

New South Wales Police Legacy

COMPLAINT MANAGEMENT POLICY AND PROCESS



Version Control

Purpose

The purpose of this document is to stipulate the characteristics of an accessible complaints handling system for the staff and directors of NSW Police Legacy.

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1.0 POLICY SUMMARY

1.1 INTRODUCTION

This policy provides instructions for the effective management of complaints received by NSW Police Legacy about the conduct of a Director, member of staff, volunteer or a NSWPL beneficiary (Legatee or Parents network member). The NSW Police Legacy Board of Directors is responsible and accountable for ensuring that the complaints handling process is carried out to ensure openness and transparency in the resolution of the complaint and complainant satisfaction.

The Board and the Executive Manager are responsible for ensuring the support and training of personnel involved in the complaints handling and resolution process is relevant and current.

The complaint handling process should be easily accessible to all complainants and should be free of charge to the complainant.

The information obtained through the complaints handling process can lead to improvements in products, services and processes and, where the complaints are properly handled, can improve the reputation of the organisation. The value of such a policy becomes evident as it provides confidence in the consistent and open treatment of complaints. Each complaint should be addressed in an equitable, objective and unbiased manner throughout the process.

NSW Police Legacy is committed to improving the quality of services provided to police legatees and other persons with whom they come in contact. These persons expect courtesy, promptness and professionalism when interacting with NSW Police Legacy. Despite best efforts, on occasions NSW Police Legacy decisions may sometimes differ from the views of our customers and this policy sets out a framework to manage complaints involving members of staff, volunteers and Directors.

Complaints concerning the conduct of sworn police officers who are members of the Board of Directors and involving conduct not directly relating to their role, functions and responsibilities as a director of NSW Police Legacy will be referred to the NSW Police Force to be managed under Part 8A of the New South Wales *Police Act 1990*.

Complaints concerning an allegation of a criminal conduct by either an employee or a Director of NSW Police Legacy will be referred to the relevant Local Area Commander for further investigation. Where the allegation involves a sworn police officer, this matter will also be referred to the Commissioner of Police for further investigation and report to the appropriate external oversight agencies

Complaints of serious misconduct made against a Director must be notified to ASIC and the ACNC.

This policy has an emphasis on the resolution of complaint matters to the satisfaction of all parties involved. Where there are circumstances that this is not possible, all parties will be advised of the outcome of the complaint matter and the fact that a resolution was not reached.

The Board of Directors of NSW Police Legacy expects to resolve the majority of complaints through direct contact between the complainant and a member of the Board (appointed by the Board for that purpose). This approach will ensure that all complaints will be logged, acknowledged, investigated and resolved in accordance with this policy.

This policy should be read in conjunction with the NSW Police Legacy's Vision Statement, Mission and Code of Conduct and should be readily accessible to those who request it.

Details of complaints are to remain confidential within the confines of those persons who are involved in the complaint management process. The person(s) subject of the complaint are not to be advised of the existence of the complaint prior to the matter being allocated to the investigator for resolution.

It is acknowledged that issues involving an allegation of misconduct cause considerable stress to many people. A tenet of this policy is that complaints will be investigated and finalised in a timely manner so as to relieve the associated concerns for all involved parties.

All personnel in contact with customers and complainants should be aware of this policy and be trained accordingly in complaints handling and comply with any complaints handling reporting requirements determined by NSW Police Legacy Ltd.

1.2 DEFINITIONS

Assessment	The examination of issues subject of the complaint to determine the nature of the complaint and how the complaint should be managed. Assessment includes the allocation of responsibility for the resolution of the complaint as per this policy.
Complaint	Any written or oral expression of dissatisfaction made by any person about the service, actions or inactions of NSW Police Legacy, its Directors or its employees or beneficiaries (legatees/parents network members) or volunteers.
Complainant	The person/organisation that have made the complaint.
Executive Management Committee	Those members of the NSW Police Legacy Board tasked with assessing the complaint. Normally, Chairperson, Vice Chair and a third member with experience in complaint resolution and independent of NSW Police Legacy. The Executive Manager should, unless otherwise decided act as the Executive Officer to the Committee.
Investigation	The process of collecting information that will be used to determine the facts of the matter subject of the complaint.

Involved person	The individual(s) subject of the complaint.
Resolution Manager	The person responsible for the investigation of the complaint as assigned through the assessment process.
Outcome	Facts arrived at as a result of the complaint investigation.
Receipt	The receiving of a complaint in a format that can be assessed i.e. written or verbal complaint.
Action Outcome	Action taken after an outcome has been determined. This includes no action.

2.0 COMPLAINT MANAGEMENT PROCESS

2.1 COMPLAINT RECEIPT AND COMPLETION PROCESS

A complaint can be received at NSW Police Legacy by way of written or oral complaint. In circumstances where the complaint is received orally, the complainant should be requested to commit the complaint to writing and forward the written submission to the Chairperson, NSW Police Legacy. Ideally, all such complaints should be signed. *(If there is a need to protect the identity of the complainant, all such action as is necessary shall be taken)*. These processes will ensure clarity in regard to issues subject of the complaint and avoid and issues of misunderstanding or interpretation by the person receiving or investigating the complaint.

Dependant on the nature of the complaint and its degree of seriousness, the Executive Management Committee will consider the appointment of an independent investigator to undertake all such enquiries as are necessary.

Further, appropriate Terms of Reference will be established. The appointed Investigator will prepare and submit to the Chair of the Board of Directors, an Investigation Plan for approval.

On completion of the Investigator's Report it will be forwarded or delivered to the Chair, NSW Police Force under confidential cover. The Investigation Report will contain the following:

- A description of the complaint and relevant supporting statements
- A response by the a NSWPL beneficiary (Legatee or Parents network member), member of staff, Director or volunteer who is the subject of the complaint
- Conclusions based on factual evidence
- Recommendations where appropriate (disciplinary action, policy, processes or systems), and
- A review of relevant organisational practice (where relevant).

If the complaint concerns the Chairperson of NSW Police Legacy then the complaint submission should be addressed to the next most senior member of the Board of Directors. Seniority of the NSW Police Legacy Board is determined to be the following order:

- Chairperson
- Vice Chairperson
- Treasurer
- Most senior board member determined by overall length of time of service.

Upon receipt of a complaint at NSW Police Legacy, a letter will be forwarded to the complainant acknowledging receipt of the complaint and advising the complainant that they will be contacted by the investigator in due course. Receipt of each complaint should be acknowledged to the complainant within 5 working days of its receipt.

Every complaint shall be allocated a complaint reference number being prefixed by the year in which the complaint was made followed by the sequential number of the complaint. eg. the first complaint in the year 2016 will be 2016/1.

Copies of all correspondence generated through the complaint management process are to be retained securely in a confidential file within the offices of NSW Police Legacy. All such documents will be retained in accordance with the provisions outlined in the Document Retention Policy, and in matters of this type, for a period of seven (7) years.

The complainant(s) should be treated courteously and be kept informed of the progress of their complaint through the complaints handling process.

2.2 COMPLAINT ASSESSMENT

The complaint will be assessed by the Executive Management Committee (EMC) to determine initially if the matter is a complaint against a NSWPL beneficiary (Legatee or Parents network member), member of staff, volunteer or Director of NSW Police Legacy. When this has been established the issues outlined by the complainant should be individually identified and noted. The person(s) who is the subject of the complaint should be identified and the circumstances surrounding the complaint should be confirmed with them.

Every reasonable effort should be made to investigate all the relevant circumstances and information surrounding a complaint. The level of investigation should be commensurate with the seriousness, frequency of occurrence and severity of the complaint.

2.2.1 Declining Complaints

Complaints against a NSWPL beneficiary (Legatee or Parents network member), members of staff, volunteers or Directors of NSW Police Legacy can be declined on the following grounds: ¹

- Action has been, is being or will be taken to remedy the subject matter of the complaint without the need for an investigation
- The complaint is frivolous, vexatious or not made in good faith
- The subject matter of the complaint is trivial

¹ The grounds taken from Section 141 of *Police Act*.

- The conduct complained of occurred too long ago to justify investigation
- There is, or was available to the complainant, an alternative and satisfactory means of redress in relation to the complained conduct
- The complainant does not or could not have an interest, or a sufficient interest, in the conduct subject of the complaint or
- The complaint is misconceived

The outcome of the complaint assessment should be recorded on the Complaint Assessment Form and include the names of those persons involved in the complaint assessment process.

Where a complaint is declined, the reasons for declining the complaint should be clearly set out on the assessment form. Correspondence will then be prepared and forwarded to the complainant advising of the decision of the CAP and the reasons for this decision.

2.2.2 Conflicts of Interest

The EMC should identify any conflicts of interest at the time of assessment and manage these conflicts so as to prevent allegations of partiality during the complaint management process.

2.2.3 Interim Risk Management Strategy

Where a complaint has been assessed and referred to an investigator for resolution, the EMC should determine if there is a need to implement an Interim Risk Management Strategy.

An example may involve a member of staff or volunteer allegedly stealing property from NSW Police Legacy. In these circumstances it may be necessary to suspend the employee until an investigation into the matter has been conducted by the NSW Police.

All Interim Risk Management Strategies should be recorded on the Complaint Assessment Form.

All matters falling within the ambit of this policy will be reported either on the same day or at the next date available.

2.3 COMPLAINT RESOLUTION

When the complaint has been assessed and determined to warrant further action, the Resolution Manager will assume responsibility for the effective conduct of the investigation of the complaint. Unless the complaint is about the Executive Manager this is a role the Executive Manager should assume.

2.3.1 Role of the Complaint Resolution Manager

The Resolution Manager should contact the complainant and introduce them and clarify any issues within the complaint. The Resolution Manager should be the only person to have direct

contact with the complainant during the investigation process to maintain the integrity of the investigation and the information coming to NSW Police Legacy in regard to the complaint.

The role of the Resolution Manager is to:

- Manage the resolution in a manner that allows swift, fair, impartial, equitable and discrete resolution of complaints
- Establish the facts about the complaint and make recommendations about management action
- Achieve as far as possible, complainant satisfaction in respect to handling their complaint, and
- Maintain strict confidentiality in terms of the complaint and its resolution.

2.3.1.1 Step 1 - Obtain background information.

The first step in resolving a matter is to understand the background of the matter and why it has been referred for resolution. Reviewing this material will assist in developing a strategy to manage the matter and should always be undertaken prior to the Resolution Manager speaking with the complainant or the involved person.

2.3.1.2 Step 2 - Speak with the complainant

When speaking with the complainant the Resolution Manager should:

- Give the complainant the opportunity to tell their story and to vent their complaint
- Understand what outcome the complainant is seeking
- Give clear advice about how the process works, and
- Manage the complainant's expectations.

It is not expected that Resolution Manager will satisfy complainants where the outcome(s) requested by the complainant is unreasonable. If a complainant is difficult to contact, finalisation of the matter should not be unnecessarily delayed.

In circumstances where there are difficulties in contacting the complainant or the complainant will not accept the outcome of the resolution, the resolution outcome should be communicated to the complainant in writing. A copy of this correspondence should be retained with the complaint file.

When considering whether an apology is suitable in the circumstances, the Resolution Manager may offer an apology on behalf of NSW Police Legacy but not on behalf of the individual(s) subject of the complaint.

2.3.1.3 Step 3 - Speak with witnesses

A witness is a person who may have useful information to offer in regard to the complaint. Resolution Managers need only speak to the number of witnesses that reasonably serve to resolve the complaint. Efficient, effective and appropriate outcomes based on satisfactory enquiries should drive the inquiry.

Witnesses should be approached with an emphasis on problem solving, similar to complainants. The witness may have concerns and emotions that are similar to the complainants and should be dealt with as sensitively as possible.

2.3.1.4 Step 4 - Speak with involved person(s)

Involved persons are entitled to have complaints made against them dealt with in a swift, fair, impartial and equitable manner and are entitled to have the complaint handled discretely.

The management, care and welfare of the involved person remain the responsibility of the Board of Directors.

When the Resolution Manager speaks with the involved person the aim of the discussion should be to speak openly about the allegations with a view to understanding what has occurred. This includes resolving the complainant's issues and where appropriate, identifying whether there are any management solutions that would assist in modifying the involved person's behaviour.

The skills employed are negotiation skills, not strictly investigative skills. The aim is to include the involved person in finding a solution to the problem and being accountable for their actions.

2.3.1.5 Step 5 - Complete outcome report

Accountability for and reporting on the actions and decisions of the organisation with respect to complaints handling is clearly established by this policy. At the end of the resolution process a report should be prepared comprising of the following information:

- Brief details of the complaint
- Brief details of relevant information gathered
- Outcome and findings
- Action taken or recommendations for action to be taken

2.4 OUTCOME RESOLUTION

At the completion of the complaint investigation and upon receiving the resolution report the EMC will review the report and determine if there is any remedial action (including training) required to address the subject of the complaint. Any recommendations made by the Resolution Manager will be taken into consideration when determining any course of action.

Once the EMC has determined the outcome, the complainant will be advised in writing of the following:

- The conclusion of the complaint
- The reasons for reaching that conclusion
- Whether NSW Police Legacy accept responsibility for the complaint
- If responsibility is accepted, how NSW Police Legacy intend to address the issues

Where there is no remedial action determined to be necessary by the EMC, the complainant will also be advised of this outcome.

2.5 ACTION OUTCOME

Where the outcome of a complaint investigation identifies that an employee or volunteer of NSW Police Legacy or a member of the Board of Directors has conducted themselves in a manner contrary to the NSW Police Legacy Code of Conduct then corrective action will be taken.

This action may include:

- No further action
- A negotiated resolution
- An apology
- An explanation
- An assurance about the future
- Changing how things are done
- The requirement to undertake further training or additional support
- Extending a probationary period or rescinding a promotion
- Disciplinary procedures, or
- Dismissal.

The seriousness of the complaint will determine the manner in which the complaint is resolved. For the majority of complaint matters this internal resolution process (through the complaints procedure) will be appropriate for most matters. In more serious matters it may be necessary to employ the services of an independent person to participate in a mediation process.

In serious matters where suspension or dismissal is proposed an external arbitration body may be utilised. In any case, should this be an outcome, arbitration through the Industrial Relations Commission is available to employees who initiate proceedings in this arena.

If the complainant rejects the proposed decision or action, then the complaint should remain open. This should be recorded and the complainant should be informed of alternative forms of internal and external recourse available. NSW Police Legacy should continue to monitor the progress of the complaint until all reasonable internal and external options of recourse are exhausted or the complainant is satisfied.

3.0 RECORD KEEPING AND REPORTING

At the end of the complaint management process correspondence will be prepared on behalf of the Executive Manager and forwarded to the complainant and the involved person advising them of the outcome of the matter.

All documentation received or created as part of the complaint management process will be retained in a confidential file within the offices of NSW Police Legacy.

All complaint statistics will be reported in the Annual Report on NSW Police Legacy and include details in regard to the manner in which the complaint was resolved being informal resolution, mediation or arbitration.

All complaints should be analysed to identify systematic, recurring and single incident problems and trends and to help eliminate the underlying causes of complaints.

4.0 POLICY REVIEW

The Chair of the relevant committee, a second member of the Board of Directors and the Executive Manager will review this Complaints Management Policy and Process document every two (2) years. Any changes to the documents will be submitted to the Board by a member of the *relevant committee* for adoption by the Board.