



# EPA Complaint Handling Policy

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Environment Protection Authority



## EPA Complaint Handling Policy

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# 1. Introduction

The NSW Environment Protection Authority (EPA) was re-established in February 2012 as a statutory authority with an independent governing Board.

NSW EPA is the state's primary environmental regulator. We work with businesses, government and the community to manage and reduce pollution and waste.

As a regulator it is essential that the EPA is exemplary in its handling of complaints.

EPA staff will conduct their activities in accordance with legislative requirements, Government policies and the highest standards of ethical conduct.

Our staff are bound by their statutory obligations under the *Government Sector Employment Act 2013* (GSE Act), which identifies core values for the government sector, namely integrity, trust, service and accountability, and the principles that guide their implementation.

## 2. EPA Complaint Handling Policy

### 2.1 Persons to whom this policy applies

This policy is applicable to all EPA staff including ongoing, temporary or casual employees, labour hire (contractors who are working as though they are EPA staff members) and seconded staff. It does not apply to contractors who are not representing the EPA but are providing professional services to the EPA.

EPA staff responsible for handling complaints are Executive Directors (hereafter included with Directors), Directors, Managers and team leaders.

### 2.2 Failure to comply with this policy

Compliance with this policy is **mandatory**.

Compliance with this policy directive forms part of the contract of employment for an employee, and failure to comply with the policy may constitute misconduct and may lead to disciplinary action.

### 2.3 Objectives of this policy

The objectives of this policy are to:

1. provide clear guidance to EPA staff about what is and what is not a complaint
2. ensure complaints are handled fairly, efficiently and effectively
3. provide information that EPA can use to improve its service delivery
4. provide clear guidance to people who wish to make a complaint about how EPA will handle a complaint
5. build public confidence and accountability.

## 2.4 EPA commitment and behaviour

EPA expects staff at all levels to handle complaints fairly, effectively and efficiently. The following table outlines the commitment and behaviour expected from staff.

Who	Commitment	Behaviour
Chair and CEO	Promote a culture that values complaints and their effective resolution	<p>Report publicly on EPA's complaint handling.</p> <p>Provide support and direction to key staff responsible for handling complaints.</p> <p>Review reports about complaint trends and issues arising from complaints.</p> <p>Encourage all staff to be alert to complaints and assist those responsible for handling complaints to resolve these promptly.</p> <p>Recognise good complaint handling by staff.</p> <p>Encourage staff to make recommendations for service and complaint handling improvements arising from the analysis of complaint data.</p> <p>Ensure improvements are implemented where appropriate.</p>
Director, Corporate Services	Establish and manage the EPA's complaint management process	<p>Provide regular reports to the Chair and CEO on issues arising from complaint handling.</p> <p>Ensure recommendations arising out of complaint data analysis are canvassed with Chair and CEO and implemented where appropriate.</p> <p>Train and empower staff to resolve complaints promptly and in accordance with the EPA's policies and procedures.</p> <p>Encourage staff managing complaints to provide suggestions on ways to improve the complaint management process.</p> <p>Encourage all staff to be alert to complaints and assist those responsible for handling complaints resolve them promptly.</p> <p>Recognise good complaint handling by staff.</p>

Staff whose duties include complaint handling	Demonstrate exemplary complaint handling practices	<p>Treat all people with respect, including people who make complaints.</p> <p>Assist people to make a complaint, if needed.</p> <p>Comply with this policy and its associated procedures.</p> <p>Keep informed about best practice in complaint handling.</p> <p>Provide feedback on issues arising from complaints.</p> <p>Provide suggestions on ways to improve the complaints management process.</p> <p>Implement changes arising from individual complaints and from the analysis of complaint data as directed by management.</p>
All staff	Understand and comply with the EPA's complaint handling policy and practices.	<p>Treat all people with respect, including people who make complaints.</p> <p>Be aware of the EPA's complaint handling policies and processes.</p> <p>Assist people who wish to make complaints access the EPA's complaints process.</p> <p>Be alert to complaints and assist other staff handling complaints to resolve matters promptly.</p> <p>Provide feedback on issues arising from complaints.</p> <p>Implement changes arising from individual complaints and from the analysis and evaluation of complaint data as directed by management.</p>

## 2.5 EPA complaint handling process

Staff should refer to the EPA Responding to External Complaints flowchart for additional information, which is available at: [EPA Flowchart for managing external complaints](#).

## 2.6 Relevant legislation and directions

Legislation and or mandating instruments that this policy supports include:

- *Ombudsman Act 1974*
- *Government Sector Employment Act 2013*
- EPA Code of Ethics and Conduct
- EPA Statement of Business Ethics.

## 3. Definitions

### 3.1 Complaint and dispute

For the purposes of this policy, a complaint would need to meet all of the following criteria:

- an expression of dissatisfaction concerning or involving the EPA
- made to the EPA
- by a person outside the EPA and
- where a response from the EPA is legally required, or explicitly or implicitly expected.

For the purposes of this policy, a dispute is:

- an unresolved complaint, escalated either within or outside of the EPA.

### 3.2 Where a complaint includes an allegation of misconduct or serious misconduct concerning or involving an EPA employee

The [Environment and Heritage Portfolio Managing Misconduct and Serious Misconduct](#) policy applies to all employees of the EPA. It may therefore be necessary to follow two processes – one to resolve the complainant’s concerns and a separate process to determine whether it is appropriate to apply the *Managing Misconduct* policy and if so, to undertake formal management of the alleged misconduct or serious misconduct.

The process for resolving a complainant’s concerns is set out in this policy and the [EPA Flowchart for managing external complaints](#).

The process for managing an allegation of employee misconduct is quite different:

- the *Managing Misconduct* procedure does not commence until the matter is notified to the EPA Director, Corporate Services
- the EPA Chair and CEO, or delegate, appoints a supervisor or manager to conduct an initial assessment
- the terms of reference for the initial assessment are set by the EPA and not by the complainant
- the appointed supervisor or manager provides a prompt report to the EPA Chair and CEO, or delegate, recommending either (1) no further action or (2) some other policy be used to manage the circumstances or (3) the allegation be dealt with under the *Managing Misconduct* policy.

### 3.3 Where a complaint includes an allegation of corrupt conduct concerning or involving an EPA staff member

The EPA Chair and CEO has a duty to report to the Independent Commission Against Corruption (ICAC) any matter suspected on reasonable grounds that concerns or may concern corrupt conduct.

Any allegation of corrupt conduct received by an EPA Director should be documented in a confidential TRIM file and advised promptly to the Chair and CEO.

If the Chair and CEO does not on reasonable grounds suspect that the matter concerns or may concern corrupt conduct, then the Chair and CEO, or delegate, will determine how the circumstances are to be managed.

Any person may make a complaint to the Independent Commission Against Corruption (ICAC) about a matter concerning corrupt conduct.

Any public official (including any EPA staff member) may make a public interest disclosure to an investigating authority, the EPA Chair and CEO or another EPA officer, as set out in the [EPA Addendum to OEH Public Interest Disclosures Policy and Procedures. \(UPDATE\)](#)

Public interest disclosures may be made concerning several matters, including:

- corrupt conduct
- maladministration
- serious and substantial waste.

### 3.4 Inclusions

A complaint includes:

- an expression of dissatisfaction about an EPA officer's behaviour or conduct, if the alleged behaviour or conduct would be contrary to the EPA Code of Ethics and Conduct and is not excluded below (section 3.5)
- an expression of dissatisfaction about EPA's procedures or decisions in applying or a delay in applying or not applying the environmental legislation EPA administers.

### 3.5 Exclusions

The following are not complaints covered by this policy:

- a staff grievance by an EPA employee. The appropriate procedure is found in [Respectful Workplace Policy and Procedures](#)
- a staff complaint about bullying made by an EPA employee. The appropriate procedure is found on the EPA website: [EPA Anti-Bullying Procedures.pdf](#)
- a public interest disclosure by an EPA employee. The appropriate procedure is found at <http://insite.environment.nsw.gov.au/EPA/Documents/EPApidPolicyProc.docx> (UPDATE)
- a request for government information. The *Government Information (Public Access) Act 2009* procedure is found at <http://insite.environment.nsw.gov.au/Intranet%20Library/Documents/PolicyGuidelines/GIPA.pdf>
- allegations of misconduct, serious misconduct or corruption concerning or involving an EPA staff member are generally more serious than complaints. Reports should be filed confidentially and separately from complaints. The appropriate procedures to follow are summarised in section 3.2 and 3.3 of this policy
- a response to a request for feedback about the quality of EPA services, where a response from the EPA is not legally required, or explicitly or implicitly expected
- a service request, which includes:
  - a notification of littering, dumping, pollution or emission or other failure by a third party to comply with legislation that the EPA administers
  - a request for the EPA to apply the environmental legislation the EPA administers
  - a request for explanation of EPA policies, procedures or decisions



- an expression of dissatisfaction about lack of action by the EPA, if another body is the appropriate regulatory authority and the complainant has been so informed
- an expression of dissatisfaction about an EPA decision about which the person has a formal right of review, including review by a court of law.

While these exclusions are not complaints covered by this policy, EPA staff should assist any such person with advice about how to have their concerns appropriately addressed, including how to contact the appropriate body.

## 4. Guiding principles

### 4.1 Facilitate complaints

EPA staff are to:

- treat people making complaints with respect
- provide people making complaints with information about the EPA's complaint handling process
- accept anonymous complaints and investigate the issues raised where there is sufficient information provided to do so
- provide people making complaints with reasons for decision/s and options for redress or review.

If a person making a complaint prefers or needs another person to assist or represent them, EPA staff are to communicate with them through their representative, if this is their wish.

### 4.2 Respond to complaints

Where possible, EPA staff are to resolve complaints fairly at first contact, with as little formality as possible.

EPA staff are to provide people making complaints with information about:

- expected time frames for the EPA's actions
- progress of the complaint and reasons for any delay
- their likely involvement in the process
- the range of possible or likely outcomes of a complaint.

EPA staff are to:

- advise people as soon as possible when the EPA is unable to deal with any part of their complaint and, where appropriate, provide advice about alternative avenues for consideration of such issues
- address each complaint with integrity and in an objective and unbiased manner
- disclose or only use personal information obtained as permitted under the *Privacy and Personal Information Protection Act 1998* and the Privacy Management Plan.

### 4.3 Manage the parties to a complaint

The EPA is committed to responding to all people who approach us with complaints. At the same time, achieving EPA's objectives depends on:

- our ability to operate in the most effective and efficient way possible

- the health, safety and security of our staff
- our ability to allocate resources fairly across complaints we receive.

In the event of unreasonable complainant conduct, the EPA will take appropriate action to manage such conduct.

For more information on managing unreasonable conduct by people making complaints, see the NSW Ombudsman's Managing Unreasonable Complaint Conduct Manual 2012, available at: [Managing Unreasonable Conduct](#).

## 4.4 Sequence for managing complaints

Unless the complaint is resolved at first contact, EPA staff are to follow the steps below.

### 4.4.1 Receiving complaints

EPA staff are to record the complaint and its supporting information in the relevant TRIM folder.

The record is to include:

- the contact information of the person making a complaint (unless anonymous)
- issues raised by the person making a complaint and the outcome/s sought
- any other relevant information
- any additional support the person making a complaint prefers or needs.

### 4.4.2 Acknowledging complaints

EPA staff are to promptly acknowledge receipt of each complaint, and preferably within five working days.

### 4.4.3 Assessing complaints

EPA staff are to:

- determine whether the issue/s raised are complaint/s or allegation/s of serious misconduct, fraud or corruption
- determine whether the issue/s in the complaint is/are within EPA's control
- consider the outcome/s sought
- where more than one issue is raised, determine whether each issue needs to be addressed separately.

EPA staff are to consider:

- the seriousness, complexity and urgency of the complaint
- whether the complaint raises concerns about people's health or safety
- how the person making the complaint is being affected
- the risks involved if resolution of the complaint is delayed
- whether a resolution needs the involvement of other organisations.

### 4.4.4 Consider how to manage complaints

EPA staff are to consider how to manage a complaint, which may include:

- giving the person information or an explanation

- gathering information about the subject matter of the complaint
- gathering information from the person about whom the complaint is made
- investigating the claims made in the complaint
- seeking advice about how to manage complaints
- escalating the complaint internally if required.

#### **4.4.5 Providing reasons for decisions**

Following consideration of the complaint and any investigation into the issues raised, EPA staff are to write to the person making the complaint or their representative and advise:

- the outcome of the complaint and any action taken by the EPA in response to the complaint
- the reason/s for decision
- the remedy or resolution proposed or put in place
- any options for review that are available to the complainant, such as internal review, external review or appeal.

If EPA staff, in the course of investigation, make an adverse finding or come to an adverse conclusion about an individual, they are to consider any applicable privacy obligation under the *Privacy and Personal Information Protection Act 1998* and notify their Manager or Director before sharing such a finding or conclusion with the person making the complaint.

#### **4.4.6 Closing complaints**

EPA staff are to keep records about:

- the subject of the complaint
- how the complaint was managed
- the outcome/s of the complaint
- any outstanding actions that need to be followed up
- informing the complainant.

EPA staff are to ensure outcomes are properly implemented, monitored and reported to the complaint handling Manager.

### **4.5 Analysis and evaluation of complaints**

The Director, Corporate Services is to undertake analysis of complaint reports to monitor trends, evaluate the quality of customer service and make appropriate improvements.

### **4.6 Further advice and information**

For further advice and information on the policy and process for handling complaints you should contact the:

- Senior Governance Officer 9995 5404 or
- Manager, Finance, Risk and Governance 9995 6181 or
- Director, Corporate Services 9585 6822.