

# COMPLAINT HANDLING GUIDE

Setting up Effective  
Complaint Resolution Systems  
in Public Organizations

As an independent officer of the Legislature, the Ombudsperson investigates complaints of unfair or unreasonable treatment by provincial and local public authorities and provides general oversight of the administrative fairness of government processes under the *Ombudsperson Act*. The Ombudsperson conducts three types of investigations: investigations into individual complaints; investigations that are commenced on the Ombudsperson's own initiative; and investigations referred to the Ombudsperson by the Legislative Assembly or one of its Committees.

The Ombudsperson has a broad mandate to investigate complaints involving provincial ministries; provincial boards and commissions; Crown corporations; local governments; health authorities; colleges and universities; schools and school boards; and self-regulating professions and occupations. A full list of authorities can be found in the *Ombudsperson Act*. The Office of the Ombudsperson responds to approximately 8,000 enquiries and complaints annually.

Under the *Public Interest Disclosure Act* the Ombudsperson investigates allegations of wrongdoing from public employees in or relating to a public body covered by the Act as well as allegations of reprisal.

Our Consultation and Training Team offers educational webinars, workshops and individual consultation with public organizations to support fairness and continuous improvement across the public sector.

For more information about the B.C. Office of the Ombudsperson and for copies of published reports, visit [www.bcombudsperson.ca](http://www.bcombudsperson.ca).



**OMBUDSPERSON**  
BRITISH COLUMBIA

December 2020

The Honourable Raj Chouhan  
Speaker of the Legislative Assembly  
Parliament Buildings  
Victoria BC V8V 1X4

Dear Mr. Speaker,

It is my pleasure to present the Ombudsperson's Special Report No. 46, *Complaint Handling Guide: Setting up Effective Complaint Resolution Systems in Public Organizations*.

The report is presented pursuant to section 31(3) of the *Ombudsperson Act*.

Yours sincerely,

Jay Chalke  
Ombudsperson  
Province of British Columbia



# FROM THE OMBUDSPERSON

---

Complaints can arise from mistakes, misunderstandings and unexpected problems in all organizations. What matters is how public organizations respond – whether they fix the problem and take steps to prevent it from occurring again, or compound the initial problem by failing to address it appropriately. Responding effectively to complaints is a critical component of maintaining public confidence in an organization and its services. Members of the public expect to receive high-quality services from government and to have their concerns dealt with fairly and promptly.



An effective complaint resolution process can work to restore trust after something has gone wrong; it can also lead to better outcomes for service users and help organizations improve their services. Poorly handled complaints, however, have the opposite effect. In such cases, complaints can escalate taking up a disproportionate amount of an organization’s resources and sometimes end in costly legal disputes. Many people who approach our office are upset, not just about an organization’s original decision or actions, but with how the organization responded to their concerns when they raised them.

Complaints are free feedback on how well an organization is doing in terms of its systems, services and staff. With this information, organizations have the opportunity to learn from experience and implement changes.

The BC Ombudsperson has 41 years of experience in responding to complaints about public organizations. This guide aims to share our office’s experience and help public organizations better understand what is involved in creating and operating an effective internal complaint resolution system.

This guide includes two practical tools for public bodies seeking to improve their handling of public complaints – a self-assessment checklist and a model complaints policy. Further resources are available on our website. Please visit [www.bcombudsperson.ca](http://www.bcombudsperson.ca) to familiarize yourself with the other information and resources that we offer.

Jay Chalke  
Ombudsperson  
Province of British Columbia



# TABLE OF CONTENTS

---

|  |    |
|--|----|
| <b>From the Ombudsperson</b> .....   | 1  |
| <b>1. Introduction</b> .....   | 4  |
| 1.1 What Complaints Are .....  | 4  |
| 1.2 Why Complaints Are Important .....   | 4  |
| 1.3 Fostering a Culture That Values Complaints .....   | 5  |
| <b>2. Guiding Principles for an Effective Complaint Resolution System</b> .....  | 7  |
| 2.1 Accessible .....   | 7  |
| 2.2 Fair .....   | 8  |
| 2.3 Person-Focused .....   | 8  |
| 2.4 Responsive .....   | 9  |
| <b>3. Setting Up a Complaints Process</b> .....  | 10 |
| 3.1 Recruit Skilled Staff .....  | 10 |
| 3.2 Provide the Right Training .....   | 10 |
| 3.3 Develop Complaints Policies and Procedures .....   | 11 |
| 3.4 Use a Three-Tier Approach .....  | 12 |
| <b>4. Tier 1: Point-of-Service Complaints</b> .....  | 13 |
| 4.1 Receiving Complaints .....   | 13 |
| 4.2 Acknowledging Complaints .....   | 13 |
| 4.3 Assessing Complaints .....   | 14 |
| 4.4 Managing Expectations .....  | 14 |
| 4.5 Seeking Early Resolution .....   | 15 |
| 4.6 Maintaining Confidentiality .....  | 15 |
| <b>5. Tier 2: Complaints Needing Internal Review, Investigation or Some Form of Alternative Dispute Resolution</b> ..... | 16 |
| 5.1 Investigating Complaints .....   | 16 |
| 5.2 Resolving Complaints .....   | 18 |
| 5.3 Communicating Complaint Outcomes and Reasons .....   | 19 |
| <b>6. Tier 3: Complaints Needing External Review</b> .....   | 20 |
| <b>7. Additional Considerations in Complaint Handling</b> .....  | 21 |
| 7.1 Treating People with Dignity and Respect .....   | 21 |
| 7.2 Dealing with Unreasonable Conduct .....  | 23 |
| 7.3 Debriefing and Supporting Staff Who Handle Complaints .....  | 25 |
| <b>8. Learning from Complaints</b> .....   | 26 |
| 8.1 Recording Information about Complaints .....   | 26 |
| 8.2 Analyzing Complaints .....   | 26 |
| 8.3 Improving Complaint Processes .....  | 27 |
| <b>9. A Final Word</b> .....   | 28 |
| <b>Complaints Process Self-Assessment Checklist</b> .....  | 29 |
| <b>Model Complaints Policy</b> .....   | 32 |

# I. INTRODUCTION

---

## 1.1 What Complaints Are

We define a complaint broadly as an expression of dissatisfaction made to or about a public organization about some aspect of its programs, services or people where a response is explicitly or implicitly expected.<sup>1</sup> A complaint can be made about a wide range of issues and can be made in writing or expressed verbally to a public organization.

A complaint includes:

- a concern expressed about conduct or service, which may relate to a failure to provide information, conduct of staff, the unfairness or unreasonableness of a decision, and so on, or
- a request for a review of a decision on an earlier complaint

How organizations define what constitutes a complaint is important. While a narrow definition may act to exclude less serious matters, a broader definition is preferable because it provides organizations with a more accurate understanding of the range of concerns that service users have about the organization.<sup>2</sup> Whether a complaint is justified or reasonable should not form part of the definition of a complaint. From the point of view of the person making the complaint, they are expressing their dissatisfaction and that is what makes it a complaint.

Organizations should also consider whether there are any types of communication that it will not consider as a complaint – for example, where a person expresses an opinion but does not expect a response, such as a

negative comment on an organization's social media account.

Whatever an organization decides, it is important that it is clear and transparent about the types of matters that it will regard as complaints, so that members of the public are treated in a consistent way. It is also a good practice to record comments other than complaints such as suggestions, feedback, compliments and enquiries, because this helps to build a more complete picture of the experience of an organization's service users.

## 1.2 Why Complaints Are Important

Public organizations that value their service users are also committed to responding to complaints. When managed effectively by a public organization, complaints have the power to strengthen its relationships with the people using its services.

In order to maintain and strengthen positive relationships, an effective complaint resolution system must have two key features. First, complaints must be resolved in a way that is respectful and responsive.<sup>3</sup>

Second, data must be captured from complaints in order to provide feedback about an organization's systems and processes.<sup>4</sup> Public organizations should use the information they acquire from complaints to:

- provide an appropriate remedy to the person who was disadvantaged or harmed by an organization's faulty decision making or poor service delivery

<sup>1</sup> New South Wales Ombudsman, *Effective Complaint Handling Guidelines*, 3rd ed., 2017, vi, citing the Australian and New Zealand Standard *Guidelines for Complaint Management in Organizations – AS/NZS 10002:2014 (AS/NZS Complaint Management Standard)*.

<sup>2</sup> New South Wales Ombudsman, *Effective Complaint Handling Guidelines*, 3rd ed., 2017, vi

<sup>3</sup> Tasmanian Disability and Community Services, *Good Practice Guide and Self Audit Tool 2017*, 2017, 10

<sup>4</sup> Tasmanian Disability and Community Services, *Good Practice Guide and Self Audit Tool 2017*, 2017, 10.

- repair service delivery weaknesses identified through the complaint
- support decision making about future service delivery and program development

### 1.3 Fostering a Culture That Values Complaints

When we talk about organizational culture, we mean the collective values that exist among people in a workplace, and how they understand their work and their own place within the organization's mandate.<sup>5</sup>

Complaint processes must be supported by a strong organizational culture that views complaints as a key way to receive feedback from the people using the organization's services. Without this support, a complaint resolution system is likely to become a collection of policy documents that are not reflected in an organization's actual practices.

In organizations that value complaints, senior leaders:<sup>6</sup>

- convey to staff that complaints are a valuable source of feedback
- emphasize that the focus is on fixing issues and improving systems
- foster a culture of disclosure and apology when mistakes are made
- implement changes to services, procedures and practices when issues are identified through complaints

#### Why People Complain

Although people raise concerns for a variety of different reasons, most complaints arise as a result of unmet expectations. Where there is a discrepancy between what people expect to receive from a public organization and what they actually receive, people are likely to be dissatisfied. When this happens,



<sup>5</sup> Tasmanian Disability and Community Services, *Good Practice Guide and Self Audit Tool 2017*, 2017, 15.

<sup>6</sup> New South Wales Ombudsman, *Effective Complaint Handling Guidelines*, 3rd ed., 2017, 5; Tasmanian Disability and Community Services, *Good Practice Guide and Self Audit Tool 2017*, 2017, 15.

## 1. Introduction

public organizations have two choices: they can either increase the level of service they provide or work to better manage people's expectations about what they should receive from the organization.

People who wish to raise a concern about an organization generally want to:

- have a process where it is easy to make a complaint
  - receive a service that is responsive to their needs
  - be heard, understood and respected
  - receive an explanation
  - receive an apology
  - have action taken as soon as possible
- not wanting to be seen as a “troublemaker”
  - fear of retribution or withdrawal of service for making a complaint
  - negative experiences associated with previous attempts to make a complaint
  - language and cultural issues – for example, difficulty communicating in written or spoken English can make raising a concern difficult, or where one's cultural background discourages complaining about government services
  - factors such as age, intellectual or physical disability, mental illness and financial constraints
  - daily challenges, such as food or housing insecurity, that leave people without the time or capacity to pursue a complaint

As a starting point, it is important to find out why a person is unhappy with a decision, the way a service was delivered, or the level of service they received. It is helpful to inquire as to what the person making the complaint would like the outcome to be. The answer to this question will typically clarify the reason for the complaint, what the organization's response should be, and whether the outcome they are seeking is possible.

As a result of these barriers, a single complaint should not be dismissed as an anomaly or as unrepresentative, but should instead be understood as potentially representing the unvoiced concerns of a larger number of silent, but dissatisfied, service users.

### Why People Don't Complain

It is important for public organizations to understand that only a small percentage of people who are dissatisfied will actually raise their concerns. Contrary to popular belief, many people are reluctant to make a complaint and feel uncomfortable raising their concerns. There are many barriers to expressing a complaint to a public organization, including:<sup>7</sup>

- not being aware of the right to complain, or lack of information about how to make a complaint

<sup>7</sup> New South Wales Ombudsman, *Effective Complaint Handling Guidelines*, 3rd ed., 2017, 2; Tasmanian Disability and Community Services, *Good Practice Guide and Self Audit Tool 2017*, 2017, 20.

## 2. GUIDING PRINCIPLES FOR AN EFFECTIVE COMPLAINT RESOLUTION SYSTEM

---



There are different models for managing complaints based on the structure and size of an organization, the nature of its work, and the needs of the people it serves. There are also, of course, important structural elements of an effective complaint resolution system, such as having appropriate policies and procedures. An effective complaint resolution system will also be guided by a number of key principles, which we describe as follows:

### 2.1 Accessible

A good complaint resolution system must be accessible and open to receiving complaints from a wide range of people. Organizations must work to make it easy for people to voice their concerns. This requires that organizations develop a complaint system that is simple to use and is explained in plain language.<sup>8</sup> Organizations should also work to make complaint-related publications and resources available in other languages that are commonly spoken in BC.<sup>9</sup>

Organizations can provide the public with information about their complaints process

in any number of ways, including through the organization's:

- website
- direct correspondence
- pamphlets
- posters
- media coverage, and
- outreach activities

Accessibility also rests on having a range of different contact options that are simple and easy to use and ensuring that there are supports available for people who need help when making a complaint. Contact options may include a toll-free telephone number, an email and postal address and an online complaint submission form. Except where there is a legal requirement, service users should not be required to put their complaint in writing, as this can become a barrier to raising a concern (although organizations can and should reduce a verbal complaint to writing). An organization's staff should also be available to verbally explain the complaint

<sup>8</sup> See the Government of British Columbia's online "Plain Language Guide": <<https://www2.gov.bc.ca/gov/content/governments/services-for-government/policies-procedures/web-content-development-guides/writing-for-the-web/plain-language-guide>>.

<sup>9</sup> This includes having print materials available in Indigenous languages where applicable. See the Government of British Columbia's online resource WelcomeBC, "Language in BC," 2019 <<https://www.welcomebc.ca/Choose-B-C/Explore-British-Columbia/Language-in-B-C>>:

## 2. Guiding Principles for an Effective Complaint Resolution System

process to service users who may have difficulty understanding written information.

Lastly, accessibility requires organizations to identify and work to remove any barriers that could prevent members of the public from making a complaint. For example, there should not be any financial charge for making a complaint; even a small fee can act as a barrier to making a complaint.

While public organizations might believe that they have an effective and accessible complaint process in place, it is important to get the views of people using services in order to confirm that this is the case. One way of doing this is to seek feedback from those who have made a complaint and inquire about how they found the complaints process (as distinct from the outcome of the complaint).

### 2.2 Fair

A best practice in complaint resolution requires that organizations apply the principles of procedural fairness to the investigation of complaints. The current view of the courts in Canada is that there are two key components of procedural fairness:<sup>10</sup>

- the right to an independent and *unbiased* hearing/decision maker
- the right to be heard – in practice, this means that a person should be provided with advance notice of an action or decision, proper disclosure, a reasonable opportunity to respond to the issues or information held by the decision maker and to have their response considered by the decision maker

In the context of complaint resolution, the right to an unbiased decision maker requires that organizations respond to each complaint on its merits. In circumstances where

staff are responding to someone who has complained on numerous other occasions, special care must be taken to ensure that the complaint is not dismissed outright as lacking credibility. A person's history of raising unsubstantiated complaints does not preclude there being a valid issue when they raise a new complaint. It is important that an organization's staff approach each complaint with an open mind and a commitment to fully reviewing the fresh evidence a person provides in support of their complaint.

Looking at the second requirement of procedural fairness in the context of complaint resolution, the right to be heard requires that organizations provide people who have made a complaint with an opportunity to submit relevant information and to comment on the organization's preliminary findings before the organization finalizes or closes the person's complaint.

### 2.3 Person-Focused

A person-focused complaint system is one where listening and learning are built into every aspect of a public organization's service. It requires that staff at various levels of an organization are authorized and trained to respond to complaints and are supported in doing so. It also requires that service users are respected, informed about their rights and empowered to bring their concerns forward.

The process used to respond to complaints must ensure that the voices and perspectives of service users are heard and considered in the way issues are resolved.

Complaints processes also need to be sufficiently flexible to consider and respond to individual needs. Some people, because of disability, poor health, trauma or substance use, may have difficulty in making complaints, remaining focused on their complaint

<sup>10</sup> *Cardinal v. Director of Kent Institution*, [1985] 2 SCR 643, at para 14, [1985] SCJ No 78. In this case, the court stated that "there is, as a general common law principle, a duty of procedural fairness lying on every public authority making an administrative decision which is not of a legislative nature and which affects the rights, privileges or interests of an individual."

and responding to requests for additional supporting documentation or information. In these situations, organizations should be ready to work with a person's representative, friend or advocate and have a system in place to confirm the person's consent to have another person act on their behalf in relation to their complaint.

### 2.4 Responsive

Organizations that are responsive tend to view complaints as an opportunity to maintain or improve a relationship with the person receiving services. Non-responsive organizations tend to view complaints as a nuisance to be managed.

A key part of being responsive is ensuring that staff are empowered to respond to complaints quickly and that they do so in a non-

judgmental and respectful way. Organizations also demonstrate responsiveness by ensuring that they promptly acknowledge each complaint, set realistic time frames for complaint resolution and keep people informed of the progress of their complaint.

It is difficult to be definitive about what a reasonable time frame is for resolving a complaint, as there are many variables at play, including the complexity of the issues raised in the complaint and/or the availability of evidence. However, it is important that organizations specify key performance standards in the handling of complaints – for example, the number of days within which the organization will acknowledge and then assess a complaint, and the period in which the organization will make progress reports to the person who made the complaint.

### What Is Bias?

Bias in decision making is generally understood as a pre-existing leaning or predisposition toward one side or another or a particular result.<sup>11</sup>

Bias can creep into complaint resolution and investigations when decision makers rely on their personal belief systems, prior knowledge of a person, or personal relationship with a party or service user, rather than focusing exclusively on the information and evidence related to the complaint. It is important that staff who are handling complaints be aware of any personal biases that may be affecting how they respond to concerns from service users.

Members of the public who do not agree with the outcome of a complaint sometimes allege that the decision maker was biased. Although bias can be difficult to prove, it is important to remember that it is not necessary to demonstrate actual bias in order to bring the fairness of a decision into question. The fairness of a decision making process can be undercut by the mere *perception* of bias, where that perception is reasonable. Note that this does not require a finding of actual bias; it merely requires that a reasonable person, informed of the circumstances, would perceive bias on the part of the decision maker.<sup>12</sup>

Remaining unbiased and independent presents a challenge when responding to complaints about one's own organization, especially as it may be the person who is alleged to be biased who has to decide initially what steps to take to address the concerns reported by a service user. Where a decision maker identifies that they clearly have a bias that prevents them from objectively reviewing the matter, they should not be involved in deciding on the outcome of the complaint and should ask another person to conduct the review.

<sup>11</sup> *Wewaykum Indian Band v. Canada*, 2003 SCC 45, [2003] 2 SCR 259

<sup>12</sup> *Committee for Justice and Liberty v. National Energy Board*, [1978] 1 SCR 369 at para 394.

## 3. SETTING UP A COMPLAINTS PROCESS

---

### 3.1 Recruit Skilled Staff

Skilled staff are essential at all levels of an organization's complaint resolution process. In addition to having skills in active listening and problem solving, the most successful complaint resolution staff have the following characteristics:<sup>13</sup>

- Empathic – able to respond to other people's feelings and life circumstances
- Non-defensive – able to receive negative feedback without being defensive or protective of their organization
- Analytical – able to quickly identify the core of a complaint and appropriately weigh evidence and arguments to reach a sound conclusion
- Creative – able to integrate creativity and intuition with skill to explore alternative ways of resolving a complaint
- Assertive – able to easily set and maintain boundaries and manage expectations
- Resilient – able to respond to people who are upset and angry without it having a negative impact on them personally
- Self-aware – able to regulate their own emotions and respond thoughtfully rather than reactively
- Trauma-informed – knowledgeable about the effect of trauma on the brain and body, and about strategies to avoid exacerbating possible trauma-related problems

It is essential that the people in an organization who are responsible for responding to complaints are skilled in that role and have a positive attitude about complaints. A key to effectively recruiting

staff with these skills is to ensure that the organization conveys that complaint resolution is an important activity. (For more information on the skills required for effective complaints resolution, see our office's *Fairness in Practice Guide*, pp. 23–36).<sup>14</sup>

### 3.2 Provide the Right Training

It is good practice for organizations to provide ongoing complaint resolution training to help support staff with developing the skills needed to respond to concerns from service users. This training should start when an employee is first assigned complaint resolution responsibilities, and should be supplemented by more specific training that deals with the challenges of complaint resolution work. Training could include, for example, courses on dealing with unreasonable conduct, trauma-informed practice, mediation or conflict resolution.

An organization's initial training of complaint resolution staff should focus on the organization's specific complaint resolution policies and procedures, as well as the specific programs and services the organization delivers, so staff understand the key decisions the organization makes that can give rise to complaints.<sup>15</sup> It is also good practice to draw attention to any investigative reports by other areas of government, such as the Representative for Children and Youth, the Auditor General, the Information and Privacy Commissioner or the Ombudsperson. These reports can serve as a reminder of how lapses occur in government processes and decision making, and the significant and serious impact these lapses can have on the people affected.<sup>16</sup>

<sup>13</sup> Adapted from the Commonwealth Ombudsman, *Better Practice Guide to Complaint Handling*, 2009, 17.

<sup>14</sup> BC Ombudsperson *Fairness in Practice Guide*, < [https://bcombudsperson.ca/assets/media/OMB-FairnessInPracticeGuide-web\\_0.pdf](https://bcombudsperson.ca/assets/media/OMB-FairnessInPracticeGuide-web_0.pdf) >.

<sup>15</sup> Commonwealth Ombudsman, *Better Practice Guide to Complaint Handling*, 2009, 18.

<sup>16</sup> Commonwealth Ombudsman, *Better Practice Guide to Complaint Handling*, 2009, 18.

### 3.3 Develop Complaints Policies and Procedures

An organization's complaints resolution process must be supported by written policies and procedures. A good practice is that these policies and procedures are developed with the involvement of staff and the people using the organization's services.

#### Complaints Policy

A good complaint resolution process must be supported by written policy which provides a detailed explanation of the important role complaints play in helping an organization improve services and systems.

A complaint policy should generally outline how an organization receives, records, works to resolve and reports out on complaint outcomes. Generally, best practice is that an organization's complaint policy be made publicly available and contain the following:<sup>17</sup>

- an explanation of the reason for the policy
- a statement of the organization's commitment to resolving complaints fairly
- a definition of "complaint", including what decisions are or are not encompassed within the policy
- guiding principles of the complaints process
- a statement about the confidentiality and privacy of complaint information

#### Complaints Procedure

In addition to a complaint policy, organizations also need guidance on the specific steps that are required to give effect to the policy. A good complaint procedure will speak to:<sup>18</sup>

- how complaints can be received (e.g., in writing, verbally, by email, anonymously)
- responsibilities for recording, resolving and analyzing complaints
- how complaints and complaint outcomes will be tracked
- time frames for resolution, including service standards for responding to urgent and priority complaints
- processes for responding to serious issues raised by the complaint (e.g., criminal matters, risk to health and safety)
- remedies/forms of redress and who is authorized to provide them
- procedures for file closure
- review mechanisms if the person who made the complaint is not satisfied with the outcome of the complaints process
- strategies to manage unreasonable conduct by people making complaints

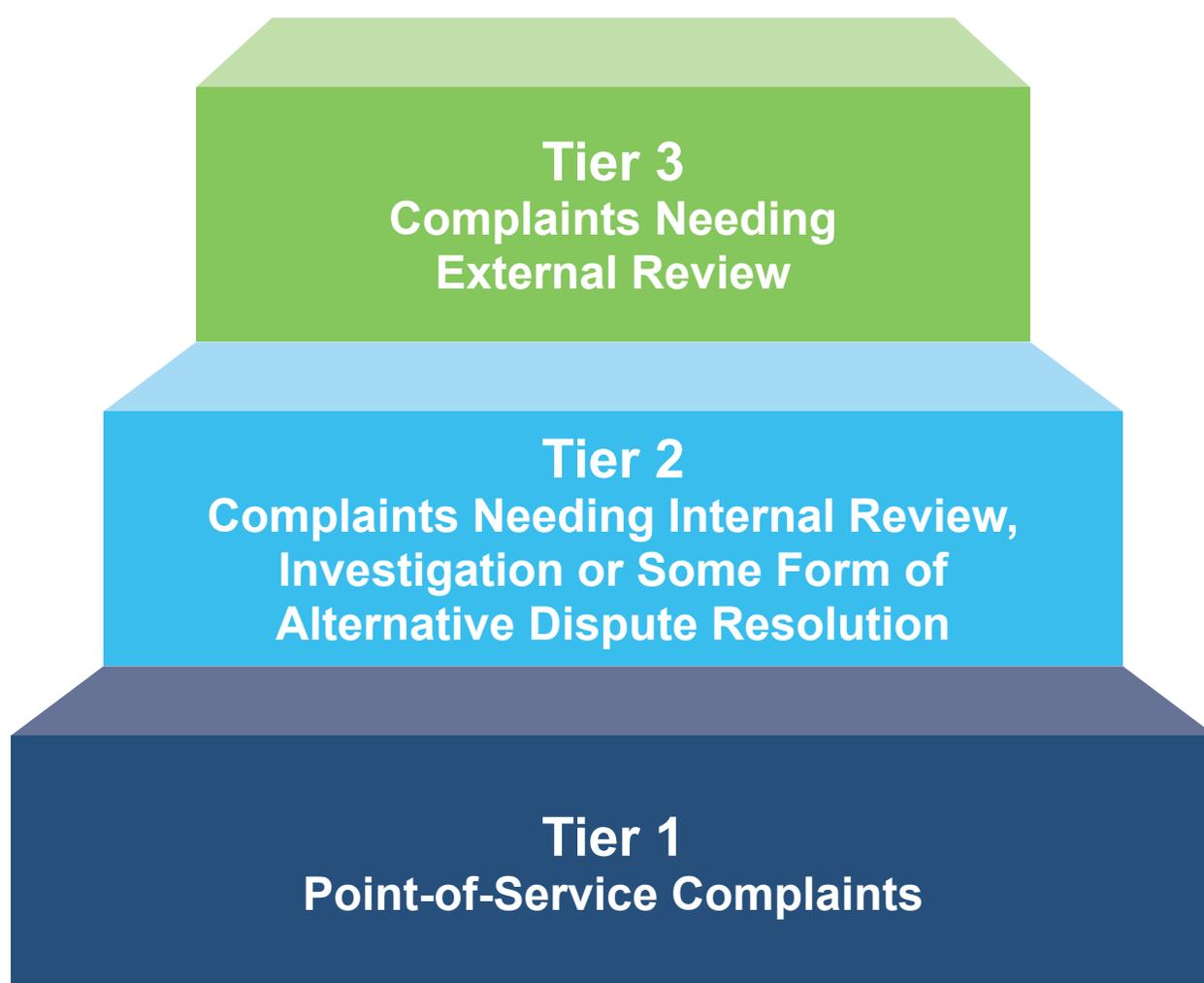
<sup>17</sup> Tasmanian Disability and Community Services, *Good Practice Guide and Self Audit Tool 2017*, 2017, 36.

<sup>18</sup> Tasmanian Disability and Community Services, *Good Practice Guide and Self Audit Tool 2017*, 2017, 37.

#### 3.4 Use a Three-Tier Approach

It is widely recognized by oversight bodies that the most effective complaint processes take a three-tiered approach, with the aim being to resolve most complaints at the point they are received.<sup>19</sup> Although a complaint resolution process should have three tiers, it should not be an absolute requirement that a person has to adhere to an organization's specific steps in their complaint process. Where a person has a valid reason for not following the suggested process, organizations should be flexible and provide other options for the person, such as going to the internal review/investigation tier immediately.

In reviewing an existing complaints process, an organization should consider the extent to which the process already operates on the following three tiers.



<sup>19</sup> Tasmanian Disability and Community Services, *Good Practice Guide and Self Audit Tool 2017*, 2017, 32; New South Wales Ombudsman, *Effective Complaint Handling Guidelines*, 3rd ed., 2017, 9; Health Services Review Council, *Guide to Complaint Handling in Health Care Services*, 2005, 17.

## 4. TIER I: POINT-OF-SERVICE COMPLAINTS

---

An organization's initial interaction with a person raising a complaint about its services is probably one of the most important contacts that it will have with them. The way this interaction begins can significantly affect how the person interacts with the organization in the future.

A person who feels they have been listened to, understood, respected, treated fairly and given an explanation of what is likely to happen with their complaint is more likely to respond positively to the organization, its staff and the complaints process. However, when complaints are not handled well, the relationship between the person and the service provider, as well as the person's confidence in the organization, is likely to deteriorate.

Organizations should seek early resolution of complaints wherever possible. In order to resolve Tier 1 complaints efficiently, organizations should ensure that:

- staff are skilled and empowered to welcome complaints and to remedy problems quickly
- staff receive training related to listening, problem solving and conflict resolution
- there are performance standards for complaint resolution, including response times

Issues that may be suitable for Tier 1 resolution vary depending on the type of service being provided, but may include such issues as:

- failure to provide a service or return a phone call
- disrespectful or unhelpful treatment by a staff member
- the service provided falls below the normal standard for the organization

Although it is ideal to resolve most complaints at the first point of contact, some complaints will need to be escalated for investigation.

An organization's complaint policy should clearly outline what types of complaints are not suitable for Tier 1 resolution and should be escalated for further review or investigation.

If the person making the complaint is dissatisfied with the outcome of a Tier 1 resolution process, they should have the ability to escalate their concerns further, either within the organization or to an external body.

### 4.1 Receiving Complaints

It is a good idea to record the following information when receiving a complaint:

- contact details of the person making the complaint
- issues raised in the complaint, including a clear description of the service deficiency identified by the person raising the complaint
- outcome sought by the person raising the complaint
- attempts made by the person to resolve the complaint informally
- any additional support the person making the complaint may need, such as access to an interpreter

### 4.2 Acknowledging Complaints

All complaints should be acknowledged quickly so that the person knows that their complaint has been received. As a general rule, public organizations should respond to all complaints unless the person is not seeking a response or the organization has previously told the person that the organization will not respond (Section 7.2: Dealing with

## 4. Tier 1: Point-of-Service Complaints

Unreasonable Conduct discusses when it might be appropriate to do this).

When acknowledging a complaint, it is good practice to also outline the complaint process, the anticipated length of time needed to resolve the complaint, information about when the person will be contacted next, and contact information for the staff member responsible if the person has follow-up questions in relation to their complaint.

### 4.3 Assessing Complaints

Early assessment of complaints is essential in determining how the complaint should be addressed and what the next steps are. There is often a great deal of variation among the types of complaints an organization receives. Some complaints are relatively straightforward and can be resolved quickly by means of an explanation. Others require a more extensive review of a decision or policy and may raise complex factual or legal issues - these complaints are more likely to require escalation to Tier 2 for further review or investigation.

Some complaints also raise sensitive issues that may call for priority handling. Because not all complaints will require the same level of review or priority, it is useful to “triage” complaints early to determine their priority and what the organization’s response should be. Factors to consider include:

- the seriousness of the issues raised in the complaint
- the need for urgent action – for example, where there is an immediate and serious risk of harm that attaches to the outcome of the complaint
- whether there is a time limit for securing a practical outcome for the person making a complaint
- whether the complaint involves a deprivation of a person’s legal rights, significant personal injury, or a death
- whether there are sensitive issues
- whether the complaint involves a child or youth or other vulnerable person

In addition, some complaints may need to be transferred to another person or department in the organization; others will need to be referred to another agency because addressing them is not within the organization’s mandate. These initial referrals or transfers should be done as quickly as possible. It can be frustrating for people to have to wait on a response, only to be told that they need to take their concern somewhere else. A “no wrong door” philosophy, which means adopting an attitude of “we are all here to help,” is the preferred approach.

### 4.4 Managing Expectations

Organizations should ask the complainant what outcome they are seeking, because this information provides insight into the person’s expectations. Sometimes it is possible to meet a person’s expectations and secure their desired outcome. At other times, the outcome a person seeks is not possible, or is inappropriate, or is possible but may require a multi-stage implementation plan over time.

It is common for people to be unaware of an organization’s role, procedures or practices for resolving complaints. As a result, we believe that organizations should take special care to ensure that a person making a complaint understands:<sup>20</sup>

- the organization’s role and the functions of the organization
- the complaints process and procedures that the organization intends to follow in relation to their complaint

<sup>20</sup> Victoria Ombudsman, *Complaints: Good Practice Guide for Public Sector Agencies*, 2016, 11; New South Wales Ombudsman, *Effective Complaint Handling Guidelines*, 3rd ed., 2017, 27.

- how their complaint will be dealt with, including who is handling their complaint and their responsibilities in relation to their complaint
- the issues the organization is considering
- the level of involvement they can expect to have with their complaint
- how long it will take to investigate and/or resolve their concerns
- what will happen next in the complaints process
- what the possible outcomes of their complaint or investigative process could be

### 4.5 Seeking Early Resolution

When staff are empowered and encouraged to resolve complaints at the point they are received, they are more likely to obtain resolution and prevent escalation of the complaint to higher levels in the organization, saving significant staff time and resources. To achieve this, organizations should provide their staff with written guidance as to their discretion to respond to issues that are raised in complaints to the organization. The process for escalating complaints that cannot be resolved at the first level needs to be clearly understood by those staff.

The most effective way to resolve Tier 1 complaints quickly, where the complaint appears valid, is to offer an apology for the service problem identified in the complaint and explain the action being taken by the organization to address it. This response may be adequate to effectively prevent further escalation of the complaint.

### Apologies

An apology given at the right time can help to diffuse anger, restore dignity and give peace of mind to the recipient that the organization accepts responsibility for its actions and takes ownership of an issue or problem. It can also go a long way toward improving the person's perception of the organization. However, not all apologies are created equal. Good or effective apologies tend to share a number of common elements. (For more information on how to give an effective apology, please see our office's Quick Tip publication *On Apologies*.)<sup>21</sup>

### 4.6 Maintaining Confidentiality

In BC, people have a right to expect that their complaint will be handled confidentially and that the privacy principles contained in the *Freedom of Information and Protection of Privacy Act*<sup>22</sup> will be observed when an organization collects, stores and uses personal information obtained in the context of responding to a complaint. While it may be necessary to disclose a complainant's personal details to the staff member whose actions or decisions are the subject of the complaint, a complainant's personal details should not be disclosed to other staff within the organization who do not have a need to know this information. Once the complaint is resolved and matter concluded, internal sharing of anonymized complaints can help organizations learn and identify what improvements are needed to prevent similar problems from occurring in the future.

<sup>21</sup> BC Ombudsperson *On Apologies* <<https://bcombudsperson.ca/assets/media/Quick-Tips-Apology-1.pdf>>

<sup>22</sup> R.S.B.C. 1996, c. 165.

## 5. TIER 2: COMPLAINTS NEEDING INTERNAL REVIEW, INVESTIGATION OR SOME FORM OF ALTERNATIVE DISPUTE RESOLUTION

---

More serious allegations about an organization's services or staff conduct, or those complaints that are not resolved informally at Tier 1 of an organization's complaint process, may require investigation to determine whether the concerns are substantiated and remedial action is needed. Similarly, complaints that raise serious systemic concerns about an organization should be taken seriously and investigated further.

When complaints cannot be resolved at the first tier, more senior staff should be involved in reviewing or investigating the issue and assisting in resolving the complaint.

Tier 2 complaint resolution may involve the following steps:<sup>23</sup>

- **Internal review** – Organizations should establish a progressive mechanism for internal review where more senior staff members review the decision of the Tier 1 staff person to confirm it or make a different decision. Depending on the structure and size of the organization, there may be more than one level for internal review of a complaint.
- **Dispute resolution** – Sometimes it is appropriate to have a senior staff person facilitate a discussion between the Tier 1 staff person and the person making the complaint. Alternatively, the matter might be referred to an external mediator to help the parties reach a solution.
- **Investigation** – Where more serious allegations are raised, or where it is

apparent dispute resolution would not be successful, it may be necessary to conduct an investigation in order to resolve the complaint. We use the term “investigation” to describe an objective fact-finding process aimed at establishing the truth.

### 5.1 Investigating Complaints

Generally speaking, the purpose of an investigation is to resolve complaints based on a fair review of the issues raised by the person, and to provide a remedy where appropriate. Each investigation should be approached with an open mind and a commitment to weigh the facts and arguments objectively. Being clear and transparent throughout the investigation helps promote confidence in the process. It is important for investigators to provide the person who made the complaint with an opportunity to comment on information that is adverse to their interests before deciding on the outcome of the complaint. It is equally important to consider the impact that investigation of the complaint will potentially have on the staff who are the subject of the complaint (see Section 7.3: Debriefing and Supporting Staff who Handle Complaints for more information).

If an investigation is necessary, the organization should carefully consider who is the most appropriate person to conduct it. It is critical that the person tasked with investigating a complaint does not have any conflict or bias in the matter.

---

<sup>23</sup> New South Wales Ombudsman, *Effective Complaint Handling Guidelines*, 3rd ed., 2017, 11.

## 5. Tier 2: Complaints Needing Internal Review, Investigation or Some Form of Alternative Dispute Resolution

An investigation typically requires an investigator to:

- identify the critical issue(s) and evidence needed to prove or disprove the allegation
- engage in impartial fact finding
- report the outcome

It may be appropriate to make recommendations in the investigation report.

Organizations should also be aware that it may not be possible to resolve each complaint. Sometimes the evidence is inconclusive or insufficient. In these situations, organizations should consider other options for reaching an understanding or repairing the relationship with the person who made the complaint. It may be simply acknowledging the person's concerns and recognizing that they have had a difficult experience interacting with the organization. In these cases, the person should be provided with information about how to seek external review if they are not satisfied with the outcome of the organization's complaint process, for example by the Office of the Ombudsperson or other oversight body. (For more information on resolving unsubstantiated complaints, please refer to our office's *Fairness in Practice Guide*,<sup>24</sup> p. 35).

### Investigation Plans

If investigation is required, it is good practice to prepare a written investigation plan. An investigation plan will typically outline the sequence of investigative activities and highlight any risks that may need to be managed during the investigation (e.g., preserving evidence).

Investigation plans typically include the following key elements:<sup>25</sup>

- a clearly defined issue that is going to be investigated, including the scope and purpose of the investigation
- the steps involved in investigating the complaint, including what evidence or information is required, how and when it will be obtained, and who will provide it
- an estimate of the time it will take to investigate the complaint
- the outcome or remedy the person is seeking
- a list of who may be adversely affected by your investigation, including staff members who are the subject of the complaint, and how you intend to inform them of any investigative outcomes in a manner that is procedurally fair
- any special considerations or risks that apply, such as whether the matter pertains to highly sensitive or confidential information that requires special safeguarding

Although investigations should be planned at the outset, it is important to revisit the investigation plan regularly and make adjustments as needed based on new information that becomes available.<sup>26</sup>

Throughout the investigation, keep good records of all of the steps taken in considering the complaint. Clearly document the issues identified, how evidence was obtained and considered, and what conclusion was reached (with reasons) following analysis of the evidence available. Keep copies of all relevant records reviewed in the course of the investigation.

<sup>24</sup> BC Ombudsperson *Fairness in Practice Guide*, <[https://bcombudsperson.ca/assets/media/OMB-FairnessInPracticeGuide-web\\_0.pdf](https://bcombudsperson.ca/assets/media/OMB-FairnessInPracticeGuide-web_0.pdf)>.

<sup>25</sup> Commonwealth Ombudsman, *Better Practice Guide to Complaint Handling*, 2009, 23.

<sup>26</sup> Commonwealth Ombudsman, *Better Practice Guide to Complaint Handling*, 2009, 23.

### Opportunity to Comment

People often appreciate an opportunity to review and discuss an organization's preliminary findings before the organization concludes the investigation of their complaint.<sup>27</sup> This also promotes fairness and is consistent with the principle of procedural fairness that requires public organizations to ensure that people affected by their decisions have an opportunity to be heard.

Providing the complainant with an opportunity to comment can lead to better outcomes, as the person may have additional information or evidence to provide that the organization has not yet considered. Although providing an opportunity to discuss preliminary findings may invite dispute of the facts and findings, it is better to address areas of disagreement before the organization finalizes the response to the complaint.<sup>28</sup>

### 5.2 Resolving Complaints

A key feature of an effective complaint resolution system is that either a person's valid concerns are addressed immediately or steps are taken to address them. The plans to address a person's concerns should include details on what will be done, who will do it and when, and how the organization will communicate its progress.

Organizations can provide a number of different remedies to resolve a person's complaint. The remedy will, of course, depend on the nature of the concerns that the person raised.

Common remedies where complaints are substantiated through investigation include:<sup>29</sup>

- a better explanation for the organization's original decision

- reconsidering or reversing a previous decision
- expediting an action
- waiving a fee or penalty
- issuing a payment, refund or compensation
- a commitment to follow, review or amend the organization's policy or procedures in the future to prevent similar problems from occurring
- an explanation of why the error occurred and the steps the organization is taking to prevent it from happening again
- an acknowledgement of and apology for an error

The remedy an organization chooses should be fair and proportionate to the seriousness of the issue and the impact it had on the person.

#### A Caution about Template Letters

Some organizations use template letters to respond to frequently raised issues. Template letters can save time and ensure consistency across an organization, but when they are not customized to the specific concerns and circumstances, they tend to create the impression that the organization has not really listened to the person's concerns.<sup>30</sup> If your organization uses template letters, make sure that the letter actually responds to the specific concerns and circumstances raised in the complaint and explains the reasons for the decision specific to that person.

<sup>27</sup> Victoria Ombudsman, *Complaints: Good Practice Guide for Public Sector Agencies*, 2016, 12.

<sup>28</sup> Victoria Ombudsman, *Complaints: Good Practice Guide for Public Sector Agencies*, 2016, 12.

<sup>29</sup> Victoria Ombudsman, *Complaints: Good Practice Guide for Public Sector Agencies*, 2016, 16.

<sup>30</sup> Victoria Ombudsman, *Complaints: Good Practice Guide for Public Sector Agencies*, 2016, 15.

### 5.3 Communicating Complaint Outcomes and Reasons

At the conclusion of a review or investigation of a complaint, organizations should communicate their findings and any decision they reached to the person affected. It is important that the outcome be communicated to the person in a timely manner.

Often, one of the critical questions is whether the decision and the reasons for it should be provided in writing or verbally. While a verbal explanation is usually more expedient, reasons should be in writing when the complaint deals with a serious allegation

or a matter that is of great significance to the person affected. If the organization used telephone communication in earlier communications with the person, it may be appropriate to first contact the person by phone to let them know that a more detailed written explanation will be sent to them.

It is good practice, and consistent with the principle of procedural fairness, to invite follow-up at the time the person is notified of the outcome of the investigation of their complaint. The person may have questions or need a more detailed explanation about the conclusions reached or process followed in the organization's review of their complaint.

#### Communicating Reasons for Decisions

A response to a complaint should be presented to the person in a style that is clear and informative. Generally speaking, good reasons will:<sup>31</sup>

- describe the complaint and the issues addressed in the complaints process
- use plain language and avoid jargon
- outline the steps the organization took to investigate or otherwise resolve the complaint
- set out the relevant facts considered in the review of the complaint
- set out any applicable laws or policies, in simple language, that were relevant to the complaint
- connect the facts with the relevant laws or policies used to reach a conclusion
- identify the outcome and any remedies the organization is offering to resolve the person's complaint
- provide the contact information for a representative at the organization that the person can contact to discuss the outcome
- advise the person of any review or appeal rights that exist and the ability to complain to the BC Ombudsperson and any other external oversight body with jurisdiction over the decision in question
- be translated into a language other than English where appropriate

<sup>31</sup> Victoria Ombudsman, *Complaints: Good Practice Guide for Public Sector Agencies*, 2016, 15.

## 6. TIER 3: COMPLAINTS NEEDING EXTERNAL REVIEW

---

Internal review and investigation of complaints does not always result in a satisfactory resolution. When a complaint cannot be resolved through the organization's internal review processes, information on external options should be provided to the person who made the complaint. It is also important that the process for seeking review of a public body's decision is explained on the organization's website, in its publications and in the written reasons the organization provides for its decision.

External appeal or review options could include:

- a statutory right of appeal of a decision to a higher administrative decision maker
- referral to an external administrative tribunal with jurisdiction over the matter
- referral to an advocacy agency
- referral to seek a legal remedy
- information about judicial review
- referral to the Office of the Information and Privacy Commissioner, the Office of the Ombudsperson, the Representative for Children and Youth or other oversight body as appropriate

Where an external avenue of review or appeal exists, organizations must inform people of these options and any applicable time limits for seeking further review of their concerns.

### Systemic Issues

Complaints sometimes reveal systemic problems that affect or could affect other service users. When concluding the review of a complaint, it is important for organizations to consider this possibility. As part of this exercise, organizations should consider the following questions:

- What caused the problem for the person who made the complaint, and could it have been prevented?
- Are there processes or policies that need to be created or improved?
- Do staff need additional training or support, for instance, so they can provide more helpful and accurate information to the public?
- Does the organization need to update or improve publicly available information about its programs, services or policies?

Responsibility for implementing systemic improvements typically rests with the executive and senior managers in an organization. It is important that systemic complaint issues and trends are reported and tracked, so that those senior people in the organization have an accurate picture of any existing organizational weaknesses.

# 7. ADDITIONAL CONSIDERATIONS IN COMPLAINT HANDLING

---

## 7.1 Treating People with Dignity and Respect

Staff who are responsible for responding to complaints must communicate in such a way that respects people's inherent dignity. In the context of complaint resolution, violations of people's dignity can occur inadvertently by the public body providing a response that is perceived to be critical or dismissive of the person's concerns.<sup>32</sup>

Violations of dignity can also arise through not having appropriate sensitivity for and knowledge of working with youth, people with disability, Indigenous Peoples and people from culturally and linguistically diverse backgrounds. We believe that the diversity of British Columbia compels public organizations to be able to support culturally and linguistically diverse clients, avoid stereotypes or reinforcement of prejudice and privilege, and seek advice when uncertain.

### Building Cultural Humility

The concept of cultural humility was developed by two American physicians through their work with different communities in the healthcare context and medical education.<sup>33</sup> The three essential tenets of cultural humility are:

- Lifelong learning and critical self-reflection – examining privilege and our own cultural assumptions and practices, and

recognizing that we all have cultures, not just the people receiving services from public bodies

- Recognition and challenging of power and privilege imbalances – recognizing the imbalances that are often inherent in the public service provider/client dynamic
- Institutional accountability – challenging institutional-level barriers that affect marginalized communities

Cultural humility is best understood as a process or an approach, rather than as the acquisition of knowledge. In order to develop understanding and achieve the best outcomes, organizations must be prepared to learn from their service users. In short, an approach of cultural humility is interactive and based on an openness to learn, to ask questions rather than make assumptions, and to strive to understand rather than inform.

Cultural humility principles have been adopted in a variety of different contexts, including in healthcare delivery and legal practice, and by educators and non-profits. In July 2015, all BC health authorities and the Ministry of Health signed a declaration of commitment on Cultural Humility in Health Service Delivery for First Nations and Aboriginal Peoples. To explore the concept of cultural humility further, information is available on the First Nations Health Authority website.<sup>34</sup>

---

<sup>32</sup> New South Wales Ombudsman, *Effective Complaint Handling Guidelines*, 3rd ed., 2017, 26.

<sup>33</sup> Melanie Tervalon and Jann Murray-Garcia, "Cultural Humility Versus Cultural Competence: A Critical Distinction in Defining Physician Training Outcomes in Multicultural Education," *Journal of Health Care for the Poor and Underserved* 9, no. 2 (1998): 117–125.

<sup>34</sup> First Nations Health Authority, "Cultural Safety and Cultural Humility Webinars," 2019 <<https://www.fnha.ca/about/news-and-events/news/cultural-safety-and-cultural-humility-webinar-action-series>>.

### Being Trauma-Informed

Through our work, we know that engaging with a complaint system in any capacity can be stressful. The presence of underlying trauma can greatly increase the stress of a situation.

It is important that public organizations be trauma-informed in their work, as we know trauma is a pervasive health issue that can affect how people approach government services. Staff at an organization may cause unintentional harm to service users who have already experienced trauma.

Trauma is typically understood as an injury that results from an experience that overwhelms a person's ordinary coping mechanisms and ability to protect themselves. For people who

live with the effects of unresolved trauma, normal life stress can be profoundly threatening and can activate a cycle of physical and psychological reactivity that erodes their well-being and ability to function.<sup>35</sup>

Taking a trauma-informed approach to complaint resolution requires organizations to engage with people based on the following principles of trauma-informed practice:<sup>36</sup>

- Create emotionally and physically safe environments that foster opportunities for choice, collaboration and empowerment. In short, organizations should look to involve clients and service users in decisions that affect them, rather than doing something for or to them without their input.

### What Does Trauma Have to Do with Complaint Systems?

“Most, if not all, situations of conflict and harm involve questions of justice and injustice, and situations of injustice frequently involve trauma.”<sup>37</sup>

Although trauma-informed practice originated within the field of mental health, it is relevant to all contexts, services and organizations with which people experiencing trauma come into contact.

Complaint systems regularly encounter people whose lives have been shaped and harmed by traumatic events. Sometimes these traumatic events are the subject of the complaint itself, and sometimes they are part of a person's history. Because trauma-related problems sometimes manifest in challenging behaviour, many public organizations see the challenging behaviour but do not readily identify the trauma. When organizations don't fully understand the role of trauma, they can become an additional source of distress or re-traumatization for their service users.

Importantly, being trauma-informed is not about treating trauma, which requires specialized training and skills. It is instead about minimizing the potential for harm and re-traumatization. In this way, being trauma-informed is an approach that is available to everyone.

<sup>35</sup> Wendy Wood, “Trauma Informed Mediation – Guidance for Mediators and Ombuds Working in Traumatized Communities,” 2015 <<https://www.resologics.com/resologics-blog/2015/3/20/trauma-informed-mediation-guidance-for-mediators-and-ombuds-working-in-traumatized-communities>>.

<sup>36</sup> Wendy Wood, “Trauma Informed Mediation – Guidance for Mediators and Ombuds Working in Traumatized Communities,” 2015 <<https://www.resologics.com/resologics-blog/2015/3/20/trauma-informed-mediation-guidance-for-mediators-and-ombuds-working-in-traumatized-communities>>; Cathy Kezelman and Pam Stavropoulos, “Trauma and the Law: Applying Trauma-Informed Practice to Legal and Judicial Contexts,” 2016 <<https://www.blueknot.org.au/Portals/2/Reports%20and%20Docs/Legal%20and%20Justice%20Background%20Paper%20with%20Abstract%20FINAL.pdf>>.

<sup>37</sup> Howard Zehr, “The Intersection of Restorative Justice with Trauma Healing, Conflict, Transformation and Peacebuilding,” *Peace and Justice Studies* 18, no. 1/2 (2009): 23.

- Focus on how a service is provided. For people who have experienced trauma, how a service is provided matters as much as what the service is. For example, all aspects of the physical environment of an office space are important and should include waiting and meeting rooms that have clean and comfortable furniture, are calming, offer privacy, and provide enough personal space and an unobstructed path to the exit.
- Recognize that difficult behaviour in the context of a complaint may be the product of coping mechanisms and self-protection developed in response to an experience of violence or trauma. Work to reduce the tendency to blame people for behavioural reactions that may be a result of trauma.

We believe that these principles should inform the work all public organizations, irrespective of the nature of their work or the type of services they provide. These principles also benefit all clients and service users, whether or not the particular person has experienced trauma – they are simply good person-focused practices.

### 7.2 Dealing with Unreasonable Conduct

Public organizations provide services to thousands of people every year, most of whom engage productively with government systems, processes and people.<sup>38</sup> Even if frustrated by an adverse decision, they manage their reactions. However, there are some people who continue to demand further action on their review or complaint and are persistent in these demands, even though there is no further action for the public organization to take.

It is important to remember that people do not always act their best when they're making a complaint; organizations must be careful about using negative labels that stigmatize and dismiss people's concerns as mere personality problems. Doing so is contrary to the principle that complaints must be considered on their merits and that unreasonable conduct does not preclude there being a valid issue. It's also important for organizations to understand this type of behaviour through a trauma-informed lens, which suggests that what we view as unreasonable behaviour may have developed as a coping mechanism to help the person deal with difficult life circumstances.

The BC Ombudsperson recommends using the term “unreasonable conduct” because it ensures that the focus is on the behaviour rather than the person, and that organizations respond to the behaviour openly and respectfully without the risk of using incorrect or offensive labels.

#### What Is Unreasonable Conduct?

“Unreasonable conduct” is a broad term; essentially it means behaviour that, because of its nature or frequency, raises substantial health, safety, resource or equity issues for an organization and the person or people tasked with dealing with the person and their complaint.<sup>39</sup>

Unreasonable conduct can include persistent and unreasonable demands being placed on staff, lack of cooperation with staff's efforts to resolve the complaint, argumentative or threatening language, and repetitive submissions of large and often irrelevant volumes of paperwork and communications.

When an organization and its staff are on the receiving end of unreasonable conduct, it may be necessary to set limits on the person's

<sup>38</sup> New South Wales Ombudsman, *Effective Complaint Handling Guidelines*, 3rd ed., 2017, 29.

<sup>39</sup> New South Wales Ombudsman, *Managing Unreasonable Complainant Conduct Practice Manual*, 2nd ed., 2012, 6.

## 7. Additional Considerations in Complaint Handling

access to services. However, behaviour should not be viewed as unacceptable just because a person is forceful or determined. Being persistent can be a positive and necessary attribute when pursuing a complaint.

### Restricting Access When Faced with Unreasonable Conduct

Members of the public generally have a right to access public organizations in order to seek assistance and services. However, the BC Ombudsperson does not expect public organizations to tolerate behaviour that is violent, abusive or threatening or that takes up an unreasonably disproportionate amount of staff resources. Organizations have a responsibility to have policies and procedures in place so that their staff are provided with a safe and healthy workplace. These occupational health and safety policies must align with broader legal requirements including those set out under WorkSafe BC legislation, policy and standards.

We recognize the need to establish a safe workplace while at the same time providing accessible and respectful service to the public. However, it may sometimes be necessary to restrict access to people who are being unreasonably persistent or exhibiting a potential for violence. Decisions to restrict a person's access to services should be considered as a last resort and viewed as the exception rather than the rule. It is important to keep in mind the person's need to continue to have access to the program or service being provided. The person should also be provided with warning that access may be restricted.

Where access restrictions are required, the first step should be to impose the most minimal restriction needed to address the behaviour, and the person affected must be

told of the decision in writing and must be informed of:

- the reason why the organization considers their behaviour to be unacceptable
- details of any earlier warnings issued about their conduct
- clear details about the restriction the organization is imposing, and how long the restriction is in place for
- what is required of them for the restriction to be lifted
- how the person can request a review of the restriction

Generally, a decision to not respond to further contact should be specific to a particular matter, rather than a total ban on all correspondence. Where a person's unreasonable behaviour affects an organization's ability to provide services to them, organizations may need to consider some of these alternatives to direct service delivery, while ensuring that a fair process is followed in reaching and communicating these decisions.

Options for restricting access include limiting the following:

- **Who** the person can make contact with within the organization – it may be appropriate to limit a person to dealing with one staff member, preferably at a more senior level
- **What** subject matter the organization will respond to – this solution may be used in situations where a person has repeatedly raised the same issues and appears to be unable or unwilling to accept the response
- **When** a person can make contact with your organization – this could include restricting them to a particular time or curbing the frequency of their contact to only once per week, for example

- **Where** a person can interact with your staff face-to-face – this could include limiting the locations where contact occurs, especially if a person has engaged in highly aggressive or confrontational conduct
- **How** a person can contact your organization – this could include restricting their contact to writing only, or allowing contact to be made only through their representative. It is important here to consider any special requirements of the person who will be affected by your decision to restrict their access. For example, where a person cannot read and lacks community supports, limiting communications to writing only is not reasonable.<sup>40</sup>

Restricting access should be considered as a last resort to managing unreasonable conduct.

It is also important to remember that mental illness and disability can sometimes cause people to express anger inappropriately, have difficulty cooperating with an organization and its staff, or have difficulty participating in an organization's processes in order to receive a service. Under the BC *Human Rights Code*,<sup>41</sup> service providers have a legal duty to accommodate the Code-related needs of service users and to ensure that their processes are built or adapted to meet the needs of people with mental health disabilities. While the duty to accommodate could involve, for example, making a service deadline flexible, there is no set formula for accommodating people with diverse abilities. Each person's needs are unique and should be considered afresh. Organizations must ensure that a person's mental health condition is not the basis for restricting access.

### 7.3 Debriefing and Supporting Staff Who Handle Complaints

We know that dealing with unreasonable conduct can have an impact on job satisfaction and staff morale. Organizations must ensure that they provide adequate support to the people who respond to complaints and the issues they raise. Even in the absence of unreasonable conduct, dealing with complaints, and specifically complaints about one's own work, can be difficult and can affect staff well-being and feelings toward service users.<sup>42</sup> It is the role of supervisors to support staff through this process. This can be achieved through:

- ensuring that an organization has policies in place on how to deal with unreasonable conduct by people making complaints
- providing opportunities for internal debriefing sessions with peers and supervisors, where employees have an opportunity to discuss what happened with a difficult complaint and learn from the experience
- providing opportunities to express their thoughts and emotions after an incident
- providing access to external counselling services

Unresolved stress experienced by staff can be unintentionally imparted back to service users, impair staff functioning and result in the escalation of an interaction or complaint into one of serious proportions.<sup>43</sup>

Conversely, organizational self-care has major positive implications for staff's interactions with service users. When a complaint or difficult interaction is handled well, organizations should provide feedback and show staff they are valued for the work they do.

<sup>40</sup> BC Office of the Ombudsperson Webinar Series, *Fairness in Practice: Why Relationships Matter in Public Service Delivery* (March 4, 2018) <<https://bcombudsperson.ca/fairness-education-resources/online-training-and-webinars/>>.

<sup>41</sup> *Human Rights Code*, R.S.B.C. 1996, c. 210.

<sup>42</sup> Scottish Public Service Ombudsman, *Making Complaints Work for Everyone: Learning from Complaints*, 2017, 9.

<sup>43</sup> Cathy Kezelman and Pam Stavropoulos, "Trauma and the Law: Applying Trauma-Informed Practice to Legal and Judicial Contexts," 2016 <<https://www.blueknot.org.au/Portals/2/Reports%20and%20Docs/Legal%20and%20Justice%20Background%20Paper%20with%20Abstract%20FINAL.pdf>>.

# 8. LEARNING FROM COMPLAINTS

---

## 8.1 Recording Information about Complaints

Complaints are an invaluable information resource for organizations. Therefore, organizations need record-keeping policies to ensure that they make and retain records about the types of complaints that they receive, how they are handled and their outcomes. Organizations can use this information in order to identify recurring issues and make improvements to their systems and services where appropriate. Generally, organizations should aim to retain the following information from the complaints they receive, especially related to Tier 2 and Tier 3 complaints that are not resolved at point-of-service:

- issues raised in a complaint
- when and how the complaint was received (by email, telephone, etc.)
- complaint outcomes, including steps taken to address the complaint and any follow-up items or actions to be taken to resolve the issues identified in the complaint
- when the complaint was finalized or concluded
- relevant demographic information of the person making the complaint, including geographic location<sup>44</sup>

## 8.2 Analyzing Complaints

The purpose of keeping good records is to enable organizations to monitor trends and analyze and review the subject matter and

outcome of complaints they receive so that they can make improvements to their systems, services and procedures. This type of analysis should be conducted regularly and should include a review of:<sup>45</sup>

- the main issues raised in complaints, and any themes or common issues
- any trends in complaint volume over time (increases or decreases)
- the number of complaints about particular issues
- outcomes of complaints

When organizations receive numerous complaints about the same thing, it is typically a sign of a systemic problem that requires attention and action by the organization. For instance, a spate of complaints about the same thing could reveal that an internal guidance document relied on by an organization is confusing to its staff and is being misapplied, or that communication with the public about program parameters need to be revised, or it is inconsistent with the organization's governing legislation. It could also reveal that the organization needs to improve its record-keeping practices or provide additional support and training to its staff.

However, care should be taken in interpreting complaint data. An increase in complaints following a change in an organization's complaint resolution practices may show that the system is working well and that more people are aware of the organization's complaints system, rather than signalling a growing problem.

---

<sup>44</sup> It is important for organizations to have a sense of both who they are serving and who they are underserving. This data may suggest that, for example, an organization needs to conduct more education and outreach in particular parts of the province. It may also suggest that some of the organization's policies or practices are acting as barriers to accessing services for particular communities.

<sup>45</sup> New South Wales Ombudsman, *Complaint Management Framework*, 2015, 10.

### 8.3 Improving Complaint Processes

An organization's complaint information should also be used to improve its complaint resolution system. To do this, organizations should consider measuring their complaint data and assessing complainant satisfaction through, for example, surveys. Data that can be used to measure and assess the effectiveness of an organization's complaint process could include:<sup>46</sup>

- complaint investigation outcomes and resolutions
- average time taken to resolve a complaint
- changes resulting from complaints, including changes to policy or practice and any systemic issues identified through investigation of complaints
- number of complaints escalated to the head of the organization
- number of complaints escalated to the BC Ombudsperson or other external review body, and any recommendations resulting from this further review

Organizations can demonstrate their commitment to good complaint resolution

by publicizing their performance in these areas of complaint management, as well as publicizing any improvements they made as a result of a complaint. Outcomes of complaints should be made known to staff as a way of reinforcing their value to the organization.<sup>47</sup> To promote learning, organizations may wish to consider discussing complaints in groups in an anonymized way to enable staff to learn from each other and the experiences of people who use their organization's services.

Lastly, organizations should look at conducting regular in-depth reviews of their complaint resolution system. In these reviews, organizations should consider the views of staff and feedback from complainants, as well as the impacts of any:<sup>48</sup>

- legislative changes
- changes to the organization's resources or structure
- technological changes or improvements
- changes to practice standards

Conducting regular reviews helps ensure that an organization's complaint resolution system remains up to date and in line with statutory requirements and organizational realities, as well as current good practices.

<sup>46</sup> Victoria Ombudsman, *Complaints: Good Practice Guide for Public Sector Agencies*, 2016, 21.

<sup>47</sup> Tasmanian Disability and Community Services, *Good Practice Guide and Self Audit Tool 2017*, 2017, 35.

<sup>48</sup> Victoria Ombudsman, *Complaints: Good Practice Guide for Public Sector Agencies*, 2016, 22.

## 9. A FINAL WORD

---

Having an effective, accessible and responsive complaint resolution process demonstrates an organization's commitment to service excellence and continuous quality improvement. When organizations provide a timely and adequate response to a person's complaint or concern, it can help prevent escalation of the matter and restore trust after something has gone wrong.

We hope this *Complaint Handling Guide: Setting up Effective Complaint Resolution Systems in Public Organizations* will assist public bodies in developing and operating effective complaint resolution systems to achieve their broader objective of providing high-quality service to the public. Please visit [www.bcombudsperson.ca](http://www.bcombudsperson.ca) for more information and resources for public bodies.

# COMPLAINTS PROCESS SELF-ASSESSMENT CHECKLIST

---

The following checklist provides a quick reference guide for organizations to conduct a self-assessment of their current complaint process and identify areas for improvement. By following this checklist and the key principles featured in this guide, organizations can build the framework for an effective complaint management system that will assist them in responding well to concerns from service users.

## 1. Do we foster an organizational culture that welcomes complaints from service users?

---

Do the leaders of our organization view complaints as a valuable source of feedback and an opportunity for improvement?

Do we make it easy for people to raise concerns about our organization?

Does our organization take action on issues identified through the complaints we receive from service users?

Do we provide support to staff who are the subject of a complaint and inform them that the focus is on learning from the experience, and not on apportioning blame?

## 2. Do we have an adequate complaints policy and procedure for our organization?

---

Does our complaint policy include a definition of a 'complaint'?

Do we have a three-tiered complaint process that encourages early resolution of complaints?

Do we provide clear guidance to staff on how to acknowledge and respond to a complaint, including standard timelines for response?

Are there clear procedures that direct staff on what kinds of complaints can be resolved informally at point-of-service, and what complaints require escalation/investigation?

Do our procedures describe our organization's standards for investigating complaints?

### 3. Is our complaints process accessible and responsive?

Is information about our complaints process publicized on our website, including specific contact information for staff who have responsibility for receiving complaints?

Do we accept complaints in a variety of formats (e.g., online, telephone, in writing, in person)?

Do we have translator services available for people who require it to submit their complaint?

Do we have systems in place to assist more vulnerable people who may need help bringing their concerns to us?

Have we addressed and removed any barriers that might prevent someone from contacting us with their concerns?

Are staff informed of their authority to resolve complaints at point-of-service?

Do we ensure timeliness in our complaints process?

Do we keep people informed of the progress of their complaint?

### 4. Is our complaints process fair and person-focused?

Are complaints reviewed by a staff member who is unbiased – one who was not involved in the original decision giving rise to the concern?

Do service users have an opportunity to submit additional information as part of the complaints process, and an opportunity to comment before the review is finalized?

Do we provide clear reasons for decisions after reviewing or investigating a complaint, including the issues and information considered, the analysis and conclusions drawn, and any resolution to the complaint?

Do we tell service users of the option of seeking further external review from an oversight body, such as the BC Ombudsperson?

Do we ensure privacy and confidentiality is respected for people who raise complaints about our organization throughout the complaints process?

Are our staff aware of and sensitive to the unique needs of services users from diverse backgrounds?

## 5. Are we adequately supporting our staff who respond to complaints?

---

Do we have adequate recruitment strategies to attract staff who are skilled in complaint resolution?

Do we provide training to staff in effective communication and conflict resolution?

Are we trauma-informed in the way we respond to complaints from our service users?

Does our complaint policy guide staff on how to deal with unreasonable conduct?

Do we have a practice of debriefing with staff who are dealing with more challenging complaints?

---

## 6. Do we adequately document and learn from the complaints we receive?

---

Do we have an adequate system for documenting, tracking, analyzing and reporting out on complaint outcomes?

Does our organization regularly review complaint trends and take action to address systemic issues?

Do we publicly acknowledge areas of improvement that are identified through complaints?

---

# MODEL COMPLAINTS POLICY

This model complaints policy is intended to provide general guidance to assist public organizations in developing an effective complaints resolution process. It offers suggestions for policy language and a general template for complaints handling; however, it is not intended to be a comprehensive guide. Wording used in the document should be tailored to suit the organization’s unique service delivery model and complaints handling procedures and must be compliant with other applicable agency rules and legal requirements. While it is important for organizations to develop standard procedures for complaint handling, they must also demonstrate flexibility and consider individual needs and circumstances when responding to complaints from service users.

## Purpose

The purpose of this policy is to ensure <Name of Agency> provides a fair, effective and transparent response to complaints and concerns raised by our service users. This policy sets out the procedures for receiving, reviewing, recording and responding to complaints about our service.

## Guiding principles

<Name of Agency> is committed to high standards of practice in our work. We value feedback and complaints from our service users and continuously strive to improve our services. Our complaints process is guided by the following principles:

|                       |  |
|-----------------------|--|
| <b>Accessible</b>     | <Name of Agency's> complaints process is publicly available on our website, and service users are informed of their right to complain about our organization. Complaints are accepted in a variety of ways (i.e., webform, phone, mail, email and in-person).  |
| <b>Fair</b>           | All complaints will be handled in a manner that is impartial and fair. Our process provides the opportunity for service users to submit relevant information and have an opportunity to be heard before the review of the complaint is finalized. We thoroughly and objectively review the complaints we receive, and are committed to keeping people informed of the progress of their complaint.   |
| <b>Person-Focused</b> | We recognize that service users have different needs, and each person has their own unique history that they bring to the interaction with our agency. We commit to listen to our service users’ concerns, treat them with dignity and respect, and maintain confidentiality throughout the complaints process.  |
| <b>Responsive</b>     | We will respond to complaints within XX business days, and will seek to resolve the complaint at the earliest opportunity. Complaints that cannot be resolved at first contact, or those that raise more serious concerns about our organization, will be forwarded for further review/investigation within XX business days. <Name of Agency> is committed to these time frames and will inform our service users of the progress of their complaint and reasons for any delay in the complaint resolution process. |

<Other options for Guiding Principles: accountable, transparent, objective, efficient, confidential, continuous improvement, etc.>

## Definitions

Complaint – state how your organization defines a complaint, for example:

A complaint is an expression of dissatisfaction with an aspect of our programs, services or people. It can include concerns about our staff's conduct, quality of service, delay in providing a response, or the reasonableness of a decision made or action taken by a member of our staff. It can also include the response provided by a staff member to a complaint or concern raised about our organization.

*<Describe if there are different levels of complaints (for example, formal complaints requiring investigation vs informal complaints that can be resolved at point-of-service)>*

*<State how the agency responds to anonymous or third-party complaints>*

*<Outline any limitations to the complaints process (that is, what is out of scope of this policy, for example complaints about legislation or other concerns about the agency such as public interest disclosures or staff grievances)>*

*<Outline any applicable time limits for filing a complaint (for example, within one year after the incident occurred that gave rise to the concerns)>*

*<Provide definitions for any other feedback that differs from a complaint (for example, a request for service), as well as any other definitions for key terms used within the policy that are specific to your agency or service>*

## Roles and responsibilities of agency staff

|                      |   |
|----------------------|---|
| <p><b>Step 1</b></p> | <p><i>&lt;Frontline Staff Title&gt;</i> are responsible for receiving, recording and assessing complaints, and will attempt to resolve the matter if possible. At this stage, staff have responsibility for explaining the complaints process to the person reporting the concern. <i>&lt;Frontline Staff&gt;</i> will forward complaints that are not resolved or that require further review/ investigation to Stage 2 of the complaints process.</p>   |
| <p><b>Step 2</b></p> | <p><i>&lt;Manager /Investigator/Quality Assurance Staff Title&gt;</i> are responsible for reviewing and conducting investigations of complaints that are not resolved by <i>&lt;Frontline Staff&gt;</i>. If a complaint is not resolved to the satisfaction of the person raising the concerns following investigation, further internal review may be conducted by <i>&lt;Director/Supervisor&gt;</i> (if applicable). If appropriate, alternative dispute resolution (ADR) will be offered to attempt to resolve the complaint. ADR is provided by <i>&lt;Mediator/Facilitator/Staff Title&gt;</i>.</p> |
| <p><b>Step 3</b></p> | <p>At any point in the complaints process, a person may choose to seek external review of the matter through the following review options: <i>&lt;List applicable appeal bodies or tribunals. Include reference to the BC Office of the Ombudsperson&gt;</i></p>  |

## Confidentiality of complaints

<Name of Agency> commits to maintaining confidentiality and protecting privacy throughout the complaints process in accordance with BC's *Freedom of Information and Protection of Privacy Act*. We will only collect and disclose information to those staff who are involved in the review of the complaint. Documents relating to a complaint investigation are securely stored and only accessible to those staff involved in the review of the complaint. Complaint outcomes may be anonymized and shared within our organization to promote continuous quality improvement.

## Complaint handling procedures

### Stage 1: Frontline resolution

---

**Receiving complaints** – Complaints can be submitted to <Name of Agency> in the following ways:

- *Mail: <mailing address>*
- *Email: <email address>*
- *Telephone: <local and toll-free numbers>*
- *In-person: <office location and hours of operation>*
- *Online: <web address for online complaint form>*

Translation services are provided through <Name of Service Provider> when requested.

**Acknowledging complaints** – All complaints will be acknowledged within XX working days by <email, letter, phone>. This acknowledgement will include information about the staff member who has primary responsibility for handling the complaint, as well as information about the complaints process, including applicable timeframes.

**Assessing complaints** – <Frontline Staff> will conduct a preliminary assessment to confirm the issues raised by the complainant fall within the scope of this policy. <Frontline Staff> will attempt to seek early resolution of complaints wherever possible. Issues suitable for early/informal resolution include <list criteria>. Complaints raising issues of a more serious nature are prioritized and responded to within XX business days <list criteria for escalation>.

**Authority to dismiss complaint** – Complaints that are not accepted for review under this complaints policy may be dismissed by <Frontline Staff> for the following reasons:

*List criteria, for example:*

- *the issue is not within the jurisdiction for review by the agency*
- *the concerns raised have previously been investigated by the organization and no new issues have been reported*
- *the issues raised by the complainant are currently before the courts*
- *the complaint appears vexatious*
- *the remedy sought by the complainant is not achievable*

When a complaint is dismissed for any of the reasons above, the complainant will be notified by *<email, letter, phone>* within XX business days of receiving the complaint, with reasons provided for the decision to dismiss the complaint.

**Recording complaints** – When recording the complaint in the complaint tracking system, the following information will be documented.

*List documentation requirements, for example:*

- *the complainant's name and contact information*
- *when and how the complaint was received (by email, telephone, webform, mail or in-person)*
- *main issues raised in the complaint, including all relevant facts provided by the complainant*
- *any documentation submitted or interview notes taken during interaction with complainant*
- *the outcome sought by the complainant (if known)*
- *any attempts made to resolve the complaint informally, including action taken by the staff member receiving the complaint*
- *any barriers or additional support the person making the complaint may need, such as access to an interpreter*

## Stage 2: Investigation

---

**Investigating complaints** – If a complaint is not resolved by *<Frontline Staff>*, the complainant may ask for it to be forwarded for further review by *<Manager /Investigator/Quality Assurance Staff>*. Requests for review should be acknowledged within XX business days, and include information about the staff member responsible for conducting the review and the anticipated timeline for completion of the review.

Complaint investigations will be guided by the principles of administrative fairness and will be conducted in a fair, timely and impartial manner. Before commencing a formal investigation of a complaint, *<Staff Title>* will be responsible for developing an investigation plan that will outline:

*List requirements, for example:*

- *an assessment of the main issues raised in the complaint*
- *what evidence is required and how it will be gathered (including the names of witnesses and order in which they will be interviewed, as well as other records and evidence needed for the review)*
- *how confidentiality will be maintained throughout the complaint investigation*
- *how people who are impacted by the investigation process will be notified of the outcome*
- *the outcome or remedy the person is seeking*
- *the investigation timeline*
- *any other relevant requirements*

All relevant evidence will be considered by the investigator during the review process, and the complainant will be provided an opportunity to be heard and comment on any preliminary findings prior to the agency concluding the review of their complaint.

Documentation requirements for the investigation file include (*for example*):

- *copy of the original complaint*
- *all interviews notes with the date, time and names of those present*
- *copies of all records reviewed in the course of the investigation*
- *a statement about any action taken in response to the complaint, or specific resolution reached on the matter, including clear reasons for decisions made*
- *final report outlining investigative process and outcome*

**Concluding complaints** – A final report/letter is due at the conclusion of a complaint investigation and provided to the complainant within XX business days. This report/letter must be written in clear and accessible language, and include information about (*for example*):

- *the issues raised by the complainant*
- *the evidence considered during the review of the complaint, including the information provided by the complainant. If certain evidence was discounted in the review process, explain why (for example, issues with witness credibility or reliability of evidence)*
- *the analysis of this information in the context of the agency's rules and standard procedures*
- *what decision was reached (i.e., whether the complaint was substantiated or not)*
- *any action taken by the agency in response to the complaint*
- *information about any appeal or review options*

**Remedies** – If investigation of a complaint reveals that <Name of Agency> has made an error in providing its services to the public, we will take steps to fix the problem. The following remedies may be appropriate for substantiated complaints (*for example*):

- *an acknowledgement and apology for the error*
- *reconsideration of a previous decision*
- *expediting an action*
- *waiving a fee or penalty*
- *issuing a payment or refund*
- *changing our policies and procedures to prevent re-occurrence*

### Stage 3: Appeal and review options

---

If the person continues to have concerns at the conclusion of the complaint resolution process, staff must advise them of their right to seek further review of the matter through <Name of Appeal Body/Tribunal/Oversight Body>, including any applicable timelines for appeal.

## Continuous quality improvement

<Name of Agency> monitors complaint trends and conducts regular reviews to identify any systemic service issues and make necessary improvements in our organization. We are committed to learning from the complaints we receive from our service users.

## Dealing with unreasonable conduct

<Name of Agency> commits to respond fairly to complaints and treat people with dignity and respect throughout the complaint resolution process. We expect that people making complaints to our organization will treat our staff reasonably.

In cases where a service user becomes unreasonable in their interactions with our staff such that it creates health, safety, resource or equity issues for our organization, we will take steps to address the behaviour and may limit access to our services as necessary. Acceptable access restrictions include:

- *state how the organization modifies access to service delivery to mitigate health and safety issues for staff, for example providing service only by phone, email/web access, or using a third party administrator*

Access restrictions must be considered as a last resort, and the person who is subject to the restriction must continue to be able to receive services by contacting <Supervisor/Senior Staff Title>. Prior to issuing an access restriction, the person must be informed of:

- *the reason for the restriction, including a description of their concerning behaviour*
- *details of any earlier warnings issued about their conduct*
- *how the person can contact the organization, including the name and contact information for the person they are permitted to contact, and any limits to the frequency of such contact*
- *how long the restriction is in place for*
- *how the person can request a review of the restriction*
- *what is required for the restriction to be lifted*



**OMBUDSPERSON**  
BRITISH COLUMBIA

Office of the Ombudsperson | PO Box 9039 Stn Prov Govt | Victoria, BC V8W 9A5  
General Inquiries: 250 387-5855 (Victoria) or 1 800 567-3247 (Rest of BC) | Fax: 250 387-0198  
[www.bcombudsperson.ca](http://www.bcombudsperson.ca)