



Environment Protection Authority

EPA Complaint Handling Policy and Procedure Guide



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1. Introduction

The Environment Protection Authority's (EPA's) complaint management framework is designed to provide a clear structure for receiving, assessing, recording, responding to and reporting on complaints, and using them to improve services to the public.

An effective complaint management framework is guided by three broad underlying principles: prevention, management and accountability.

To follow these principles the EPA has developed a clear and comprehensive policy about how to deal with complaints, how to deal with people who make complaints, how to resolve complaints appropriately, and how to use complaints to improve service provision in the future.

2. Policy

2.1. Purpose

The purpose of the policy is to:

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

2.2. Scope

This policy applies to all EPA employees, including ongoing, term, temporary casual and seconded employees and labour hire. It does not apply to contractors who are not representing the EPA but are providing professional services to the EPA.

2.3. Breaches of the policy

Breaches of this policy will be managed in accordance with the *EPA Managing Misconduct and Procedure Guide (2022)* and section 69 of the *Government Sector Employment Act 2013*.

Guidance can be found in the *EPA Code of Ethics and Conduct (2022)* and the *EPA Managing Misconduct and Procedure Guide (2022)*.

2.4. Policy statement – requirement to resolve complaints

All complaint handlers have a responsibility to respond to complaints with a view to early resolution wherever possible.

This may include:

- providing information about the *EPA Complaint Handling Policy and Procedure Guide (2022)*
- referring a complainant and complaint to another organisation where the complaint is not about the EPA or is not within the EPA's jurisdiction

- informing the complainant of the decision made about their complaint, the reasons for the decision, and any options for review that are available to a complainant.

2.5. What is a complaint?

For the purposes of this policy, a complaint must meet all 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.

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 2022* and is not excluded below (section 2.6)
- 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.

2.6. What is not a complaint?

For the purposes of this policy, the following are not complaints:

- a grievance by an EPA employee or a complaint by an EPA employee about bullying
- a public interest disclosure
- a request for access to government information
- a formal request for an internal review of a privacy complaint
- 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
- 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 regulatory decision about which the person has a formal right of review, including an internal review of a regulatory decision by the EPA or an external review, including by a court of law
- 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 which the EPA administers
 - a request for an explanation of EPA policies, procedures or decisions.

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

2.6.1. Dealing with matters that are not covered by this policy

Matters that do not meet the definition of a complaint for the purposes of this policy will be dealt with in the following ways:

- **Regulatory decision**
Separate process of internal review by the EPA or external review by another body

- **Staff grievance or bullying**
As set out in EPA policies: *Respectful Workplace Policy* (2021) or *EPA Anti-Bullying Policy* (2021)
- **Public Interest Disclosure**
As set out in EPA policy: *Public Interest Disclosure Policy and Procedures*
- **Request for access to government information**
As set out in the *EPA Information Guide*
- **Formal request for an internal review of a privacy complaint**
As set out in EPA policy: *Privacy Management Plan*
- **Response to a request for feedback about quality of EPA services**
No EPA response required
- **Service request**
Regulatory Operations officers should take appropriate action.

3. EPA complaint handling approach

EPA's complaint handling approach (procedure guide) has three levels.

Level 1 involves frontline employees. Employees whose duties include complaint handling need to have the appropriate aptitude, knowledge and skills to be able to respond to complaints effectively.

Level 2 involves a more senior or specialist officer receiving more serious or complex complaints referred from frontline complaint handlers, or reviewing an original decision where a complainant is dissatisfied with the process and/or the outcome.

Level 3 involves external review. The *Ombudsman Act 1974* provides that any person may complain to the Ombudsman about the conduct of a public authority, subject to certain limitations.

3.1. Level 1: Frontline complaint handlers

All complaints should be registered and documented in CM9. Complaints should be escalated to the second level of complaint handling if they are serious, complex or unresolved.

A complaint may be serious if it concerns a significant adverse impact on human health and wellbeing or a significant impact on the environment, significant non-compliance by EPA or by a licensee or risk of significant damage to the EPA's reputation.

A complaint may be complex if it involves several parties or specialised technical expertise or litigation, has a lengthy history or is accompanied by extensive documentation.

3.2. Level 2: Internal review

Where a complaint is escalated by a frontline complaint handler or a complainant is dissatisfied with the process and/or outcome of frontline complaint handling, and a member of the EPA Executive team agrees to an internal review, an investigation may be required.

Investigation is a generic term to describe a fact-finding process aimed at establishing the truth.

The nature and scope of an investigation will depend on the circumstances of the matter and any statutory and policy requirements that may apply.

Those involved in the internal review process must:

- act reasonably and impartially
- maintain confidentiality
- avoid conflicts of interests
- provide appropriate procedural fairness.

An investigation, if required, usually involves:

- seeking to answer an identified question
- gathering sufficient reliable information to enable a decision to be made
- impartial fact-finding
- reporting the outcome
- making recommendations when, and as, required.

3.3. Level 3: External review

The *Ombudsman Act 1974* provides that any person may complain to the Ombudsman about the conduct of a public authority, subject to certain limitations.

Some internal reviews conducted by the EPA are reviewable by other external agencies, depending on the statutory and policy requirements that apply to the matter.

The EPA may use external providers to review EPA decision-making processes and outcomes.

For more information, please refer to the *EPA Managing Misconduct and Procedure Guide (2022)*, the *EPA Respectful Workplace Policy (2021)* and the *EPA Code of Ethics and Conduct (2022)* which can be found on the EPA intranet.

4. Managing complaints

Where possible, EPA employees are to resolve complaints fairly with a view to early resolution and with as little formality as possible, unless preferred or requested by the complainant.

Otherwise, EPA employees 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 employees are required 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*.

4.1. Considering how to manage complaints

EPA employees 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.

4.2. 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 employees
- our ability to allocate resources fairly across complaints we receive.

4.3. Managing unreasonable complainant conduct (UCC)

Unreasonable complainant conduct (UCC) is any behaviour by a current or former complainant which, because of its nature or frequency, raises substantial health, safety, resource or equity issues for the EPA, our employees, other customers or the complainant themselves.

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

The types of conduct that may be viewed as unreasonable include but are not limited to:

- **Unreasonable persistence**
Complainants sending excessive amounts of correspondence or persisting with their issues in an incessant manner and refusing to accept final decisions
- **Unreasonable demands**
Any demands, express or implied, that are made by a complainant insisting on outcomes that move the goalposts, are unattainable, or demand their complaint is dealt with in ways that would result in disproportionate impacts or substantial issues
- **Unreasonable lack of cooperation**
An unwillingness to cooperate with the EPA, employees, or complaints system and processes. This may include providing disorganised, excessive or irrelevant information, being unwilling to consider other valid viewpoints or refusing to define their issues of complaint
- **Unreasonable arguments**
Any arguments that are not based on reason or logic, that are incomprehensible, false, inflammatory, trivial or a refusal to accept other more reasonable interpretations
- **Unreasonable behaviour**
Conduct that is unreasonable in all the circumstances (regardless of how stressed, angry or frustrated a complainant is) because it harasses, uses foul or abusive language, or unreasonably compromises the health, safety and security of our employees, other service users or the complainant themselves.

For more information on managing UCC, please refer to the NSW Ombudsman's *Managing Unreasonable Complaint Conduct Manual 2021* or the EPA Stakeholder Engagement team.

4.4. Responding to unreasonable complainant conduct (UCC)

To ensure good complaint handling practices, the use of UCC processes should be applied cautiously and not as a quick solution.

UCC incidents will generally be managed by limiting or adapting the ways that we interact with or deliver services to complainants by restricting:

- **Whom they can contact** – limiting a complainant to a sole EPA contact officer, or redirecting the complainant to Environment Line, where appropriate
- **What they can raise** – restricting the subject matter of communications we will consider and to which we will respond
- **When they can contact** – limiting a complainant’s contact with the EPA to a particular time, day, or length of time, or curbing the frequency of their contact
- **Where they can contact** – limiting the locations where we will conduct face-to-face interviews to secured facilities or areas of the office
- **How they can contact** – limiting or modifying the forms of contact the complainant can use. This can include modifying or limiting face-to-face interviews, telephone and written communications, prohibiting access to our premises, contact only through a representative, taking no further action or terminating our services altogether.

When using the restrictions provided in this section, discretion will be needed to adapt them to suit a complainant’s personal circumstances, level of competency and literacy skills. More than one strategy may need to be used in individual cases to ensure their appropriateness and efficiency.

An EPA officer with the necessary skills and support should manage the complainant.

The attributes of a successful complaint handler include:

- communicating respectfully, courteously, impartially and honestly
- resilience
- empathy
- patience
- discretion
- creativity
- good judgement
- customer service – a desire to resolve issues raised by complainants.

The EPA officer managing the complaint can also seek assistance and guidance from the Stakeholder Engagement team.

For severe cases of UCC, such as targeted abuse of employees, threats of violence or actual violence, immediately refer to your People Leader, and for detailed information refer to *Managing External Initiated Threats and Aggressive Behaviour* under ‘Work, Health and Safety’.

5. Procedure guide

5.1. Record keeping

The EPA will ensure it meets its record keeping requirements. Key discussions, decisions and events should be recorded and be able to be easily retrieved when needed. Each Division is

responsible for maintaining a dedicated CM9 folder for complaints, where relevant documents are recorded.

5.2. Receiving complaints

EPA employees are to record the complaint and its supporting information in the relevant CM9 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.

5.3. Acknowledging complaints

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

5.4. Assessing complaints

EPA employees are to:

- determine whether the issue(s) raised are complaint(s) or allegation(s) of 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 employees 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.

5.5. Providing reasons for decisions

Unless a complaint is resolved at first contact, following consideration of the complaint and any investigation into the issues raised, EPA employees 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 reasons 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 employees, 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.

5.6. Closing complaints

EPA employees are to keep records about:

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

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

Appendix A: Resources

A.1 Further advice and information

Further guidance and resources are available in the [Ombudsman Effective Complaint Handling Guidelines \(3rd edition\)](#).

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

- Coordinator, Risk and Governance 02 9995 5404
- Manager, Risk and Governance 02 9995 6805
- Director, Governance, Risk and Planning

A.2 Dealing with allegations of misconduct or corrupt conduct

Allegations of misconduct concerning an EPA employee

Allegations of misconduct involving an EPA employee, corrupt conduct and public interest disclosures are generally considered by the EPA to be more serious than complaints. Reports of misconduct involving an EPA employee, corrupt conduct and public interest disclosures to the EPA should be filed confidentially and separately from complaints.

The appropriate procedures to follow are summarised in this section. All EPA employees must comply with the *EPA Managing Misconduct Policy and Procedure Guide (2022)*. 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 *EPA Managing Misconduct Policy and Procedure Guide (2022)* and, if so, to undertake formal management of the alleged misconduct.

The process for resolving a complainant’s concerns is set out in this policy.

The process for managing an allegation of employee misconduct differs from the process for resolving a complainant’s concerns in the following ways:

- the Managing Misconduct procedure does not commence until the matter is notified to the EPA CEO or the Director, Capability and Talent
- the EPA 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 CEO, or delegate, recommending either:
 1. no further action
 2. the allegation be dealt with under the *EPA Managing Misconduct and Procedure Guide (2022)*
 3. some other policy be used to manage the circumstances.

An EPA employee who becomes aware of possible employee misconduct should promptly notify the CEO or the Director, Capability and Talent.

Allegations of corrupt conduct

The head of the EPA 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.

An EPA employee who becomes aware of possible corrupt conduct should promptly notify the CEO or the Director, Governance, Risk and Planning.

Any allegation of corrupt conduct received by an EPA Director should be documented in a confidential CM9 file and advised promptly to the CEO.

If the EPA CEO does not suspect on reasonable grounds that the matter concerns or may concern corrupt conduct, then the 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 an EPA matter concerning corrupt conduct.

Public interest disclosures

Any public official (including any EPA employee) may make a public interest disclosure to an investigating authority, the EPA CEO or certain other EPA senior executives, as set out in the *EPA Public Interest Disclosure Internal Reporting Policy and Procedures*.

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

- corrupt conduct
- maladministration
- serious and substantial waste.

A.3 Legislation and obligations

Legislation and/or mandating instruments that this policy supports include:

- *Ombudsman Act 1974*
- *Government Sector Employment Act 2013*
- *EPA Statement of Business Ethics (2022)*
- *EPA Managing Misconduct Policy and Procedure Guide (2022)*
- *EPA Code of Ethics and Conduct (2022)*.

Appendix B: Application

B.1 Responsibilities

EPA requires employees at all levels to handle complaints fairly, effectively and efficiently. The following outlines the commitment and behaviours expected from employees involved in the EPA complaint handling process.

Table 1 Roles and teams with significant responsibilities

Position, branch or team	Responsibility
EPA Chief Executive Officer (CEO)	<ul style="list-style-type: none">• The CEO is the owner and approver of this policy and procedure guide• The CEO is responsible for ensuring the EPA's <i>Annual Report</i> includes the extent and main features of customer complaints.
Senior Leadership Team	<ul style="list-style-type: none">• Promote a culture that values complaints and their effective resolution• Provide support and direction to employees responsible for handling complaints• Review reports about complaint trends and issues arising from complaints• Encourage all employees to be alert to complaints and assist those responsible for handling complaints to resolve these promptly• Recognise good complaint handling by employees• Encourage employees to make recommendations for service and complaint handling improvements arising from analysis of complaint data• Ensure improvements are implemented where appropriate
Director, Governance, Risk and Planning	<ul style="list-style-type: none">• The Director is required to establish and manage the complaint handling process• Provide regular reports to the CEO on issues arising from complaint handling• Ensure recommendations arising from complaint data analysis are canvassed with the CEO and Implemented where appropriate• Train and empower employees to resolve complaints promptly and in accordance with the EPA's policies and procedures• Encourage employees managing complaints to provide suggestions on ways to improve the complaint management process• Encourage all employees to be alert to complaints and assist those responsible for handling complaints to resolve these promptly• Recognise good complaint handling by employees

Position, branch or team	Responsibility
Employees whose duties include complaint handling	<ul style="list-style-type: none"> • Employees are required to demonstrate exemplary complaint handling practices • Treat all people with respect, including people who make complaints • Assist people to make a complaint, if needed • If a person making a complaint prefers or needs another person to assist or represent them, communicate with them through their representative • Comply with this policy and procedures • Accept anonymous complaints and investigate the issues raised where there is enough information to do so • Provide people making a complaint with the reasons for decisions and options for redress or review • Stay informed about best practice in complaint handling • Provide feedback on issues arising from complaints • Suggest ways to improve the complaint management process • Implement changes arising from individual complaints and from analysis of complaint data, as directed by management
All employees	<ul style="list-style-type: none"> • All employees are required to understand and comply with the EPA complaint handling policy and procedure • Treat all people with respect, including people who make complaints • Provide people making complaints with information about the complaint handling process • Assist people who wish to make a complaint to access the EPA's complaint handling process • Be alert to complaints and assist other staff handling complaints to resolve matters promptly • Provide feedback on issues arising from complaints • Implement changes arising from individual complaints and from analysis of complaint data, as directed by management

Learning and review

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

Learning from complaints requires:

- ensuring adequate records are made and retained about the receipt, handling and outcomes of complaints
- regularly monitoring trends
- regularly analysing, reporting and reviewing the subject matter and outcomes of complaints to assess the quality of EPA's services and improve systems.

EPA Governance, Risk and Planning will review this policy no later than three years from the date the document is approved. The document may be reviewed earlier in response to post-implementation feedback, changes to legislation or regulation or other influential circumstances, as necessary.