. Alternatively, and depending on whom the allegation is about, or its seriousness, you may communicate directly with the Commissioner. In some cases, you may also find it appropriate to report the allegation direct to an alternative external agency with the power to investigate and report on the matter. These agencies are identified in **Section 7** below.

6.2 What to expect from the Commission?

The Commission will deal with any complaint or allegation as quickly as possible. Complaints will be managed by the manager of the area about which the complaint has been made, with oversight by the Executive Director. If the complaint is about the Executive Director, the Commissioner will manage the complaint with the assistance of the Director Corporate Services.

Investigation of allegations will be managed by a manager who is not closely involved with the area/s to which the allegations apply, and where appropriate undertaken by an external investigator.

In the case of a complaint, the Commission will try to resolve the matter within 21 days of receiving it. If this is not possible, the Commission will contact you to advise of the reason for the delay and when we expect to be able to report back to you. Once a complaint has been

dealt with, the Commission will contact you to let you know what we have done or are doing in relation to your complaint.

Investigation of an allegation may take longer, particularly if the matter is complex. The Commission will acknowledge receipt of an allegation and, if possible, advise of the anticipated time until the matter will be resolved. Once the investigation is complete and the Commission has decided how it will respond to the investigation findings and recommendations, you will be advised of the outcome.

In either case, we may contact you for further information or to clarify some points to help us resolve the issue.

6.3 Protecting complainants

The Commission will ensure that people who complain about the services provided by or the conduct of the Commission or its team member are not subjected to victimisation, harassment, discrimination or other prejudice or reprisal.

Any complaints alleging that such reprisals have occurred will be taken seriously and appropriately investigated by the Executive Director, or a member of the Commission or a senior external party. Any finding that a team member has been guilty of victimising, harassing, discriminating or otherwise committing a reprisal on a complainant will be subject to disciplinary action.

6.4 What to do if you are unhappy with the Commission's response?

If you are dissatisfied with the Commission's response to a matter, you can contact an appropriate external agency.

7 Complaints to external agencies

Members of the public may complain about the performance or behaviour of the Commission or of individual Commission team members to the NSW Ombudsman, the Independent Commission Against Corruption (ICAC) or other agencies, such as the Office of the Privacy Commissioner.

The Ombudsman or ICAC may determine that the complaint or allegation is of such importance or sensitivity as to warrant their independent investigation and public report, and they may conduct those investigations themselves. In most cases, however, complaints are forwarded to the Commission for review and report back.

Other complaint handling agencies also usually refer complaints back to the Commission for review and report back to them on what we have done or propose to do.

8 Further information

For further information, contact the Director Corporate Services.

9 Document Control

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