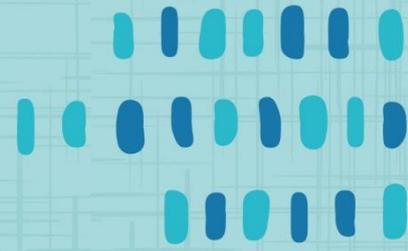




Government of **Western Australia**
Department of **Communities**



COMPLAINTS MANAGEMENT

POLICY AND PROCEDURES



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1. POLICY

- a) The Department of Communities', Child Protection and Family Support (CPFS division) is open and responsive to receiving complaints from children, young people, parents, extended family and members of the community as an opportunity for service improvement.
- b) CPFS division staff will make every effort to resolve complaints, preferably at the local level, in accordance with the standards described in this document.
- c) Where the CPFS division is unable to resolve complaints internally, complainants will be provided with written information about external avenues for resolution and/or appeal.

2. BACKGROUND

2.1 RATIONALE

This policy is a direct response to recommendation 30 of the Ford Report¹, directing the Department to develop a three tiered complaints management system.

Recommendation 30 required that: "The (Department) develop a three-tiered complaints management process supported by clear policies, guidelines and education programs for consumers and staff. This process is to be developed in conjunction with the Ombudsman and Corruption and Crime Commission."

It is a requirement that all public sector agencies have effective and inclusive complaint management processes and policies. The CPFS division's policy and procedures are consistent with the Australian and international standards that prescribe key requirements for managing complaints (Australian Complaint Handling Standards AS 4269-1995 and Australian Standards ISO 10002-2006).

Effective complaint management is essential to operating any organisation, including a commitment to responding positively to complaints. The partnership between the Department and the wider community should be such that clients are confident that staff will listen and respond positively to their concerns.

This policy and procedures build on good practice in the work place. They have been developed in consultation with stakeholders (parents, children, staff, carers and other interested parties) to ensure that complaints are dealt with promptly, fairly and contribute to continuous improvement.

The Ombudsman of Western Australia and the Corruption and Crime Commission have also been consulted during the development of this document.

¹ "Review of the Department for Community Development"; Prudence Ford, January 2007.

This document sets out the process for children, parents, carers, family members and community members to have their complaints addressed by the CPFS division.

The CPFS division's mechanisms for the resolution of complaints include:

- local management (Tier 1) as outlined in this policy;
- central management (Tier 2) as outlined in this policy;
- management by the CPFS division's, Integrity Services Unit for complaints conforming to definitions of misconduct (pursuant to section 4 of the *Corruption, Crime and Misconduct Act 2003*) or public interest disclosure (pursuant to the *Public Interest Disclosure Act 2003*); and
- Referral to external agencies such as the Ombudsman's Office (State), the Equal Opportunities Commission the Australian Human Rights Commission, the Australian Equal Rights Commission, or the Corruption and Crime Commission.

2.2 RELATED POLICIES AND PROCEDURES

The following documents are relevant to an understanding of the context of this policy and its attendant procedures:

- The CPFS division's Complaints Management Framework (2007).
- The CPFS division's Code of Conduct - Client focus and Communication and Information.
- The CPFS division's Casework Practice Manual – Chapter 4.1 Accountability, Governance and Conduct, Complaints Management, and Chapters 3.4 Care Planning – Provisional Care Plans, Care Plans, and Viewpoint.
- The CPFS divisions *Administration Manual* – Sections 3.3 Health and Wellbeing, dealing with aggressive behaviour by clients.
- Better Care Better Services Standards 2007 - Standard 9 Complaints and Disputes.
- *Delivering Community Services in Partnership (DCSP) Policy (2011)*.

See also:

- Australian Standard – Complaints Handling (AS 4269-1995).
- Australian Standard ISO 10002 (AS ISO 10002-2006).
- Western Australian Public Sector Code of Ethics.

2.3 KEY DEFINITIONS

A full glossary can be found at the end of this document. However, the following key definitions underpin the main tenets of the policy.

2.3.1 Complaint

A complaint is defined as an expression of dissatisfaction with any aspect of the CPFS division's operations that requires a response in accordance with the complaints' management system.

2.3.2 Informal Conflict

Informal conflict arises due to dissatisfaction or concern about a service and can generally be addressed and resolved informally at the local level without the need for it to become a formal complaint. Informal conflict may become a complaint, when the complainant wishes the matters raised to be managed and responded to in a formal way.

2.3.3 Responsible Officer

The responsible officer is the person who is accountable for implementing this policy and its attendant procedures at Tier 1. The responsible officer will be the Director of the area concerned.

This responsibility may not be delegated further.

2.3.4 Designated Officer

A designated officer is an officer of the CPFS division who has been designated by the responsible officer as a person with authority to manage and administer complaints at Tier 1.

Designated officers are not responsible officers.

2.4 PRINCIPLES UNDERLYING THE POLICY

- The following principles apply to the management of all complaints:
- The process is available to all aggrieved parties and is underpinned by commitment to cooperation on the part of the CPFS division staff.
- Resolution at the lowest possible level is preferred, wherever it is appropriate to do so.
- Procedural fairness is afforded to all parties.
- Any person who is the subject of a complaint is informed of the substance of the complaint.
- Any person who is the subject of a complaint has a right of reply. Vexatious, trivial or previously finalised issues are not pursued, after appropriate assessment and consultation (See Section 4.4).
- Where an investigation into matters arising from a complaint is warranted, it can be pursued with or without the active involvement of the complainant.
- Confidentiality is maintained, to the extent that it is consistent with legislative requirements and other principles outlined in this section.
- Identified matters relating to significant risk of children, duty of care or of a criminal nature will be responded to according to existing CPFS division protocols and mandates.
- Complaints are monitored and their management evaluated so as to identify and respond to the occurrence of systemic and recurring problems.
- All persons engaging with the CPFS division have a right to be treated with respect and courtesy.

- In all matters, the safety and wellbeing of children is the first priority for CPFS division.
- Complainants are able to make complaints about the provision of services of the CPFS division and have these dealt with efficiently, fairly and promptly.
- Processes are to be clear, easily understood and consistent with other policies and procedures of the CPFS division.
- Information about the process for making complaints is to be clear and easily accessible to children, parents, carers, family members and community members. Information is also to be provided in accordance with the principles and policies relating to Aboriginal and Torres Strait Islanders, culturally and linguistically diverse groups and clients with special needs.

3. RELEVANT LEGISLATION/AUTHORITY

Under s.21 (1)(d) of the *Children and Community Services Act 2004*, the Director-General is to establish procedures for dealing with complaints about social services provided under the Act or complaints relating to the administration of the Act. This policy and attendant procedures gives effect to this requirement.

A person who feels aggrieved by a decision, action, omission or policy of the CPFS division may seek a review pursuant to an applicable right of review provided under:

- *The Children and Community Services Act 2004*;
- *Adoption Act 1994*; or
- *Working with Children (Criminal Record Checking) Act 2004*.

Reviews of this nature may be internal (eg a right of review to the Director- General) or external (eg to the State Administrative Tribunal). The management of a review of this nature does not fall within this policy.

Where appropriate grounds exist, a person may also seek further information about a CPFS division decision or policy, lodge a complaint or take action against the CPFS division or an individual officer pursuant to other legislation, including:

- *Corruption, Crime and Misconduct Act 2003*;
- *Parliamentary Commissioner Act 1971*;

- *Public Interest Disclosure Act 2003;*
- *Freedom of Information Act 1992;*
- *Public Sector Management Act 1994;*
- *Equal Opportunity Act 1994;*
- *Racial Discrimination Act 1975 (Commonwealth);*
- *Sex Discrimination Act 1984 (Commonwealth);*
- *Disability Discrimination Act 1992 (Commonwealth);*
- *Age Discrimination Amendment Act 2006(Commonwealth); and*
- *Human Rights and Equal Opportunity Commission Act 1986 (Commonwealth).*

4. PROCEDURES

4.1 RESPONSIBILITIES

Key CPFS division responsibilities for implementing this policy are as follows:

4.1.1 Tier 1 - Responsible Officers

Responsible officers must:

- ensure that all staff are trained in the complaints management process and resolution;
- respond to complaints within the designated time-frames;
- maintain confidentiality and impartiality in dealing with each complaint;
- ensure, wherever possible, that complaints are resolved at the local level;
- record, respond to and manage complaints in accordance with the stipulated procedures, Complaints Handling and Resolution Module (CHARM);

- ensure that complaint procedures are communicated clearly to clients, their families and community members; and
- refer unresolved complaints, where appropriate, to the Complaint Management Unit for resolution.

4.1.2 Tier 2 - Complaints Management Unit

The Complaints Management Unit will:

- refer complaints to Tier 1 for resolution in the first instance when they are lodged at Tier 2;
- ensure wherever appropriate that complaints' are resolved at the local level
- respond, within the designated time-frames, to complaints referred to and received at Tier 2 ;
- maintain confidentiality and impartiality in dealing with each matter;
- provide advice, support and consultation to responsible and delegated officers regarding complaints, resolution strategies, policies and procedures;
- ensure, wherever appropriate, that complaints are resolved at the local level;
- ensure that procedures implemented in addressing complaints are in accordance with the CPFS division's Complaints' Policy;
- manage complaints on behalf of the Director-General, including those received from agencies and funded services;
- manage complaints referred by the Minister for Child Protection including those received from external agencies;
- provide advice and information and consultation to clients wishing to access the CPFS division's complaints process;

- maintain the integrity of the complaints management data systems;
- recommend appropriate changes to policies and procedures from complaint trend analysis;
- implement and maintain a system for recording and monitoring complaints that are registered at CPFS division sites to enable improvements to be identified;
- provide quarterly reports and trend analysis as required.

4.2 WHO MAY COMPLAIN

Children, parents, extended family, carers, members of the community and agency representatives are entitled to have their formal complaints addressed by the responsible officer of the area concerned (or their delegate) in the first instance.

4.3 COMPLAINTS FROM AGENCIES AND FUNDED SERVICES

Complaints received from employees, carers and volunteers of an external agency or funded service will be managed sensitively. Consideration of the nature of the complaint is required to ensure that where appropriate the agency is in agreement with the complaints' being addressed via the CPFS division's Complaint Process.

The CPFS division will clarify the expectations of the agency and determine the appropriate complaint communication.

Where an investigation into matters is warranted, it can be pursued by the CPFS division without the agreement or active involvement of the agency or third party.

4.4 WHAT MAY BE COMPLAINED ABOUT

Complaints may be made about any service offered by the CPFS division or any aspect of its operations. Conversely complaints may be made about a lack of service which could reasonably be expected by a client of the CPFS division.

People are encouraged to discuss any concerns or dissatisfaction they may have directly with the staff member who provides the service. Conflict may be resolved informally before it becomes a complaint. People who have been unable to resolve conflict informally at this level may wish to lodge a formal complaint.

4.5 COMPLAINTS THAT WILL NOT BE ACCEPTED

The complaint management process cannot respond to:

- any complaints related to the Department of Communities', Housing Authority, Disability Services Commission, Regional Services Reform, Youth Justice and Community Grants, Funding and Initiatives divisions. To progress a complaint associated with any of these sections refer to www.communities.wa.gov.au for further details;
- matters that are the subject of current legal action in a court or tribunal;
- decisions made by any Court of Law including the Children's Court and the Family Court;
- the death of a child (a decision to formally commence an Inquiry regarding a death is a decision the Coroner makes after he receives a legitimate concern);
- matters of a personal nature involving staff;
- decisions made as part of the final resolution at Tier 2 (these may only be addressed by external review);
- decisions made by the Adoption Application Committee;
- care plan decisions made at a formal care plan meeting (these issues may be appealed through the Care Plan Review Panel);
- recommendations made by the Care Plan Review Panel (these may be appealed to the State Administrative Tribunal);
- complaints concerning decisions made about funding and purchasing of community services as a part of a tendering process;
- decisions and actions of the Working With Children Check regarding the issuing of notices (these are addressed using the WWC Complaints Resolution Process);

- decisions to refer a person to Centrelink for Income Management (reviewed by District Director);
- complaints and/or grievances from employees of the Department;
- decisions to record a person as 'Person Responsible or Person Assessed as Causing Significant Harm' to a child (review by District see CPM 5.2);
- decision to revoke a foster carers approval;
- anonymous complaints;

Where customers of the CPFS division wish to raise issues about the areas identified above, staff must provide information about how and where to address these.

Staff have the right to refuse to deal with the following:

- Complaints containing personal abuse, offensive language, inflammatory statements or material that is clearly intended to threaten or intimidate, or complainants who have used or threatened physical violence to the worker, their families or associates.
- Matters where it is deemed - in agreement with the CMU – that the complaint is vexatious; that is trivial, repetitive, and/or where the complaints process has been exhausted and no new information about the complaint has been received (refer glossary for definition and see separate guidelines for dealing with habitual complainants).
- Complaints raised by a person deemed to be a habitual complainant, as endorsed by the Director General (refer glossary for definition and see Appendix A - *Guidelines for Handling Habitual Complainants and Vexatious Complaints*).

4.6 LODGING A COMPLAINT

Any officer of the CPFS division may receive a complaint verbally or in writing and this must be referred as soon as practical to a responsible officer or their delegate.

Verbal complaints are to be documented by the receiving officer by using the CPFS division's complaints format attached at Appendix B. The complainant needs to agree where possible with the documented complaint details.

The CPFS division will provide complainants with information about how to make a complaint and to whom. Assistance will be provided for complainants where needed and appropriate (eg, interpreter services).

Written complaints may be converted into the CPFS division's complaints format to assist in their resolution. Where possible, negotiation with the complainant may be necessary to confirm and clarify the details of the complaint.

A complainant, who lodges a complaint that cannot be accepted under Section 4.4 above, will be advised in writing of the correct avenue for that complaint, within 7 working days.

If lodging a complaint at a district office or other work unit is problematic, a complainant can lodge their complaint with the Complaints Management Unit. The Complaints Management Unit will send the complaint to the relevant district office/work unit on the complainant's behalf.

Complaints made more than 12 months after the incident will only be accepted if there has been an appropriate reason for the delay. The reasons for the delay must be included in the complaint details provided by the complainant.

The decision to progress the complaint is at the discretion of the CPFS division, with the rationale for the decision not to progress provided to the complainant.

4.7 HOW THE COMPLAINT WILL BE MANAGED

Complaints will be:

- assessed to ensure they meet the definition of a complaint as defined in this document;
- responded to promptly and in accordance with procedural fairness. Full records will be kept about each complaint and its handling;
- managed so as to ensure that people who are the subject of a complaint, who make a complaint or provide information in the course of an investigation into

a complaint shall not be subject to prejudice, intimidation, and harassment or be subject to any detriment because of their involvement; and

- treated confidentially. However, any matters relating to significant risk for children, duty of care or matters of a criminal nature will be responded to in accordance with existing CPFS division policies and protocols.

4.7.1 Tier 1 - Local Management of Complaints

Responsible officers must ensure that:

- Information about the CPFS division complaints policy and procedures is to be made freely and openly available at all offices where interaction occurs with members of the public;
- complainants are aware that they can have a friend or advisor present during discussions about their complaint;
- staff are aware of the complaints policy and procedures;
- when conflict is not able to be resolved informally, the person has information about how to make a formal complaint;
- the substance of the complaint will be recorded using the CPFS division's complaints format (CHARM);
- where complaints are made verbally they are documented using the CPFS division's complaints format and where possible the complainant agrees to the complaint details;
- complaints are acknowledged verbally or in writing to the complainant within 2 working days of their receipt;
- the complainant is contacted to discuss the complaint within 7 working days of receipt;
- every endeavour will be made to resolve the complaint within 21 working days of receipt;

- the Complaints Management Unit, is informed of the reasons for any delay and, in agreement with the CMU, determine the likely time frame required to conclude the matter. (CMU will provide written advice of the extended completion date to the complainant);
- the complainant is advised in writing within 5 working days of receipt of the complaint of the correct avenue for a complaint not meeting the definition;
- should the matter not be resolved to the complainant's satisfaction, information is given to the complainant about how to take their complaint to Tier 2;
- any complaint relating to the misconduct of an employee is immediately forwarded to the CPFS division's, Integrity Services Unit;
- complaints' from agencies and services provided to the CPFS division funded by the Department of Communities are forwarded to the CMU for assessment and consideration of the appropriate response required.

4.7.2 Tier 2 - Central Management of Complaints

The Complaints Management Unit will:

- ensure that information about the CPFS division's complaints' procedures are made available in an appropriate format to staff, the general public and other stakeholders;
- ensure that Tier 1 has had an opportunity to implement the Complaints' Policy to resolve the complaint in the first instance;
- be able to receive complaints directly and refer to Tier 1 for resolution;
- assess all complaints referred from Tier 1 to Tier 2 to ensure that an appropriate response has occurred. Tier 2 may refer complaints back to Tier 1 if the resolution process is deemed inadequate;
- finalise Tier 2 complaints either through resolution or closure;

- ensure complainants are advised in writing if the complaint is considered vexatious, and a rationale provided for this decision. Other avenues of complaint mechanisms will be advised in this correspondence.
- comply with the requirements of the complaint management data system in recording complaints (CHARM);
- acknowledge verbally or in writing complaints' received within 2 working days of receipt in the unit. Personal contact with the complainant will occur within 7 working days of receipt;
- have access to all information about the case and may wish to interview all persons involved;
- endeavour to complete the complaint process within 21 working days;
- extend resolution of a tier one or tier two complaint for a further period,
- should it be deemed warranted by the Manager or their Delegate of the Complaints Management Unit. The complainant will be advised in writing with a rationale for the extension;
- advise complainants in writing of any decision or outcome of their complaint;
- provide the Assistant Director-General of the CPFS division with a copy of the complaint outcome letter for complaints addressed via that office;
- provide the Minister for Child Protection with a copy of the complaint outcome letter for complaints addressed via that office;
- retain documentation at the Complaints Management Unit in accordance with central office records management and confidentiality requirements;
- review all data and actions of the CPFS division to ensure that procedures delivered in resolving all complaints are in accordance with its Complaints Policy;

- follow existing CPFS division protocols and mandates if information is discovered that relates to significant risk to children, duty of care or of a criminal nature;
- ensure all Tier 1 complaints who progress their complaints are afforded an investigation at Tier two;
- advise the complainant about external complaint avenues for them to pursue independently, should complaints not be resolved to the complainant's satisfaction;
- forward any information relating to staff misconduct to the Integrity Services Unit ;
- advise complainants in writing if the complaint is considered vexatious, and a rationale provided for this decision. Other avenues of complaint progression will be advised in this correspondence;
- provide quarterly reports and trend analysis as required.

4.7.3 - External Complaint Avenues

There will be occasions when a complainant will not attain resolution at the completion of the complaint process at either Tier 1 or Tier 2.

Complainants are able to pursue independent external review such as the Ombudsman's Office. The CPFS division will not engage in external referral but will provide written information of external complaint avenues.

Where complaints are taken up by external review, the CPFS division will provide details as required by the external agency and as agreed by the Director-General. All such provision of information will be managed by the CMU.

The Complaints Management Unit will comply with the Memorandum of Understanding with the Ombudsman and its supporting arrangements.

4.8 WITHDRAWAL OF A COMPLAINT

A person who has made a complaint may withdraw the complaint by contacting the Tier 1 officer handling the complaint at any time. A written complaint should preferably, be withdrawn in writing. However a CHARM record of the decision and/or a letter to the complainant confirming the decision from the CPFS division will suffice.

All parties affected by the complaint will be advised in writing by the Tier managing the complaint that the complaint has been withdrawn within 5 working days of its withdrawal.

Complaints that warrant investigation must be pursued, even though the complaint has been withdrawn, and documented on the CPFS division's complaints format.

All parties affected by the complaint will be advised in writing that the investigation will proceed as deemed warranted.

A person who withdraws a complaint may at a later date progress that complaint to the CPFS division within 12 months.

4.9 CHILDREN AND YOUNG PEOPLE IN THE CEO'S CARE

Children and young people in the care of the CEO are able to access the Department of Communities', Advocate for Children in Care if they require assistance to raise their grievances or to lodge a complaint. The Advocate can be contacted on 9222 2518 or Freecall 1800 460 696.

The Advocate for Children in Care does not act as Tier 1 or Tier 2 in the complaints process. The Advocate may assist or support the child (ren) in achieving resolution and/or to access the complaints' process.

5. EFFECTIVE DATE

1 March 2008.

6. REVIEW DATE

30 April 2014

7. KEY SEARCH WORDS

“complaint”, “lodging a complaint”, “information about complaints”, “how to make a complaint”.

8. GLOSSARY

Centrally managed complaint: a complaint lodged with the Complaints Management Unit and managed at the Tier 2 level.

Complainant: the person making a complaint.

Complaint: A complaint is defined as an expression of dissatisfaction with any aspect of the CPFS division’s operations where the complainant requires formal management resolution within the complaints’ management system.

Director-General: the Chief Executive Officer of the Department of Communities.

Habitual Complainant: is a person who continually and persistently raises vexatious complaints. Habitual complainants complain often, abuse the complaints process and persistently refuse to acknowledge the CPFS division’s attempts to resolve their complaints. Habitual complainants seek to constantly maintain a position within the complaints process, in order to annoy or harass staff, and tend not to accept any position that the CPFS division takes on their complaints, or accept any position that outside scrutiny has determined. Unless action is taken, responding to the activities of a habitual complainant will cause detriment to the the CPFS division’s operations and are an inappropriate use of agency resources.

Informal conflict: An informal conflict is an expression of dissatisfaction or concern about a service that can generally be addressed and resolved at the local level without the need for it to become a formal complaint. An informal conflict may become a complaint, when the complainant wishes the matters raised to be dealt with and responded to in a formal way.

Investigation: formal examination of a complaint by an authorised person.

Locally managed complaint: a complaint made in relation to any aspect of the CPFS division’s operations, which is appropriately managed by or on behalf of a district or work unit Responsible Officer or manager.

Local level: means the district office or CPFS division work unit which made the original decision.

Managing a complaint: coordinating all the processes involved in addressing the complaint to its conclusion or resolution.

Misconduct: In general terms misconduct is when someone acts dishonestly, fails to act impartially or deliberately acts wrongly, or acts in a manner to breach the public's trust in the Public Service. (Full definition S4 of the Corruption, Crime and Misconduct Act 2003.)

Procedural fairness: the concept of procedural fairness is derived from the principles of natural justice. A process that demonstrates procedural fairness is one in which:

- decision makers act fairly and provide reasons for decisions;
- the person affected is given a fair hearing;
- all parties to a matter have an opportunity to put their case where an adverse decision or finding is made; and
- all relevant arguments are considered and irrelevant arguments are excluded.

Referring a complaint: forwarding the complaint to a more appropriate person or Tier to manage.

Responsible Officer: The Director responsible for the area that is the subject of a complaint.

Resolution: an outcome of a complaint that is satisfactory to both parties.
Unresolved complaint: a complaint which has not been resolved to the satisfaction of the complainant and may be referred by the complainant to an outside agency such as the Ombudsman.

Vexatious complaint: is one where the complainant seeks to abuse the normal complaints management process with a view to harassing or annoying staff. A vexatious complaint does not have reasonable grounds and is intended only to annoy, harass or cause delay or detriment to the CPFS division, or achieve any purpose other than the genuine resolution of a complaint.

Warranted investigation: A complaint which has been withdrawn but the substance of the complaint has called into question the proper operations of the CPFS division.

GUIDELINES FOR HANDLING HABITUAL COMPLAINANTS AND VEXATIOUS COMPLAINTS

INTRODUCTION

Use of the term “vexatious” in these guidelines is based on the broader dictionary meaning, rather than its legal definition.

CPFS division officers are expected to make every effort to respond with respect and courtesy to complaints, upholding the principle of procedural fairness. However, it is recognised that sometimes people make vexatious complaints for reasons other than a genuine pursuit of resolution. Moreover, in some circumstances, a person may become a habitual complainant, repeatedly lodging complaints which lack substance. Habitual complainants and vexatious complaints place strain on staff and can drain the Department’s resources.

The CPFS division’s *Complaints Management Policy* identifies circumstances under which the Department will not respond to a complaint. These include:

- matters where it is deemed the complaint is vexatious; and
- complaints raised by a person deemed to be a habitual complainant.

These guidelines are intended to assist staff in determining how to assess for vexatious complaints and habitual complainants, so that undue or inappropriate use of agency resources in pursuit of a resolution can be avoided.

WHO IS AN HABITUAL COMPLAINANT AND WHAT IS A VEXATIOUS COMPLAINT

HABITUAL COMPLAINANT

A habitual complainant is a person who continually and persistently raises vexatious complaints. Habitual complainants complain often, abuse the complaints process and persistently refuse to acknowledge the CPFS division’s attempts to resolve their complaints. Habitual complainants seek to constantly maintain a position within the complaints process. Unless action is taken, responding to the activities of an habitual complainant will cause detriment to the CPFS division’s operations and inappropriate use of agency resources.

According to the *Complaints Management Policy*, the Director General is the only person who can make a decision identifying a habitual complainant and has the authority to choose how the CPFS division will deal with the complainant and for what time period this decision will last before it is reviewed.

Habitual complainants are likely to be people who display one or more of the following behaviours:

- Persist in pursuing or repeating a complaint where the complaint procedure has been fully and properly implemented and exhausted at both Tier One and Tier Two.
- Continually change the substance of a complaint, repeatedly raise minor issues or seek to prolong contact by continually raising further minor concerns or questions upon receipt of a response while the complaint is being addressed (Care must be taken not to discard new genuine issues which are significantly different from the original complaint or serious allegations about children at risk. These will need to be addressed as separate complaints or through existing case management processes).
- Have, in the course of pursuing a registered complaint, made an excessive number of contacts with officers and placed unreasonable demands on staff. (A contact may be in person or by telephone, letter, email or fax). Discretion must be used in determining the precise number of contacts that should be deemed excessive, using judgement based on the specific circumstances of each individual case.

Care should be taken not to deny complainants natural justice when considering their classification as an habitual complainant.

VEXATIOUS COMPLAINTS

A vexatious complaint is one where the complainant seeks to abuse the normal complaints management process with a view to harassing or annoying staff. A vexatious complaint does not have reasonable grounds and is intended only to annoy, harass or cause delay or detriment to the CPFS division, or achieve any purpose other than the genuine resolution of a complaint.

In determining whether a complaint is vexatious, staff are expected to check that the complaints procedure has been correctly implemented so far as possible and that no material element of a complaint has been overlooked or inadequately addressed. Even a vexatious complaint may have aspects which contain some genuine substance.

The Complaints Management Unit is available to assist with this process and, in accordance with policy, must endorse a decision to classify a complaint as being vexatious.

A vexatious complaint is likely to be one where one or more of the following applies:

- The complaint lacks substance and, despite efforts at both Tier 1 and Tier 2 to identify the issues, the grounds for the complaint cannot be identified and it appears that the complaint has been lodged to annoy, harass or for a purpose other than the genuine pursuit of resolution.
- The complaint focuses on a trivial matter to an extent to which it is out of proportion to its significance and the complainant continues to focus on this point, despite reasonable efforts to resolve the matter or identify a more substantial issue.
- The complaint makes claims without reasonable grounds that appear deliberately made to annoy or harass and/or includes excessive demands for resolution that the CPFS division clearly could not meet within its remit or policy. Such claims are persisted with, despite reasonable efforts by staff to moderate and resolve them.
- The complaint is repetitive and focuses on matters that have already been addressed by the CPFS division and where the complaints process has been exhausted.

RECOMMENDED APPROACH

It is emphasised that classifying people as habitual complainants or complaints as vexatious should only be a **last resort** and a decision taken after all reasonable measures have been taken to try to resolve a complaint at both Tier One (Local level) and Tier Two (Central level) of the complaints process.

Judgement and discretion is important when applying the criteria to identify habitual complainants and/or vexatious complaints. In both circumstances, it is best to set out in writing the reasons for the assessment and decision and seek external endorsement as follows:

- Vexatious complaint – internal memo to the Complaints Management Unit via their Executive Director.
- Habitual Complainant – internal memo to the Director-General via their Executive Director and the Complaints Management Unit.

Once endorsement has been received, the following correspondence would be appropriate:

- Vexatious complaint – letter from the Director to the complainant indicating that the complaint has been assessed, in conjunction with Tier 2, as vexatious and will be closed. The letter must set out the reasons for the decision and indicate the external review process.
- Habitual Complainant – letter from the Director-General (prepared by the Complaints Management Unit) to the complainant indicating that they will be deemed from a defined date to be a habitual complainant and that the CPFS division will not respond to complaints made for a specified period. The complainant should be informed that he/she may seek a review of this decision at any time by writing to the Director-General explaining why their position has merit and why the decision should be re-considered.

COMPLAINT MANAGEMENT UNIT – RECOMMENDED PROCESS FOR ENDORSEMENT OF HABITUAL COMPLAINANTS AND VEXATIOUS COMPLAINTS

Consideration of the following is recommended, on receipt of a request to deem a complaint to be vexatious or a person to be deemed an habitual complainant:

- Whether or not due process has been followed in dealing with the complaint (refer to policy and procedures).
- Whether or not the matters at hand would place an undue operational burden on the CPFS division if not endorsed.
- Whether or not it is possible to negotiate an alternative resolution with the complainant, for example drawing up a signed agreement with the complainant (and if appropriate involving Tier One – District Office/Work Units in a 2-way agreement) which sets out a code of behaviour for the parties involved if the CPFS division is to continue progressing the complaint.
- Whether or not continuation of the process by written correspondence only – with the agreement of all parties – would assist in achieving resolution.
- Whether or not an immediate referral, consistent with policy and procedures, of the complaint to Tier 2 for resolution would assist in resolving matters.
- Whether the complaint or request for endorsement should be placed on hold, pending legal or other advice.

COMPLAINTS MANAGEMENT UNIT

COMPLAINT INFORMATION

DATE:

Complainant details:

Name:

Address:

Phone:

Involved Parties:

Name:

DOB:

Address:

Status:

Name of Person taking the Complaint:

Time Line of contact

District Officers

Details of the Complaint

Complaint One:

Comments CMU.

Complaint Two:

Comments CMU:

Complaint Three:

Comments CMU:

Expectations of the Complainant (Include the resolution considered by the complainant)

Response to Complainant regarding time frame: (what advice or completion dates were provided to the complainant)

Action requested: District

Example

1. District Director to acknowledge receipt of the complaint within two (2) working days.
2. District Director to contact complainant to discuss the complaint within Five (7) working days of receipt.
3. District Director to provide a formal written response to each complaint area within Fourteen (21) working days
4. Please contact the Complaint Management Unit with any queries on 9222 2594 or ComplaintsMangementUnit@cpfs.wa.gov.au

Role of CMU: (Advise of any correspondence sent to Complainant)

EXAMPLE

1. CMU have advised complainant of the complaint process and sent out brochures of the process.
2. CMU have written to complainant and outlined the complaint that has been forwarded to your office.
3. CMU will not further contact with the Complainant until such time as a Tier Two response is requested

Other information Relevant to the Complaint (any information which requires consideration in the complaints process i.e. status, history previous complaint resolution etc)