Guidelines for the Aged Care Complaints Commissioner

Version 2.0 – Internal
Restrictions

Both the Quality Agency and the department have a role in monitoring aged care services. The Quality Agency is responsible for the accreditation of residential care services and conducting quality reviews of home care services. The Quality Agency advises the department of any aged care services that do not meet the Standards. While the Quality Agency only looks at the Standards for aged care providers, the department monitors approved providers for compliance with their responsibilities under the Act or their Comprehensive Grant Agreement.

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# Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acronyms</td>
<td>iv</td>
</tr>
<tr>
<td>Glossary</td>
<td>v</td>
</tr>
<tr>
<td><strong>Chapter 1 - Governance Framework</strong></td>
<td>1</td>
</tr>
<tr>
<td><strong>Chapter 2 - Complaints Management Process</strong></td>
<td>10</td>
</tr>
<tr>
<td><strong>Chapter 3 - Complaints Management Framework</strong></td>
<td>15</td>
</tr>
<tr>
<td><strong>Chapter 4 - Intake Phase</strong></td>
<td>26</td>
</tr>
<tr>
<td><strong>Chapter 5 - Detailed Assessment Phase</strong></td>
<td>46</td>
</tr>
<tr>
<td><strong>Chapter 6 - Resolution Phase</strong></td>
<td>67</td>
</tr>
<tr>
<td><strong>Chapter 7 - Outcome Phase</strong></td>
<td>94</td>
</tr>
<tr>
<td><strong>Chapter 8 - Complaints Review Mechanisms</strong></td>
<td>107</td>
</tr>
<tr>
<td><strong>Chapter 9 - Complaints Management for Aged Care Programmes under Grant Agreements</strong></td>
<td>112</td>
</tr>
</tbody>
</table>
## Acronyms

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACHA</td>
<td>Assistance with Care and Housing for the Aged (consolidated into Commonwealth Home Support Programme from 1 July 2015)</td>
</tr>
<tr>
<td>ACFI</td>
<td>Aged Care Funding Instrument</td>
</tr>
<tr>
<td>AEST</td>
<td>Australian Eastern Standard Time</td>
</tr>
<tr>
<td>AHPRA</td>
<td>Australian Health Practitioner Regulation Agency</td>
</tr>
<tr>
<td>APPs</td>
<td>Australian Privacy Principles (Privacy Act 1988)</td>
</tr>
<tr>
<td>APS</td>
<td>Australian Public Service</td>
</tr>
<tr>
<td>CHSP</td>
<td>Commonwealth Home Support Programme</td>
</tr>
<tr>
<td>DRR</td>
<td>Detailed Resolution Report</td>
</tr>
<tr>
<td>DTC</td>
<td>Day Therapy Centres (consolidated into Commonwealth Home Support Programme from 1 July 2015)</td>
</tr>
<tr>
<td>HACC</td>
<td>Home and Community Care (consolidated into Commonwealth Home Support Programme from 1 July 2015)</td>
</tr>
<tr>
<td>IEM</td>
<td>Intake Escalation Matrix</td>
</tr>
<tr>
<td>MPS</td>
<td>Multi-purpose Service</td>
</tr>
<tr>
<td>NATSIFACP</td>
<td>National Aboriginal and Torres Strait Islander Flexible Aged Care Programme</td>
</tr>
<tr>
<td>NIID</td>
<td>Notice of Intention to Issue Directions</td>
</tr>
<tr>
<td>NIIDR</td>
<td>Notice of Intention to Issue Directions Report</td>
</tr>
<tr>
<td>NRCP</td>
<td>National Respite for Carers Program (consolidated into Commonwealth Home Support Programme from 1 July 2015)</td>
</tr>
<tr>
<td>RARP</td>
<td>Risk Assessment and Resolution Plan</td>
</tr>
<tr>
<td>ROGS</td>
<td>Report on Government Services</td>
</tr>
</tbody>
</table>
## Glossary

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act (the)</td>
<td>Aged Care Act 1997 (Cth)</td>
</tr>
<tr>
<td>Aged Care Assessment Team (ACAT)</td>
<td>A team of health professionals which can approve residential care, Home Care Packages and transition care. An ACAT assessor may include a doctor, nurse, social worker or other health professionals.</td>
</tr>
<tr>
<td>Aged Care Funding Instrument (ACFI)</td>
<td>The instrument used to determine the level of care payments for people receiving care in approved aged care facilities.</td>
</tr>
<tr>
<td>Aged Care Complaints Scheme (the Scheme)</td>
<td>The Aged Care Complaints Scheme operated until 31 December 2015 to resolve complaints about Australian Government funded aged care services (residential, community, flexible care and Commonwealth Home Support Programme services) through a range of resolution approaches. The responsibilities of the Scheme transferred to the Aged Care Complaints Commissioner on 1 January 2016.</td>
</tr>
<tr>
<td>Aged Care Complaints Commissioner (Complaints Commissioner)</td>
<td>The Aged Care Complaints Commissioner (Complaints Commissioner) took responsibility for all complaints about Australian Government funded aged care services on 1 January 2016. The Complaints Commissioner is independent of the Department of Health (the department).</td>
</tr>
</tbody>
</table>
| Aged Care Quality Agency (Quality Agency) | An independent body that:  
- grants accreditation to providers of residential aged care who are assessed by the Quality Agency as meeting the accreditation standards and conducts quality monitoring against the Quality Reporting Program and NATSIFACP Quality Framework  
- monitors compliance with the accreditation standards, home care standards or Quality Framework standards  
- refers non-compliance with the accreditation standards or home care standards to the department for compliance action, and  
- educates and assists providers to deliver quality care and services. |
<p>| Approved Provider | A person or body in respect of which an approval under Part 2.1 of the Act is in force, and, to the extent provided for in section 8-6, includes any state or territory, authority of a state or territory or local government authority. Approved providers might also be referred to as service providers and are generally referred to in these guidelines as providers. |
| Assistance with Care and Housing for the Aged (ACHA) | The ACHA Program helps eligible people receiving care remain in the community. Eligible people receiving care are financially disadvantaged older people who are homeless or have insecure accommodation and are at risk of becoming homeless. |
| Authorised complaints officer | An employee of the Australian Government who has been appointed in writing by a delegate of the Aged Care Complaints Commissioner to be an authorised complaints officer for the purposes of Part 6.4A of the Act. |
| Care recipient | A person approved under the Act to receive aged care who has been assessed by an Aged Care Assessment Team to receive Australian Government funded aged care services. Generally referred to in these guidelines as a person receiving care. |
| Commonwealth Home and Community Care (HACC) | HACC are basic maintenance, support and care services to assist people to remain in their homes. The services focus on supporting different areas of need that an individual may have due to a limitation in their ability to undertake... |</p>
<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commonwealth Home Support Programme (CHSP)</td>
<td>An Australian Government consolidated programme that provides entry-level home support for older people who need assistance to keep living independently at home and in their community.</td>
</tr>
<tr>
<td>Complainant</td>
<td>A person who contacts the Aged Care Complaints Commissioner and provides information or raises a concern about the care or services being provided to a person receiving Australian Government funded aged care services.</td>
</tr>
<tr>
<td>Complaint</td>
<td>An expression of dissatisfaction with any aspect of a provider’s responsibilities that requires the Aged Care Complaints Commissioner to facilitate the resolution of the complaint.</td>
</tr>
<tr>
<td>Complaints management principles</td>
<td>A set of principles which encompass the Complaints Commissioner’s objectives, enablers and operational expectations.</td>
</tr>
<tr>
<td>Complaints manager</td>
<td>A complaints officer who has a supervisory role.</td>
</tr>
<tr>
<td>Complaints officer</td>
<td>A member of the Aged Care Complaints Commissioner’s staff employed to resolve complaints about Australian Government funded aged care services (residential care, flexible care and care in the home). Includes a complaints manager.</td>
</tr>
<tr>
<td>Complaints Principles 2015 (the Complaints Principles)</td>
<td>The Complaints Principles set out the process for resolving complaints received by the Aged Care Complaints Commissioner.</td>
</tr>
<tr>
<td>Comprehensive Grant Agreement</td>
<td>A Comprehensive Grant Agreement provides the most robust set of terms and conditions, giving the department maximum level of control over a grant.</td>
</tr>
<tr>
<td>Conciliation</td>
<td>A process where a complaints officer assists the complainant and provider to reach mutually agreeable outcomes to resolve the issues in complaint.</td>
</tr>
<tr>
<td>Day Therapy Centres (DTC)</td>
<td>Day Therapy Centres (DTC) offer physiotherapy, occupational and speech therapy, podiatry and other therapy services to older people in a community setting. DTCs are funded under grants and administered according to a contract with the Australian Government.</td>
</tr>
<tr>
<td>Delegate</td>
<td>A complaints officer who is in a position to which the Aged Care Complaints Commissioner has delegated powers under the Act or with reference to a Comprehensive Grant Agreement.</td>
</tr>
<tr>
<td>Department (the)</td>
<td>The Department of Health.</td>
</tr>
<tr>
<td>Detailed Resolution Report (DRR)</td>
<td>A record of the issues of a case, a summary of the resolution process adopted, the outcome recommended in relation to each issue and the rationale for recommending the proposed outcome in relation to each of the issues.</td>
</tr>
<tr>
<td>Direction</td>
<td>A direction may be issued to a provider where the Aged Care Complaints Commissioner is satisfied that the provider is not meeting its responsibilities.</td>
</tr>
</tbody>
</table>
### Early resolution

The direction will describe the actions to be taken by the provider (and the timeframes within which those actions must be taken) in order to comply with the Act and the Complaints Principles 2015 or the Comprehensive Grant Agreement.

If the provider fails to comply with this direction, compliance action may be taken against the provider.

### Complaints officers may assist complainants over the telephone to resolve their concerns with the provider without the Aged Care Complaints Commissioner’s ongoing formal involvement. The assistance may include providing routine information and discussing the complainant’s concerns with the provider.

### Flexible care

A type of care provided in a residential or home setting through an aged care service that meets the needs of people receiving care in different ways to the care provided through ‘residential care’ and ‘home care’ (section 49-3 of the Act). This includes services provided through Transition Care, Innovative Care or Multi-purpose services.

### Home care

Care consisting of a package of care and services provided in a non-residential care setting.

### Home Care Standards

A guide developed to assist providers to prepare and participate in a quality review ensuring quality in home care.

### Intake Escalation Matrix (IEM)

A risk rating tool to determine the severity of a complaint.

### Investigation

A resolution approach in which the Aged Care Complaints Commissioner may gather oral or physical evidence from different relevant sources including:

- the complainant
- the provider
- anyone else who can provide relevant information, and
- site visits.

### Mediation

A process where an independent mediator assists the complainant and provider to resolve the issues in complaint.

### Key Personnel

The Act defines key personnel of an entity as:

- a member of the group of persons who are responsible for the executive decisions of the entity at that time
- any other person who has authority or responsibility for (or significant influence over) planning, directing or controlling the activities of the entity at that time
- if, at that time, the entity conducts an aged care service:
  - any person who is responsible for the nursing services provided by the service (must hold a recognised qualification in nursing), and
  - whether or not the person is employed by the entity
- if, at that time, the entity proposes to conduct an aged care service:
  - any person who is likely to be responsible for the nursing services to be provided by the service (must hold a recognised qualification in nursing), and
  - any person who is likely to be responsible for the day to day operations
<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
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<tbody>
<tr>
<td>Mult i-purpose Service (MPS)</td>
<td>A joint initiative of the Australian Government and state and territory governments which aims to deliver flexible and integrated health and aged care facilities for small rural and remote communities. An MPS is generally established when the local population is not large enough to support separate services, such as a hospital and a residential aged care facility and where there is poor access to essential health and aged care facilities.</td>
</tr>
<tr>
<td>National Aboriginal and Torres Strait Islander Flexible Aged Care Programme (NATSIFACP)</td>
<td>A programme to provide quality, flexible and culturally appropriate aged care to older Aboriginal and Torres Strait Islander people close to their home and community.</td>
</tr>
<tr>
<td>National Respite for Carers Program (NRCP)</td>
<td>The NRCP provides funding to assist carers with information, respite care and other support.</td>
</tr>
<tr>
<td>Notice of intention to issue directions (NIID)</td>
<td>A notice to a provider where the Aged Care Complaints Commissioner sets out preliminary findings on any issues of concern identified through a resolution process. The notice gives the provider the opportunity to respond to the concerns by identifying how the provider has, or will, address the issues identified.</td>
</tr>
<tr>
<td>Own initiative concern</td>
<td>A resolution process commenced by the Aged Care Complaints Commissioner based on information received from a source other than a complainant.</td>
</tr>
<tr>
<td>Person receiving care</td>
<td>A generic term that refers to any person who is a recipient of an aged care service, whether that is residential care, flexible care or care in the home.</td>
</tr>
</tbody>
</table>
| Procedural fairness | Procedural fairness is the process followed by decision-makers to ensure decisions are fair by providing all interested parties to the complaint:  
- the right to be heard  
- the right to be treated without bias  
- the right to be informed of and respond to allegations, and  
- the right to information regarding the status of the complaint. |
| Referral | A process where specific issues raised in a complaint are referred to another organisation or agency for consideration or action. |
| Residential care | Defined under section 41-3 of the Act as personal or nursing care, or both personal and nursing care, that:  
(a) is provided to a person in a residential care facility in which the person is also provided with accommodation that includes:  
(i). appropriate staffing to meet the nursing and personal care needs of the person  
(ii). meals and cleaning services, and  
(iii). furnishings, furniture and equipment for the provision of that care and accommodation, and |
<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Review delegate</td>
<td>The delegate responsible for undertaking a new resolution process following a request for review.</td>
</tr>
<tr>
<td>Risk Assessment and Resolution Plan (RARP)</td>
<td>A tool designed to establish the risk rating of a complaint and to provide a plan of resolution to the delegate.</td>
</tr>
<tr>
<td>Service Offer</td>
<td>The Aged Care Complaints Commissioner's Service Offer (the Service Offer) sets out the commitment to working with people receiving care, providers and their staff. It is stated in a publication headed &quot;the service we offer&quot;.</td>
</tr>
</tbody>
</table>
| Sanctions | A penalty imposed by the department on operators of aged care services in cases of serious non-compliance with their responsibilities. The decision to impose sanctions includes consideration of issues such as:  
- whether non-compliance is minor or serious  
- whether it has occurred before, and  
- whether it threatens the health, welfare or interests of the person receiving care.  
Different sanctions may be imposed depending on the circumstances of the non-compliance, but they may include revocation of approved provider status, loss of Australian Government subsidies for new persons receiving care or revocation of allocated places. |
| Secretary (the) | Secretary of the Department of Health. |
| Provider | An organisation funded to provide aged care services to older people. A provider might also be referred to as an approved provider, service provider or grant recipient where relevant. Provider can also refer to a single service operated by the provider, depending on the context. |
| Provider resolution | A process where the Aged Care Complaints Commissioner refers a complaint to a provider to resolve. The Aged Care Complaints Commissioner requires the provider to provide a report about what action it has taken to resolve the complaint. |
| Site visit | A visit to a service or residence by authorised complaints officers. It includes complaints officers meeting at any place with complainants, providers and any party to a complaint. |
| User Rights Principles 1997 (the User Rights Principles) | The User Rights Principles under the Act contain the charter of rights and responsibilities Part 8, Schedule 2 which gives each person receiving care information to assist them to make service choices and gives them details of their rights (and responsibilities) to be consulted and respected. |
| Writing, in writing | All references to writing to someone, or notifying someone in writing, include email. The preferred way to write to someone is to email them. |
Chapter 1 - Governance Framework

This chapter provides information on how the Aged Care Complaints Commissioner works to ensure the provision of quality in aged care.

Chapter 1 contents

The Aged Care Complaints Commissioner

1.1 The role of the Aged Care Complaints Commissioner

1.2 Handling of aged care complaints before 1 January 2016

1.3 Our vision

1.4 Our values

1.5 Our objectives

1.6 Complaints Commissioner’s Service Offer

1.7 How the Complaints Commissioner operates

1.8 Programmes within and outside the Complaints Commissioner’s jurisdiction

1.9 Complaints officers

1.10 Complaints managers

1.11 Delegates

1.12 Authorised complaints officers and their powers under the Aged Care Act 1997

1.13 How the Complaints Commissioner handles information privacy requirements

1.14 How the Complaints Commissioner manages unreasonable conduct from complainants and others

1.15 Performance reporting

1.16 Overview of the regulatory framework for quality aged care services

1.17 Complaints framework

1.18 Compliance framework

1.19 The Australian Aged Care Quality Agency

1.20 Review rights

1.21 Commonwealth Ombudsman

Legislative Framework

1.22 Overview of the Aged Care Act 1997

1.23 Aged Care Principles

1.24 The Complaints Principles 2015

1.25 Other legislation which may be relevant
The Aged Care Complaints Commissioner

1.1 The role of the Aged Care Complaints Commissioner

The Aged Care Complaints Commissioner (hereafter the Complaints Commissioner) took responsibility for all complaints about Australian Government funded aged care services on 1 January 2016.

The Complaints Commissioner is independent of the Department of Health (the department).

The Complaints Commissioner’s primary functions as set out in the *Aged Care Act 1997* (the Act) and *Complaints Principles 2015* (the Complaints Principles) are to:

- resolve complaints about aged care services
- educate people and aged care providers about the best ways to handle complaints and the issues they raise, and
- provide information to the Minister in relation to any of the Complaints Commissioner’s functions, if requested.

1.2 Handling of aged care complaints before 1 January 2016

Until 31 December 2015, complaints were dealt with by the Aged Care Complaints Scheme (the Scheme), which was earlier known as the Complaints Investigation Scheme. The Scheme commenced on 1 May 2007 and was established through changes to the Act and the introduction of regulations under the Act.

On 1 September 2011, the legislation was amended to strengthen the Scheme with the introduction of the *Complaints Principles 2011*. The Complaints Principles were further amended on 1 July 2014 and 1 January 2016 and are now known as the Complaints Principles.

1.3 Our vision

People trust that making a complaint is worthwhile; that it will lead to resolution for the individual and improve care for others.

1.4 Our values

- We will be approachable, independent, impartial and fair in the way we respond to complaints and concerns.
- We will listen to you, explore what went wrong and work with the people involved to fix it.
- We will help to ensure that complaints improve care.

1.5 Our objectives

The Complaints Commissioner aims to:

- Resolve – To work with people receiving care, complainants and the provider to acknowledge and resolve concerns or complaint and make a positive difference for people receiving care.
- Protect – To take timely action on issues raised through complaints to ensure people receiving care are well cared for and protected.
- Improve – To work with the aged care community to learn from complaints and act on opportunities to improve aged care.

1.6 Complaints Commissioner’s Service Offer

The Aged Care Complaints Commissioner’s, The Service We Offer You sets out our commitment to working with people receiving care and providers and their staff. Complaints officers will:
• provide clear, consistent and timely information
• make evidence-based decisions that provide equal opportunity for parties to have a say
• be thorough, robust and accountable in their work
• engage with empathy and understanding
• be fair, ethical and transparent
• ensure accessibility
• engage and work collaboratively in the resolution of complaints, and
• promote continuous quality improvement.

The Service We Offer You also sets out expectations of complainants and providers in the management of complaints.

1.7 How the Complaints Commissioner operates

The Complaints Commissioner operates nationally. Complaints regarding aged care and services are generally received and managed by complaints officers within the state or territory where the care is being delivered.

1.8 Programmes within and outside the Complaints Commissioner’s jurisdiction

The Australian Government funds various aged care programmes under legislative or grant funding arrangements. Programmes that are within the Complaints Commissioner’s jurisdiction include:
• residential aged care services, including permanent care and respite care
• Home Care Packages delivered on a Consumer Directed Care basis
• flexible care where a person is receiving ‘residential care’ or ‘home care’; this includes services provided through transition care, innovative care or multi-purpose services (MPS)
• Commonwealth Home Support Programme (CHSP), and
• National Aboriginal and Torres Strait Islander Flexible Aged Care Programme (NATSIFACP).

The Complaints Commissioner’s authority to examine complaints relating to aged care services comes from the Act. The Complaints Commissioner’s authority to examine complaints relating to other programmes comes from the relevant Comprehensive Grant Agreement that exists between the Commonwealth and the provider.

Programmes that are outside the Complaints Commissioner’s jurisdiction include:
• Veterans’ Home Care Program
• Partners in Culturally Appropriate Care (PICAC), and
• Home and Community Care (HACC) delivered in Victoria and Western Australia.
1.9 Complaints officers

Complaints officers are members of the Complaints Commissioner’s staff. They assist with the proper discharge of the Complaints Commissioner’s responsibilities and functions.

Complaints officers come from diverse backgrounds including registered nurses, allied health professionals, police officers, lawyers, counsellors, mediators and administrators.

On joining the Complaints Commissioner’s staff, all complaints officers must:

- complete mandatory training
- obtain a current police certificate, and
- declare any conflict of interest.

Complaints officers are public servants and are required to uphold the Australian Public Service (APS) values in accordance with the APS Code of Conduct.

For more information on the responsibilities of Australian public servants, refer to the Australian Public Service Commission’s website.

1.10 Complaints managers

Complaints managers are complaints officers with additional managerial responsibilities assigned by the Complaints Commissioner.

1.11 Delegates

Delegates are complaints officers to whom the Complaints Commissioner has delegated certain decision-making powers. Delegates make decisions under the Act, or in relation to Comprehensive Grant Agreements, on behalf of the Complaints Commissioner.

1.12 Authorised complaints officers and their powers under the Aged Care Act 1997

Subsection 94B-1(1) of the Act allows the Complaints Commissioner to, in writing, appoint an officer of the department as an authorised complaints officer.

Authorised complaints officers have powers including:

- monitoring powers
- the power to enter premises with an occupier’s consent
- the power to ask people to answer questions and to provide requested documents, and
- the power to ask the occupier of premises to assist.

Note: All complaints officers should ensure that they are familiar with their obligations and powers under the Act. Part 6.4A of the Act outlines the powers of authorised complaints officers.

More detailed information on the powers of authorised complaints officers is available at the Legislation Register website.

1.13 How the Complaints Commissioner handles information privacy requirements

The Complaints Commissioner’s Notice of Collection and Privacy Policy set out how the Complaints Commissioner complies with the Australian Privacy Principles (APPs) set out in the Privacy Act 1988 (the Privacy Act).

1.14 How the Complaints Commissioner manages unreasonable conduct from complainants and others

Any person may make a complaint to the Complaints Commissioner. The Complaints Commissioner recognises that dealing with unreasonable conduct is a part of delivering a complaints service. The Complaints Commissioner advocates the use of preventative and routine management strategies to
respond appropriately to conduct which could be considered unreasonable. These strategies range from having informal discussions so that mutual expectations can be clarified to limiting how an individual may contact the staff of the Complaints Commissioner.

Unreasonable conduct is managed according to the Policy for Managing Unreasonable Conduct from External Parties.

1.15 Performance reporting

The Complaints Commissioner's complaints handling will be reported in the annual 'Report on the Operation of the Aged Care Act 1997' (ROACA), the annual 'Report on Government Services' (ROGS) and the Complaints Commissioner's annual report.

These reports on aged care can be accessed on the Complaints Commissioner's website.

'Report on the Operation of the Aged Care Act 1997' (ROACA)

ROACA is a useful resource which provides an overview of the operation of the Act over each financial year. ROACA includes additional information to aid understanding of aged care programmes and policies.

1.16 Overview of the regulatory framework for quality aged care services

The Complaints Commissioner is part of the Australian Government's regulatory framework designed to promote the provision of quality aged care services to people receiving Australian Government funded aged care services.

The regulatory framework governs:
- who may provide Australian Government funded aged care services
- the type of care and services that must be provided
- the standard of care and services that must be provided, and
- the rights and responsibilities of people receiving care and providers.

Government areas operating under the regulatory framework for quality aged care services

The following government areas contribute to the regulatory framework that monitors the quality of aged care services:
- the Complaints Commissioner through the receipt, assessment and resolution of complaints
- the Australian Aged Care Quality Agency (the Quality Agency) which assesses the quality of residential care and home care against service standards, and
- the department which regulates the corporate and financial responsibilities of providers, monitors provider compliance and may take appropriate compliance action against providers.

See also:
Guidance Portal

1.17 Complaints framework

The Complaints Commissioner focuses on complaints resolution and promotion of quality improvement.

The complaints framework:
- provides for the protection of people receiving care through the resolution of complaints in a manner that is consistent with good practice complaints management, and
• aims to resolve the issues in a complaint in a way that will achieve the most timely, proportionate and appropriate outcome for the person receiving care.

The Complaints Commissioner’s resolution approaches range from supporting the complainant to resolve their concerns with the provider through to complaints officers investigating the complaint. Where necessary, the Complaints Commissioner has the power to direct a provider to demonstrate that it is meeting its responsibilities under the Act or the Comprehensive Grant Agreement. The Complaints Commissioner will refer matters for compliance action where there are serious concerns regarding the safety, health and wellbeing of people receiving care.

1.18 Compliance framework

Where a provider is an approved provider (as defined in the Act) of Australian Government funded aged care, it is governed by the Act and the Aged Care Principles made under the Act.

This legislation sets out approved provider responsibilities regarding the quality of care provided, user rights for recipients of aged care, accountability for the aged care that is provided and the allocation of aged care places. A residential aged care service must also be accredited for the approved provider to receive Australian Government subsidies under the Act.

Both the Quality Agency and the department have a role in monitoring aged care services. The Quality Agency is responsible for the accreditation of residential care services and conducting quality reviews of home care services. The Quality Agency advises the department of any aged care services that do not meet the Standards. While the Quality Agency only looks at the Standards for aged care providers, the department monitors approved providers for compliance with their responsibilities under the Act or their Comprehensive Grant Agreement.

The department may take compliance action if a provider fails to meet its responsibilities under the Act or the Comprehensive Grant Agreement. Compliance action may include imposing sanctions or termination of the Comprehensive Grant Agreement.

1.19 The Australian Aged Care Quality Agency

The Quality Agency is a statutory agency established under the Australian Aged Care Quality Agency Act 2013.

On 1 January 2014, the Quality Agency replaced Aged Care Standards and Accreditation Agency Ltd and assumed sole responsibility for the accreditation, monitoring and quality assurance of Australian Government funded aged care services. This includes responsibility for:

• from 1 January 2014 – residential aged care providers
• from 1 July 2014 – aged care services in the community through the Quality Reporting Program, and
• from 1 August 2014 – the administrative functions related to quality monitoring against the NATSIFACP Quality Framework.

The role and functions of the Quality Agency are set out in the Quality Agency Principles 2013 and include:

• quality assurance across the aged care sector
• promoting high quality care, innovation in quality management and continuous improvement amongst providers of aged care, and
• supporting and promoting quality and innovation in aged care service delivery through a comprehensive industry education programme.

As part of its quality assurance role, the Quality Agency is responsible for:
Guidelines for the Aged Care Complaints Commissioner (v2) – Internal version only

Issued: May 2016

Chapter 5 - Detailed Assessment Phase

• managing the accreditation process for residential care services in accordance with the Quality Agency Principles 2013 and the Accreditation Standards detailed in the Quality of Care Principles 2014 made under the Act
• ongoing monitoring of residential aged care services against the Accreditation Standards
• monitoring of Home Care, the CHSP (only sub-programmes under which direct care is delivered to people receiving care) against the Home Care Standards, and
• monitoring against the NATSIFACP Quality Framework.

The Quality Agency does not have a role in examining individual complaints; rather it ensures there are systems and processes in place that provide quality care delivery to individuals whether those services are delivered through a residential aged care service or in the person’s own home.

More detailed information is available on the Quality Agency’s website.

Communication between the Complaints Commissioner, the department and the Quality Agency

There are many instances where information about aged care services or providers may need to be shared between the Complaints Commissioner, the department and the Quality Agency.

If, in the course of dealing with a complaint, the Complaints Commissioner identifies matters that could indicate an issue of a systemic nature (that may affect some or all people receiving care at a service), these can be referred to the Quality Agency for consideration and action. In these instances the Complaints Commissioner will continue to deal with aspects of the complaint that relate to individual people receiving care, while the Quality Agency may examine the provider’s performance against the relevant standards. Information on these standards is available on the Quality Agency’s website.

Other reasons for exchanging information include:

• informing risk assessments by the department and the Quality Agency, and
• referring the identification of serious risk or immediate and severe risk in aged care services to assist the department with its compliance role.

1.20 Review rights

Once a decision has been made, the complainant and provider have a right to ask for a review of the Complaints Commissioner’s decisions.

At any time during the complaints management process, any person, typically the complainant and provider, can make a complaint about our actions in managing the complaint and the Complaints Commissioner will take these into account.

For more information on review rights refer to Chapter 8: Complaints Review Mechanisms.

1.21 Commonwealth Ombudsman

The Commonwealth Ombudsman (the Ombudsman) can examine complaints about the Complaints Commissioner’s handling of a complaint. The Ombudsman safeguards the community in its dealings with Australian Government agencies. The Ombudsman’s office handles complaints about process, conducts investigations, performs audits and inspections, encourages good administration and carries out specialist oversight tasks. If the Ombudsman considers that there has been defective administration, he or she can recommend that corrective action be taken.

For service delivery complaints content visit the Complaints Commissioner’s website.

More detailed information on how the Ombudsman’s office performs its role is available on the Ombudsman’s website.
**Legislative Framework**

1.22 Overview of the Aged Care Act 1997

The objectives of the Act are stated at section 2-1. The objects that are most relevant to the work of the Complaints Commissioner include:

- promoting diverse, flexible, responsive high quality of care and accommodation for the person receiving aged care services which meets their individual needs
- protecting the safety, health and wellbeing of the person receiving aged care services, and
- helping those people receiving care to enjoy the same rights as all other people in Australia.

To achieve its objectives, the Act sets out approved provider responsibilities in relation to:

- quality of care
- user rights if an approved provider delivers residential care, home care, or flexible care
- complaints resolution mechanisms
- fees and charges
- protection of personal information
- accountability
- responsibilities relating to the basic suitability of key personnel, and
- alleged and suspected assaults.

The *Aged Care (Transitional Provisions) Act 1997* applies to continuing persons receiving care who entered a residential aged care service before 1 July 2014 and who continue to be provided with residential care under the fees and charges provisions of this legislation.

1.23 Aged Care Principles

Section 96-1 of the Act enables the Minister to make Principles that provide for matters that are:

- required or permitted under the Act, or
- necessary or convenient to carry out or give effect to a part or section of the Act.

The Principles made by the Minister are published as the Aged Care Principles. They cover various aspects of aged care provision including user rights, recordkeeping, quality of care and the accountability of approved providers.

**Note:** The *Aged Care (Transitional Provisions) Principles 2014* apply to continuing persons receiving care who entered a residential aged care service before 1 July 2014 and who continue to be provided with residential care under the *Aged Care (Transitional Provisions) Act 1997*.

For residential care providers, the Act and Aged Care Principles (and Transitional Provisions versions) include additional requirements related to:

- prudential regulation of Refundable Accommodation Deposits or accommodation bonds held by providers, and
- compulsory reporting of alleged assaults against people receiving care and people receiving care who are missing without explanation.

**Prudential Regulation**

Information on prudential regulation for aged care providers is available on the department’s website.

**Compulsory Reporting**
Information on the compulsory reporting requirements for residential care providers is available on the department's website or providers can notify the department directly on 1800 081 549.

In the past, providers were required to make any compulsory reports to the Aged Care Complaints Scheme. Since 1 January 2016, providers should make compulsory reports direct to the department.

1.24 The Complaints Principles 2015

The Complaints Principles, one of the Aged Care Principles mentioned at Topic 1.23: Aged Care Principles, set out the process for resolving complaints received by the Complaints Commissioner and review rights. The Complaints Principles can be found at the Legislation Register website.

1.25 Other legislation which may be relevant

Complaints officers need to be aware of other legislation which may be relevant to their work. A list can be found in Topic 3.11: Other information for complaints officers to be aware of.
Chapter 2 - Complaints Management Process

This chapter sets out the complaints management process.

Chapter 2 contents

Complaints management phases ...................................................................................................................10

2.1 Purpose of the complaints management phases ...............................................................................10

2.2 Intake phase .......................................................................................................................................12

2.3 Detailed assessment phase ...............................................................................................................12

2.4 Resolution phase ................................................................................................................................12

2.5 Outcome phase ..................................................................................................................................13
Complaints management phases

2.1 Purpose of the complaints management phases

The complaints management process comprises four phases:

- Intake
- Detailed Assessment
- Resolution, and
- Outcome.

During the intake phase, complaints officers clarify the issues, gather information, confirm whether the complaint is within the Complaints Commissioner’s scope and escalate the complaint where necessary. Intake also provides for the early resolution of complaints through the provision of information or informal assistance.

When a complaint cannot be resolved during the intake phase using early resolution, it will be workflowed for detailed assessment. During the detailed assessment phase the initial risk assessment and resolution plan (RARP) may be developed.

During the resolution phase complaints officers work with all parties involved to resolve the concerns raised.

During the outcome phase feedback is provided to all relevant parties to the complaint about the resolution outcome and the complaint is finalised.
Figure 1. Complaints management process flow chart

INITIAL CONTACT

- COMPLAINT

OUT OF SCOPE

INTAKE PHASE

- During this phase, complaints officers receive, provide and classify information.
- Finalise routine out-of-scope information.
- Undertake a preliminary risk assessment to inform escalation to a manager.
- Support the early resolution of complaints.

DETAILED ASSESSMENT PHASE

- Collect additional information to assess risk and resolve the complaint.
- Assess risk and plan the resolution of the complaint.
- Support the early resolution of complaints.
- Consider whether there are grounds for no further action.

RESOLUTION PHASE

- During this phase, complaints officers commence reviewing and applying the resolution plan developed during the assessment phase.

OUTCOME PHASE

- Resolution approach is determined following an assessment of how to achieve the most timely, proportionate and positive resolution of the complaint for the consumer.
- During this phase, it may be appropriate to consider issuing a NID and possibly Directions.
- During this phase, the resolution outcome is decided, the complaint is finalised and feedback is provided to the parties of the complaint. Where appropriate and beneficial, the feedback may take the form of a post-resolution conference.

NO FURTHER ACTION (NFA)
- The Commissioner decides to NFA.

RESOLVED
- Provider and the complainant decide the issues in the complaint are resolved.

ADDRESSED
- The Commissioner is satisfied the provider has addressed the issues in the complaint.

COMPLIANCE ACTION
- The department has initiated compliance action under Part 4.4 of the Act.

Review

These outcomes are subject to review from the complainant (all) or from the provider (all except NFA). If the review delegate decides that a new resolution process will be undertaken, the new process follows this complaints management process, beginning in the detailed assessment phase.
2.2 Intake phase

The intake phase is the first phase in the complaints management process. Intake mainly involves receiving information from the complainant but it also includes providing information to the complainant and in many cases early resolution of complaints.

The key activities undertaken during the intake phase include:

- receiving information
- classifying the information
- collecting and providing information
- finalising in-scope and out-of-scope enquiries
- undertaking a preliminary risk assessment and escalating complaints
- supporting the early resolution of complaints where appropriate
- acknowledging receipt of the complaint and workflow the complaint for detailed assessment, and
- making appropriate referrals to other agencies.

For more information about the intake phase see Chapter 4: Intake Phase.

2.3 Detailed assessment phase

When a complaint cannot be resolved during the intake phase it will enter the detailed assessment phase. Detailed assessment is undertaken by a complaints officer with the oversight of one or more complaints managers.

The key activities undertaken in the detailed assessment phase include:

- providing, gathering and reviewing additional information to assist with the risk assessment and resolution planning of the complaint
- using the additional information and risk rating to inform whether:
  - more support should be provided to facilitate the early resolution of the complaint during the detailed assessment phase, or
  - no further action should be taken on the basis that one of the statutory grounds in section 8 of the Complaints Principles applies
- recommending a resolution approach, where it is decided that the complaint should be referred to the resolution phase, and
- ongoing communication with the complainant and, if appropriate, with the provider, about the progress or planned management of a complaint and writing to the complainant confirming the issues in the complaint that the Complaints Commissioner will attempt to resolve.

For more information about the detailed assessment phase see Chapter 5.

2.4 Resolution phase

In the resolution phase a complaints manager decides on the appropriate resolution approach considering:

- the resolution approach recommended during the detailed assessment phase, and
- any new and relevant information obtained from the complainant after the detailed assessment phase.

Once the resolution plan is decided, complaints officers should implement the agreed resolution approach within the timeframe decided by the complaints manager.

The key activities undertaken during the resolution phase include:
• working with the parties to the complaint (and the person receiving care, where appropriate) to achieve timely resolution and positive outcomes for individual people receiving care (where possible)
• reassessing the RARP, when new and relevant information is received
• referring information relating to the complaint to another organisation where appropriate, and
• recommending the appropriate resolution outcome based on the resolution process.

For more detail about the resolution phase refer to Chapter 6 - Resolution Phase.

2.5 Outcome phase

The outcome phase is the point where the complaints resolution process ends and the delegate decides the grounds on which the complaint will be finalised.

The key activities undertaken in the outcome phase include:

• determining the basis on which an issue will be resolved
• providing feedback to the parties to the complaint of the process, the outcome and their review rights, and
• when a direction has been issued, monitoring and assessing whether the provider has met the direction.

For more information about the outcome phase see Chapter 7.
Chapter 3 - Complaints Management Framework

This chapter sets out the complaints management principles which guide the handling of complaints by the Complaints Commissioner.

Chapter 3 contents

Effectively handling complaints

3.1 Purpose of the complaints management principles

3.2 Aged Care Complaints Commissioner objectives

3.3 Fundamentals of complaints handling

3.4 Operational expectations

Demonstrating good complaint handling

3.5 Operational expectations – demonstrating accessibility

3.6 Operational expectations – demonstrating fairness

3.7 Operational expectations – demonstrating responsiveness

3.8 Operational expectations – demonstrating efficiency

3.9 Operational expectations – demonstrating sound judgment

3.10 Operational expectations – demonstrating accountability

3.11 Other information for complaints officers to be aware of
Effectively handling complaints

3.1 Purpose of the complaints management principles

The complaints management principles consist of the Complaints Commissioner’s objectives, the fundamentals of good complaints handling and operational expectations which assist complaints officers to effectively handle complaints.

Application of the complaints management principles requires practical judgment by complaints officers to ensure consistency in handling complaints. While the components of the complaints management principles seek to complement each other, there may be tensions between them. No component should be followed to a point where there is direct conflict with another component. For example, timely resolution should not be pursued if it conflicts with resolution that will achieve the most positive outcome for the person receiving care.

3.2 Aged Care Complaints Commissioner objectives

In managing complaints and other information received by the Complaints Commissioner, complaints officers need to satisfy these objectives:

- **Resolve** – To work with people receiving care, complainants and the provider to acknowledge and resolve concerns or complaint and make a positive difference for people receiving care.
- **Protect** – To take timely action on issues raised through complaints to ensure people receiving care are well cared for and protected.
- **Improve** – To work with the aged care community to learn from complaints and act on opportunities to improve aged care.

3.3 Fundamentals of complaints handling

The complaints handling process is underpinned by six fundamentals which must be observed by complaints officers:

- **Accessibility** requires complaints officers to be aware of the diverse and special access needs of the Australian community and reduce the barriers for people to interact with the Complaints Commissioner. This is achieved by being sensitive and responsive to those needs, including physical, mental, age, gender or sexual identity, cultural, ethnic, religious, technological and geographic needs.
- **Fairness** requires complaints officers to be impartial, objective and transparent and, where appropriate, to maintain confidentiality in their dealings with all parties to a complaint. This ensures the parties to a complaint are kept informed and are provided with the opportunity to participate in the complaints resolution process.
- **Responsiveness** requires complaints officers to communicate with the parties to a complaint in a way that is timely, courteous and tailored to the needs of all parties. This includes acknowledgement, escalation and resolution of all complaints effectively and proportionately, verifying the expectations of the complainant and responding professionally to unreasonable complainant behaviour.
- **Efficiency** requires complaints officers to manage complaints in a way that will achieve the best outcome for people receiving care in the most proportionate, timely and appropriate way. This includes monitoring the progress of complaints, ensuring complaints are progressed and resolved within reasonable timeframes and reviewing complaint handling to identify opportunities for continuous improvement.
- **Sound judgment** requires complaints officers to seek and make objective, reasonable decisions based on all available and relevant information obtained during complaint handling. Complaints officers will also critically think through issues, escalate where necessary and ensure their
decision-making is consistent with the broader objectives and principles underpinning the complaints management framework.

- **Accountability** requires complaints officers to ensure their decisions and dealings with everyone are consistent with the accountability framework within which they operate and that they meet their statutory and reporting obligations, including appropriate information handling.

### 3.4 Operational expectations

Operational expectations outline how complaints officers will apply the fundamentals of good complaints handling. It is important that complaints officers understand that the operational expectations are not an exhaustive list and therefore practical judgment must be applied when interpreting and applying these in the handling of a complaint.

### Demonstrating good complaint handling

#### 3.5 Operational expectations – demonstrating accessibility

The following operational expectations outline how complaints officers will demonstrate accessibility when handling a complaint. There are two essential components to demonstrating accessibility: being aware of needs and reducing access barriers.

**Awareness**

- Complaints officers will have awareness of, and sensitivity to, the diversity of the Australian community and will be responsive to the different needs of people interacting with the Complaints Commissioner. This includes physical, mental, age, cultural, ethnic, religious, technological and geographic needs.
- Complaints officers will treat all people equitably regardless of each person’s age, gender identity, religion, culture, ethnicity, sexual orientation or disability.
- Complaints officers will seek to provide information on the Complaints Commissioner’s processes in an easily understood and accessible format; for example, by using plain English or advising a person of the availability of large print information material.
- Complaints officers, where relevant, will advise complainants of their right to lodge their complaint online, in person, over the phone, by email or by post.
- Complaints officers, where relevant, will advise complainants of their right to lodge their complaint confidentially or anonymously, and the limitations of the Complaints Commissioner in achieving an outcome should they do so.
- Complaints officers will advise complainants on the limitations of the Complaints Commissioner’s jurisdiction to handle certain complaints. If the handling of a particular complaint is not within the Complaints Commissioner’s jurisdiction then, where appropriate, complaints officers will advise complainants of the relevant agencies which may be able to assist them.
- Complaints officers will ask complainants how they would prefer to be contacted and wherever possible will communicate accordingly.
- Complaints officers will advise the parties to a complaint of their review rights.
- When selecting a resolution approach, complaints officers will consider the special needs of the parties to the complaint.

**Reduce access barriers**

- Complaints officers will support equal access to the Complaints Commissioner by being aware of, and responsive to, the special access needs of the Australian community.
• Complaints officers will take all reasonable action to support access to the Complaints Commissioner. For example, officers will accept complaints from translation services on behalf of non-English speaking complainants.

• Complaints officers will respond to the special needs of all parties to a complaint by (where appropriate and with permission):
  o organising a telephone interpreter service
  o advising parties with a hearing or speech impairment of the availability of the National Relay Service
  o considering the most appropriate mode of communication in collaboration with the parties to a complaint
  o informing the complainant of the role of advocacy services and how to access these services
  o assisting the complainant to access information in a format that will help with their understanding, and
  o selecting meeting venues that are accessible.

3.6 Operational expectations – demonstrating fairness

The following operational expectations outline how complaints officers will demonstrate they have acted fairly in their handling of a complaint. There are four essential components to demonstrating fairness: impartiality, transparency, confidentiality and consistency.

Impartiality

• Complaints officers will manage complainant expectations by clearly explaining the Complaints Commissioner’s processes and what outcomes the Complaints Commissioner can and cannot achieve.

• Complaints officers will manage complaints with an open mind and will not pre-determine the veracity of a complaint based on any previous interactions with any parties to the complaint.

• Complaints officers will provide, where appropriate, the parties to a complaint with a reasonable opportunity to provide relevant information before key decisions are made.

• Decisions will be based on a reasonable interpretation of all the available information.

• Complaint reviews will be undertaken by a complaints officer and a delegate who were not previously involved in the original complaint.

• Complaints officers will declare a conflict of interest where a reasonable person would consider that an actual or perceived conflict of interest exists.

• If complaints officers have any concerns about how a conflict of interest might apply in particular circumstances they will consult a complaints manager.

Transparency

• Complaints officers will, where appropriate, seek to obtain the views and wishes of the person receiving care.

• Complaints officers will provide the parties to a complaint with appropriate and easily understood information about the complaints resolution process.

• Complaints officers will support open and timely communication between the parties to a complaint, unless information must be limited for confidentiality, privacy or other reasons.

• Complaints officers will inform parties that they have collected their personal information where it is reasonable and practicable to do so.

• Complaints officers will inform the provider of a complaint promptly, unless doing so might:
  o compromise the complaints resolution process
o pose a risk to the safety, health and wellbeing of a party to the complaint, or
o place the person receiving care or complainant at risk of intimidation or harassment.

**Confidentiality**

- Complaints officers will comply with privacy requirements when collecting, using, disclosing and storing information.
- Complaints officers will ensure that any request for confidentiality is complied with unless doing so would pose a risk to the safety, health and wellbeing of any person. In such cases, the complaints officer will reasonably attempt to notify the person who requested confidentiality that information will be released and the basis of the decision.

**Consistency**

- Complaints officers will manage complaints in accordance with the Complaints Commissioner’s guidelines, policies and procedures to ensure consistency in the management of complaints.

### 3.7 Operational expectations – demonstrating responsiveness

The following operational expectations outline how complaints officers will demonstrate they have been responsive in their handling of a complaint. There are three essential components to demonstrating responsiveness: acknowledge, escalate and resolve and be courteous.

**Acknowledge**

- Complaints officers will promptly acknowledge receipt of all oral and written complaints, except anonymous complaints.
- Complaints officers will keep all parties to a complaint informed, except the complainant when a complaint is anonymous.
- Officers will maintain an awareness of the type of complaint to be referred to other areas and refer these matters promptly.

**Escalate and resolve**

- Complaints officers will promptly escalate complaints in accordance with the Complaints Commissioner’s risk management framework.
- Complaints officers will seek to achieve the most timely, proportionate and appropriate outcome for the person receiving care.
- Complaints officers will aim to resolve complaints within reasonable timeframes, wherever possible.
- Complaints officers will encourage providers to consider an apology to appropriate complaint parties to facilitate complaints resolution.
- Complaints officers will make decisions fairly, impartially and promptly, giving consideration to all available information, legislative requirements and the Complaints Commissioner’s policies, procedures and guidelines.
- Complaints managers will actively monitor the progress of complaints and instigate action to resolve complaints that are not progressing within reasonable timeframes.

**Be courteous**

- Complaints officers will treat all parties to a complaint with respect, courtesy and with due consideration of their privacy.
- Complaints officers, where appropriate, will advise all parties to a complaint that it is expected they will treat complaints officers with courtesy and respect.
3.8 Operational expectations – demonstrating efficiency

The following operational expectations outline how complaints officers will demonstrate they have managed complaints efficiently. There are two essential components to demonstrating efficiency: resolve effectively and actively monitor.

Resolve effectively

- Complaints officers will use the Complaints Commissioner’s guidelines and risk assessment and resolution planning tools to identify risk and support the timely, proportionate and appropriate resolution of complaints in a way that will achieve positive outcomes for people receiving care.
- Complaints officers will continue to review the risk profile and resolution approach for a complaint in response to new and relevant information.
- In determining the appropriate resolution approach, complaints officers will consider the capacity and wishes of the complainant, person receiving care and provider.
- Complaints officers will ensure the resolution approach is proportionate to any risk to the safety, health and wellbeing of a person receiving care.
- Complaints officers will seek to ensure the resolution approach supports the reasonable use of the provider’s and the Complaints Commissioner’s resources.
- Complaints officers will, where possible, seek to foster improved relationships between complainants and providers who have an ongoing relationship.
- Complaints officers may make referrals to appropriate external bodies.

Actively monitor

- Complaints officers will monitor the progress of complaints and notify a complaints manager when a complaint is not progressing within reasonable timeframes.
- Complaints managers will monitor the progress of complaints and instigate action to resolve complaints that are not progressing within reasonable timeframes.
- Complaints officers will review and use information to identify opportunities for continuous improvement in the management of complaints.
- Complaints officers will encourage continuous improvement in the quality of care and services through the complaints process.

3.9 Operational expectations – demonstrating sound judgment

The following operational expectations outline how complaints officers will demonstrate they apply sound judgment in their handling of complaints. There are two essential components to demonstrating sound judgment: informed decisions and consistent decisions.

Informed decisions

- Complaints officers will seek out and draw on information from diverse sources and use their experience and judgment to analyse what information is important, and how it should be used.
- Complaints officers will seek to draw informed, objective and accurate conclusions by interpreting the best available and relevant information and clarifying information to avoid unwarranted assumptions about the complaint or parties to the complaint.
Complaints officers will exercise diligence to ensure information and advice they provide is accurate.

Complaints officers will identify problems, assess their significance and escalate as necessary.

Consistent decisions

- Complaints officers will understand and work within the Australian Government’s broader regulatory framework for quality aged care services.
- Complaints officers will exercise discretion and be responsible and accountable for applying the complaints management process.
- Complaints officers will make decisions that are consistent with the Act, the Aged Care Principles and the complaints management principles and which support the Complaints Commissioner’s objectives.
- Complaints officers will work within the scope of their delegation.
- Complaints officers will seek advice from complaints managers if they require clarification or are unsure about the application of policies and procedures when managing an issue in accordance with the complaints management principles.
- Complaints officers will use their peers and the all available resources to support accurate, objective, reasonable and consistent decision-making.
- Complaints managers will mentor and provide guidance to complaints officers to assist them in applying sound judgment.

3.10 Operational expectations – demonstrating accountability

The following operational expectations outline how complaints officers will demonstrate accountability in their handling of complaints. There are two essential components to demonstrating accountability: the operating framework and meeting obligations.

Operating framework

- Complaints officers will ensure their decisions and dealings with everyone are consistent with the legislation, agreements, guidelines, policies and procedures that govern the Complaints Commissioner.
- Complaints officers will seek to develop and maintain appropriate knowledge and skills to perform their roles effectively.
- Complaints officers will understand and work towards meeting the Complaints Commissioner’s timeframes in the resolution of complaints.
- Complaints officers will ensure that delegates making a decision have access to all relevant information that will inform their decision.
- Complaints officers will use the Complaints Commissioner’s resources, including equipment and property, efficiently, effectively and ethically.

Meeting obligations

- Complaints officers will ensure they comply with all relevant legislation, regulatory requirements, professional standards and guidelines. This includes acting in accordance with their delegated responsibilities, the Service Charter, the APS Values and the APS Code of Conduct.
- Complaints officers will ensure all parties to a complaint, except for anonymous complainants, are advised of their right to a review of the Complaints Commissioner’s decision and the handling of a complaint.
- Complaints officers will not disclose protected information or documents other than as required by law or where proper authorisation is given.
Guidelines for the Aged Care Complaints Commissioner (v2) – Internal version only

- Complaints officers will not misuse protected or confidential information for personal or commercial gain for themselves or another.
- Complaints officers will ensure all personal, sensitive or confidential information is collected, used, disclosed, stored and disposed of in accordance with the Act, the Privacy Act 1988 and the Complaints Commissioner's recordkeeping policies and procedures.
- Complaints officers will ensure that all relevant information is accurately and appropriately documented promptly.

3.11 Other information for complaints officers to be aware of

These Guidelines are applied by the Complaints Commissioner's staff who must adhere to legislation, guidelines and policies in the conduct of their work. Complaints officers need to be aware of relevant information that affects their work so they can meet the complaints management principles and ensure consistency in handling complaints.

A list of relevant information sources that provide more information related to the six fundamentals of complaints handling is below.

**Note:** Laws relating to privacy, freedom of information, guardianship and advocacy vary between states and territories. Complaints officers will need to be aware of relevant legislation as it applies to their work.

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<thead>
<tr>
<th>Information source</th>
<th>Description</th>
<th>Information relates to:</th>
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<tbody>
<tr>
<td>Aged Care Act 1997 (the Act)</td>
<td>Protected information – Part 6.2 of the Act describes 'protected information' and the circumstances in which it may be disclosed. Powers of authorised complaints officers - Part 6.4A of the Act sets out the powers of authorised complaints officers, particularly: • what powers can be exercised and when • the powers around asking questions and obtaining documents, and • the obligations of authorised complaints officers in respect to identity cards. Refer to the Legislation Register website</td>
<td>Fairness, Accountability</td>
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<tr>
<td>Aged Care (Transitional Provisions) Act 1997</td>
<td>This legislation only applies to continuing persons receiving care who entered a residential aged care service before 1 July 2014 and who continue to be provided with residential care under the fees and payment provisions of this legislation. Refer to the Legislation Register website</td>
<td>Accountability</td>
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<tr>
<td>Administrative Decisions (Judicial Review) Act 1977</td>
<td>This legislation provides procedures and grounds for the judicial review of certain administrative decisions made by Commonwealth authorities or officers. Refer to the Legislation Register website</td>
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<tr>
<td>Archives Act 1983</td>
<td>This legislation provides for the National Archives of Australia to oversee Commonwealth recordkeeping and to impose recordkeeping obligations in respect of Commonwealth records. It affects complaints officers by specifying how records are stored, managed and disposed of.</td>
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Issued: May 2016

Chapter 5 - Detailed Assessment Phase
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<td>APS Values and the Code of Conduct in practice</td>
<td>The APS Values and the Code of Conduct assist APS employees to understand the practical application of their obligations. Conflict of interest – APS employees must disclose, and take reasonable steps to avoid, any actual or perceived conflict of interest in connection with APS employment.</td>
<td>Accessibility, Fairness, Responsive-ness, Accountability</td>
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<tr>
<td>Freedom of Information Act 1982</td>
<td>This legislation provides for public access to government documents, subject to certain restrictions, to promote accountability and transparency, and to enable the public to participate more effectively in governing the state. This Act affects both electronic and non-electronic information and how the agencies must correct, annotate, and update records if the information is wrong. Refer to the Legislation Register website or the Office of the Australian Information Commissioner’s website</td>
<td>Accountability</td>
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<tr>
<td>National Aged Care Advocacy Program</td>
<td>Advocacy services are funded under the department’s National Aged Care Advocacy Program.</td>
<td>Responsive-ness</td>
</tr>
<tr>
<td>National Anti-Discrimination Information Gateway</td>
<td>The National Anti-Discrimination Information Gateway Laws provides detailed information about what constitutes discrimination at both the Commonwealth and the state and territory levels.</td>
<td>Accessibility</td>
</tr>
<tr>
<td>Privacy Act 1988</td>
<td>The Privacy Act 1988 regulates the way in which the personal information of individuals is handled by Australian Government agencies. This legislation affects the Complaints Commissioner’s handling of personal information, including: - storage, use and keeping personal information safe - providing appropriate access to personal information, and - setting out privacy principles that must be followed when creating information and document handling systems</td>
<td>Accountability</td>
</tr>
<tr>
<td>Ombudsman Act 1976</td>
<td>This legislation sets out the Ombudsman’s role, responsibilities and powers, which include:</td>
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Issued: May 2016

Chapter 5 - Detailed Assessment Phase 22
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<td>Complaints Commissioner during a resolution process.</td>
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</tbody>
</table>

See also:

- Department of Health 'Records Management Guidance'
- National Complaints and Compliance Information Management System (NICCIMS) Resolve User Guide
- Factsheet 9. How do I access and run CASPER reports?
### Chapter 4 - Intake Phase

This chapter sets out the key activities to be undertaken by complaints officers during the intake phase, the first of the four phases of the complaints management process.

#### Chapter 4 contents

<table>
<thead>
<tr>
<th>Overview of the intake phase</th>
<th>27</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.1 The types of initial contact at the intake phase</td>
<td>27</td>
</tr>
<tr>
<td>4.2 Complaints management principles relevant to the intake phase</td>
<td>27</td>
</tr>
<tr>
<td>4.3 Key activities during the intake phase</td>
<td>27</td>
</tr>
</tbody>
</table>

**Activity 1: Receiving information**

| 4.4 Contacting the Aged Care Complaints Commissioner | 28 |
| 4.5 Recordkeeping and information management during the intake phase | 29 |
| 4.6 Considerations about information the Aged Care Complaints Commissioner might receive | 29 |

**Activity 2: Classifying information**

| 4.7 Accurately classifying information | 30 |
| 4.8 Three stages of classifying information | 30 |
| 4.9 In-scope information | 31 |
| 4.10 How to confirm in-scope information | 32 |
| 4.11 Out-of-scope information | 32 |
| 4.12 Complaints and complaint types | 33 |
| 4.13 Open complaints | 33 |
| 4.14 Confidential complaints | 33 |
| 4.15 Anonymous complaints | 34 |
| 4.16 Enquiries | 34 |
| 4.17 Own initiative concerns | 34 |

**Activity 3: Collecting information**

| 4.18 Determining the level of information to collect | 35 |
| 4.19 Complaints – essential information to collect | 35 |
| 4.20 In-scope enquiries – essential information to collect | 36 |
| 4.21 Own initiative concerns – essential information to collect | 37 |
| 4.22 Out-of-scope enquiries – essential information to collect | 37 |

**Activity 4: Providing information**

| 4.23 Determining the level of information to provide | 37 |
| 4.24 Complaints – essential information to provide | 37 |
| 4.25 In-scope enquiries – essential information to provide | 38 |
| 4.26 Out-of-scope enquiries – essential information to provide | 38 |

**Activity 5: Finalising enquiries**

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Issued: May 2016
| 4.27 | When to finalise an in-scope enquiry | 38 |
| 4.28 | When to finalise an out-of-scope enquiry | 39 |
| 4.29 | Sending correspondence for in-scope or out-of-scope enquiries | 39 |

**Activity 6: Escalating complaints to a complaints manager**

| 4.30 | Timeframes for escalating a complaint to a complaints manager | 40 |
| 4.31 | Using the intake escalation matrix | 40 |

**Activity 7: Preliminary assessment of provider history**

| 4.32 | Who completes the preliminary assessment of provider history? | 40 |
| 4.33 | Determining the level of provider history required | 41 |
| 4.34 | Using provider history to inform decision making | 41 |

**Activity 8: Supporting early resolution of complaints**

| 4.35 | Supporting early complaints resolution during the intake phase | 41 |
| 4.36 | Issues which are suitable for early resolution | 42 |
| 4.37 | How support for early resolution can be provided | 42 |
| 4.38 | Sending correspondence about early resolution | 42 |
| 4.39 | When the complaint can be finalised | 42 |
| 4.40 | When early resolution falls outside of 30 days | 43 |

**Activity 9: Acknowledging receipt of the complaint**

| 4.41 | What to include when acknowledging receipt of a complaint | 43 |
| 4.42 | When to write to the complainant acknowledging their complaint | 44 |

**Activity 10: Workflow to the detailed assessment phase**

| 4.43 | | 44 |
Overview of the intake phase

4.1 The types of initial contact at the intake phase

During the intake phase the people receiving care and providers make initial contact with the Complaints Commissioner. Contact may be made through:

- enquiries and complaints about care and services provided to people receiving care by providers
- referrals from external organisations to assist the Complaints Commissioner to resolve complaints, and
- out-of-scope enquiries that relate to matters which are beyond the Complaints Commissioner’s jurisdiction.

4.2 Complaints management principles relevant to the intake phase

In responding to complaints at the intake phase, complaints officers should have particular regard to the complaints management principles set out below. Complaints officers will:

- promptly acknowledge receipt of all complaints, except for anonymous complaints.
- ensure that all relevant information is recorded promptly in the Complaints Commissioner’s official information management system.
- check and clarify information, to avoid unwarranted assumptions and draw accurate conclusions.
- seek to handle complaints in a way that will achieve the most timely, proportionate, and appropriate outcome for people receiving care.
- tailor communication to the needs of all parties to the complaint.
- provide the parties to the complaint appropriate and easily understood information about the process of resolving complaints.
- manage complainant expectations by clearly explaining the Complaints Commissioner’s processes and what outcomes can and cannot be achieved.
- seek to support open and timely communication between the parties to a complaint, unless information must be limited for confidentiality, privacy or other reasons.
- promptly escalate complaints in accordance with the Complaints Commissioner’s risk management framework.

4.3 Key activities during the intake phase

The activity descriptions below outline the key activities to be undertaken by complaints officers during the intake phase.

- **Activity 1: Receiving information** – the Complaints Commissioner may receive information such as an enquiry or a complaint from any person or organisation. Complaints officers must record this information and any other relevant information in accordance with the Complaints Commissioner’s recordkeeping procedures.
- **Activity 2: Classifying information** – complaints officers must classify all information received by the Complaints Commissioner as either in-scope or out-of-scope.
- **Activity 3: Collecting information** – complaints officers must collect comprehensive information about a complaint but only basic information needs to be collected for out-of-scope enquiries.
- **Activity 4: Providing information** – complaints officers must provide comprehensive information for enquiries and complaints but only basic information needs to be provided for out-of-scope enquiries.
Activity 5: Finalising enquiries – if the information provided does not raise any concerns, complaints officers may resolve and finalise out-of-scope and in-scope enquiries without consulting with a complaints manager.

Activity 6: Escalating complaints to a manager – the intake escalation matrix (IEM) sets out the timeframe which determines whether:
- complaints officers may continue to support early resolution of the complaint, or
- complaints officers must escalate the complaint to a complaints manager immediately.

Activity 7: Preliminary assessment of a provider’s history – complaints officers may be required to assess the provider’s history to assist them in deciding whether the complaint can be resolved at the intake phase or whether it requires a more detailed assessment.

Activity 8: Supporting early resolution of complaints – complaints officers may support complainants to resolve their complaints without the Complaints Commissioner commencing a formal resolution process. In these cases, the complaint may be suitable for early resolution at the intake phase.

Activity 9: Acknowledging receipt of the complaint – complaints officers should aim to write to the complainant within seven days of receiving a complaint, by either acknowledging receipt of the complaint or acknowledging receipt and confirming the issues in the complaint.

Activity 10: Workflow to detailed assessment phase – once the above key activities have been completed, and if the complaint has not been resolved at the intake phase, the complaint workflows to the detailed assessment phase.

Activity 1: Receiving information

4.4 Contacting the Aged Care Complaints Commissioner

The Complaints Commissioner provides a free service available to any person or organisation, including:
- People receiving care and their family or friends
- staff members, volunteers or carers
- advocacy services, and
- external organisations.

The Complaints Commissioner can receive information by:
- telephone - free call 1800 550 552
- letter -
  Aged Care Complaints Commissioner
  GPO Box 9848
  (In the capital city of the state or territory the care is being provided)
- online - through our website agedcarecomplaints.gov.au
- email - for example [state]@agedcarecomplaints.gov.au, or
- in person.

See also:
Factsheet 2. How do the 1800 number, voice-mail and email inbox protocols work?
Factsheet 5. How do I access the Translating and Interpreting Service and NRS for speech and hearing impaired people?
The Complaints Commissioner operates from 9.00am to 5.00pm (local time) on weekdays, except for public holidays.

Outside of these hours, a message can be left on an answering machine requesting a return call during business hours.

4.5 Recordkeeping and information management during the intake phase

The complaints officers performing intake duties are the first point of contact and record all information received from any person or organisation.

The Complaints Commissioner collects and uses personal information, including sensitive information, for the purpose of performing functions as set out in the Act. The Notice of Collection and the Privacy Policy set out how the Complaints Commissioner complies with the Australian Privacy Principles (APPs) set out in the Privacy Act 1988 (the Privacy Act).

Complaints officers must ensure that:

- all relevant information is recorded promptly on the Complaints Commissioner’s official information management system
- all personal and sensitive information received by the Complaints Commissioner is handled according to the APPs. The Notice of Collection will be provided before collection, at the time of collection or as soon as reasonably practicable after collection unless notification may pose a serious threat to the life, health or safety of any individual, and
- the IEM is considered either during the first contact with the complainant or immediately thereafter to ensure nationally consistent criteria are applied to complaint handling during the intake phase.

See also:
- Factsheet 13. How do I keep good records and manage information?
- Factsheet 14. How do I handle unsolicited personal information?
- NCCIMS Resources

4.6 Considerations about information the Aged Care Complaints Commissioner might receive

The Complaints Commissioner will accept any information. However, complaints officers must consider whether the information is relevant to and necessary for dealing with a complaint and the appropriate handling of that information. This includes:

- information that might have been obtained without the knowledge or consent of the person or persons involved, such as copies of documents, audio recordings, video recordings or photographs
- information that requires clarification about whom and what it relates to, such as photographs of a wound or body part, and
- information that was provided confidentially.

Clarification or consent about information the Complaints Commissioner receives might need to be obtained from the person involved or the person receiving care.

If the Complaints Commissioner did not request the information and it is not relevant to the complaint issues raised the information will not be considered further and, the information will not be retained by the Complaints Commissioner. Otherwise complaints officers will consider how the information guides the Complaints Commissioner’s line of enquiry into relevant complaint issues.

Important! Where unsolicited personal and sensitive information is received by the Complaints Commissioner, complaints officers must ensure it is handled according to the APPs.
Activity 2: Classifying information

4.7 Accurately classifying information

It is crucial that complaints officers accurately classify information received during the intake phase since classification of the information affects:

- how the Complaints Commissioner manages the information, including personal and sensitive information
- the review rights of the person providing the information, and
- the Complaints Commissioner’s public reporting.

4.8 Three stages of classifying information

There are three stages to be followed for the classifying of information:

**Stage one** requires the information to be classified as:

- in-scope, or
- out-of-scope.

**Stage two** requires in-scope information to be classified as:

- a complaint
- an enquiry
- an own initiative concern, or
- information from other sources.

**Stage three** requires complaints to be classified as:

- open
- confidential, or
- anonymous.

The diagram below shows how information is classified.

![Diagram showing the classification of information](image)

Figure 2. How information received by the Complaints Commissioner is classified
4.9 In-scope information

Complaints officers assess whether the information is in-scope by:

1. Determining that the information relates to a person receiving care:
   - Australian Government funded aged care through one of the programmes within the Complaints Commissioner's jurisdiction – see Topic 1.8 Programmes within and outside the Complaints Commissioner's jurisdiction.
   
   This includes where the person receiving care might:
   - have a current approval from an Aged Care Assessment Team for residential care services but is not in an Australian Government funded residential care place
   - be a continuing person receiving care who is provided residential care under the fees and payment provisions of the Aged Care (Transitional Provisions) Act 1997
   - not be named or identifiable
   - no longer be receiving services from the provider to which the information relates, or
   - be deceased.

2. Determining that the information relates to a responsibility of a provider as defined in Chapter 4 of the Act or the Aged Care Principles or a Comprehensive Grant Agreement

Responsibilities of providers include:
   - quality of care provided to people receiving care (this includes specified care and services)
   - user rights for the people for whom the care is provided (this includes the Charter of Rights and Responsibilities in both residential and home care), and
   - accountability for the care that is provided and the basic suitability of their key personnel (this includes obligations in respect to compulsory reporting and recordkeeping).

Responsibilities of Australian Government funded aged care programmes under a Comprehensive Grant Agreement are outlined in Chapter 9. They generally relate to similar responsibilities to those outlined above.

4.10 How to confirm in-scope information

Complaints officers are able to confirm the information has been classified correctly as in-scope by referring to the information held on official information management systems. These have a list of all providers, the residential, home care or flexible services they are approved to provide and, for residential and Home Care Package services, a list of past and present people receiving care of each service.
In a situation where the complainant declines or otherwise fails to identify the provider, the complaints officer will likely be unable to confirm if the issues relate to a provider and, as such, no further action can be taken. In this circumstance, the information provided is out-of-scope.

**Exception:** Where a person receiving care does not have an Australian Government funded place and does not have a current approval from an Aged Care Assessment Team for care or services, a complaints manager may, as an exception, consider the information as in-scope.

**Important!** If there is any doubt whether an issue relates to a provider's responsibilities, it should be treated as in-scope.

**Important!** If a complaints officer is uncertain whether the information is to be classified as in-scope, they should consult with a complaints manager.

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**See also:**

Factsheet 9. How do I access and run CASPER reports?

CASPER

NAPS

NCCIMS Resources

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### 4.11 Out-of-scope information

Out-of-scope information refers to any information that cannot be dealt with by the Complaints Commissioner because the information does not satisfy the definition of in-scope information.

Common out-of-scope information received by the Complaints Commissioner includes enquiries, which may also be complaints, about:

- retirement villages not regulated by the Act
- industrial matters concerning providers
- determining guardianship
- industrial relations issues or disputes between staff and providers about employment arrangements
- the provision of hospital services
- the provision of services by a doctor who is not employed by the provider
- care and services provided where the complainant fails to or refuses to identify the provider, and
- other aged care programmes that are outside the Complaints Commissioner's jurisdiction – see Topic 1.8: Programmes within and outside the Complaints Commissioner's jurisdiction.

In the past, providers were required to notify the Aged Care Complaints Scheme when certain events happened, including:

- reportable assaults
- unexplained absences of people receiving care
- infectious disease outbreaks, and
- natural disasters or emergency events.

This is no longer the case. Any attempt by a provider to notify the Complaints Commissioner about such an event should be treated as out-of-scope and recorded accordingly. The provider should be asked to instead notify the department directly 1800 081 549.

**Important!** If someone other than a provider gives information about a suspected or alleged assault of a person receiving care, or the unexplained absence of a person receiving care, this should be classified and managed as a complaint as the provider may not have met their obligations.
Note: While out-of-scope information is not within the Complaints Commissioner’s scope, complaints officers should ensure that all reasonable assistance is provided by referring the person to any organisation that may be able to assist with their enquiry or complaint.

See also:
Factsheet 19. How do I manage out-of-scope cases?

4.12 Complaints and complaint types
A complaint is where a person expresses dissatisfaction with any aspect of a provider’s responsibilities and the Complaints Commissioner is required to facilitate the resolution of that complaint.
A complaint is neither:
- a request for information or an explanation regarding aspects of a provider’s responsibilities, nor
- a request for a review of a decision made by, or the handling of a complaint by, the Complaints Commissioner.

4.13 Open complaints
An open complaint is where the complainant agrees to any information they have provided the Complaints Commissioner being disclosed to the provider to whom the complaint relates.
A complainant who lodges an open complaint can be involved in the resolution process and receive feedback.

4.14 Confidential complaints
A confidential complaint is where the complainant requests that all or part of the information they have provided not be disclosed to the provider.
A complainant who lodges a confidential complaint can be involved in the resolution process and receive feedback. However, confidential complaints can limit:
- the resolution approaches available
- the outcomes that can be achieved, and
- the feedback that can be provided.

Note: Conciliation or mediation between the provider and the complainant will not be possible if the complaint is confidential.

Important! Complainants should be advised that the Complaints Commissioner may need to make enquiries with the provider during the complaint process, so there is a risk that, despite the Complaints Commissioner’s best efforts, the identity of a confidential complainant could be guessed or determined by other parties.

4.15 Anonymous complaints
An anonymous complaint is where a complainant does not disclose their details to the Complaints Commissioner, or if they do, request that their details not be recorded.
If complainants request to be anonymous they will not be provided with feedback. Where action is taken to resolve the complaint, the provider may be provided feedback.

4.16 Enquiries
An enquiry is where a person requests information to better understand the responsibilities of a provider, or about how the complainant may resolve their enquiry directly with the provider.
Information provided by the Complaints Commissioner to the person making an enquiry can include:
• routine information about provider responsibilities under the Act and Aged Care Principles; for example, meals and refreshments, toiletries or mobility aids that must be provided
• routine information about provider responsibilities under the relevant programme
• routine information about a person receiving care’s rights under the Act and Aged Care Principles, including the Charter of Rights and Responsibilities for residential care and home care
• information on the role of advocacy services and how to access them
• information on how other organisations may be able to assist the person to resolve their concerns, and
• information on the Complaints Commissioner’s process for managing complaints.

Note: An enquiry becomes a complaint when the Complaints Commissioner goes beyond providing routine information.

See also:
Factsheet 6. How do I refer a person to an advocacy agency?

4.17 Own initiative concerns

An own initiative concern is where the Complaints Commissioner receives information that raises concerns about whether a provider is meeting its responsibilities and the Complaints Commissioner decides to initiate a resolution process in relation to the issue.

For example, a resolution process might be initiated where the Complaints Commissioner:
• receives information that indicates a provider might not be meeting its responsibilities under the Act, or
• identifies serious concerns about whether a provider is meeting its responsibilities under the Act about issues that are not part of a complaint that led to a resolution process.

Activity 3: Collecting information

4.18 Determining the level of information to collect

During the initial contact with the complainant, complaints officers should ensure sufficient information is collected to enable the enquiry or complaint to be assessed, escalated and managed. This will vary depending on the classification of the information (see Activity 2: Classifying information).

While it is important to obtain sufficient information to enable an assessment of risk, it is equally important to consider the preferences and needs of the complainant and tailoring the communication accordingly.

Important! Information provided to complaints officers can be personal, sensitive, unpleasant, distressing and contentious. Care should be taken to alleviate any distress to any parties to the complaint and to the complaints officers involved.

See also:
Factsheet 22. How do I collect, test and weigh information?

4.19 Complaints – essential information to collect

Complaints officers should collect and record the following information for all complaints:

Complainant details
• Privacy status – open, confidential or anonymous (refer to definitions given in Activity 2: Classifying information).
- Complainant’s name and contact details (if not anonymous).
- Relationship between the complainant and the person receiving care.
- Any special needs and preferences of the complainant that may require the Complaints Commissioner to tailor communication for the complainant.
- The complainant’s expectations of the process: what outcome do they seek and what do they expect the Complaints Commissioner to do?
- As appropriate, the complainant’s acknowledgment that the Complaints Commissioner has collected or will collect their personal information (this should be recorded in a file note).

Person receiving care details
- Name of the person receiving care to which the complaint relates. Note that if the complainant is unable or unwilling to identify the person receiving care they should be advised that it can limit the Complaints Commissioner’s ability to resolve the complaint.
- The cognitive capacity of the person receiving care.
- Extent of, and documentation for, any power of attorney or guardianship arrangements and details of any nominated representatives
- Whether the person receiving care is aware that the complainant is contacting the Complaints Commissioner and
  - if so, whether they support the complaint being progressed, or
  - if not, why not?
- The person receiving care’s capacity and willingness to engage in the resolution process.
- The person receiving care’s acknowledgment that the Complaints Commissioner has or will collect their personal information.

Provider details
- Name of the aged care provider to which the complaint relates. Note: if the complainant is unable or unwilling to identify the provider, they should be advised that this will prevent the Complaints Commissioner from resolving the complaint beyond providing information to the complainant on how they may choose to resolve their complaint themselves.
- Whether the matter has been raised with the provider, and if so, what the provider’s response was.
- Whether the complainant is aware of the provider’s complaints handling policy.

Note: Complaints officers should apply sound judgment when deciding how much information to obtain and the order in which to obtain it. If a person is becoming distressed, angry or confused, the complaints officer can offer to follow up with them at a more suitable time by phone or in writing.

Note: When communication in writing is required, it is most economical and effective to use email. Complaints officers should seek the agreement of the complainant and provider that future written communication from the Complaints Commissioner will be by email. Notwithstanding this, the preferences of the complainant and provider should be accommodated wherever possible.

Important! Complaints officers must ensure that complainants are aware of how the information they provide may be used. Complainants should also be advised that, if necessary, complaints officers have the power to obtain any documentation held by the provider that relates to the person receiving care, so it is unnecessary for the complainant to provide such information.

See also:
- Factsheet 5. How do I access the Translating and Interpreting Service and the NRS for speech and hearing impaired people?
- Factsheet 6. How do I refer a person to an advocacy agency?
4.20 In-scope enquiries – essential information to collect
Complaints officers should collect and record sufficient information for an in-scope enquiry to demonstrate:
- the nature of the information the complainant is seeking
- the name of the provider and aged care service to which the information relates (if it cannot be confirmed that the information relates to a provider, the information should be classified as out-of-scope)
- whether the enquiry has been resolved, and
- whether the information provided is confidential.
Note: Where the contact details of an inquirer are provided they should be recorded.

4.21 Own initiative concerns – essential information to collect
Information communicated to complaints officers might give rise to an own initiative concern. Complaints officers should collect and record sufficient information to demonstrate:
- the source of the information; for example, Quality Agency referral
- when and how the concern was identified; for example, the concern was identified by complaints officers during a complaints resolution process
- the name of the provider or aged care service
- the reasons for commencing an own initiative concern, and
- whether feedback is required and, if so, to whom.

4.22 Out-of-scope enquiries – essential information to collect
Complaints officers should collect and record sufficient information for an out-of-scope enquiry to demonstrate:
- why the information is out-of-scope, and
- the action taken to assist or refer the person or the information to an organisation that may be able to deal with the information or enquiry.

For example, a caller with a concern about a retirement village could be referred to the Department of Fair Trading which has responsibility for retirement villages once a check of the retirement village’s name confirms the retirement village is not funded by the Australian Government and is therefore not within the scope of the Complaints Commissioner.

Activity 4: Providing information

4.23 Determining the level of information to provide
During the initial contact with the person complaints officers should ensure sufficient information is provided to enable the person to understand the Complaints Commissioner’s processes and make informed decisions as to how to resolve their complaint or enquiry. This will vary depending on the classification of the information (see Activity 2: Classifying information).
Note: Where a person is becoming distressed, angry or too confused to understand all of the necessary information in one discussion, complaints officers should use their judgment about the level of information they provide and consider whether it may be necessary to follow up with them at a more suitable time by phone or in writing.

Important! If a complaints officer is unsure as to how much information to provide, the advice of a complaints manager should be sought.

See also:

Factsheet 24. How do I determine a person receiving care’s wishes when they are named in a complaint?
Factsheet 29. How do I determine the rights of ‘other parties’ involved in a complaint?

4.24 Complaints – essential information to provide

Where appropriate, complaints officers should provide the following information to the complainant during the initial contact:

- the role and objectives of the Complaints Commissioner
- information on the Complaints Commissioner’s process for managing complaints
- what the complainant can expect of the Complaints Commissioner and what is expected of the complainant
- what issues the Complaints Commissioner can and cannot deal with
- what outcomes can and cannot be achieved through the Complaints Commissioner’s processes
- the right of the complainant to lodge a complaint confidentially or anonymously and how this might limit the Complaints Commissioner’s capacity to resolve the complaint
- the possible uses of information and the circumstances in which the information provided by the complainant may be used and disclosed
- if the complainant has any special needs or vulnerabilities, how the Complaints Commissioner can assist, for example through advocacy or interpreter services, and
- the statutory requirement for providers to have complaints resolution mechanisms and the laws prohibiting any retribution as the result of a complaint being made.

4.25 In-scope enquiries – essential information to provide

The information that complaints officers should provide a person making an enquiry will be influenced by the nature of the enquiry.

The information complaints officers could provide includes:

- routine information about a provider’s responsibilities under the Act and Aged Care Principles; for example, meals and refreshments, toiletries, mobility aids that are required to be provided
- routine information about a person receiving care’s rights under the Act and Aged Care Principles
- information on the role of advocacy services and how to access them, and
- information on other organisations that may be able to assist them.

See also:

Factsheet 5. How do I access the Translating and Interpreting Service and the NRS for speech and hearing impaired people?
Factsheet 6. How do I refer a person to an advocacy agency?

4.26 Out-of-scope enquiries – essential information to provide
It is important that complaints officers advise the person making an enquiry about:
- the role of the Complaints Commissioner
- what issues the Complaints Commissioner can and cannot deal with, and
- who may be able to assist with their query or complaint.

Activity 5: Finalising enquiries

4.27 When to finalise an in-scope enquiry
Complaints officers may resolve and finalise an in-scope enquiry if the complaints officer:
- is certain the person is making an enquiry (request for information) rather than a complaint
- is able to resolve the enquiry through the provision of routine information
- does not have any concerns about the enquiry that would warrant the complaints officer notifying a complaints manager, and
- has recorded all the information obtained from, and provided to, the person.
Where a complaints officer has no concerns regarding the information provided, they may quickly resolve and finalise the enquiry without having to escalate the information to a complaints manager.

Note: Complaints officers might receive information that raises significant concerns about the care and services being provided to a person receiving care that the inquirer does not want the Complaints Commissioner to take action on. As the Complaints Commissioner has a regulatory responsibility to protect the safety, health and wellbeing of persons receiving aged care services, complaints officers should consult a complaints manager to confirm whether an own initiative resolution process should be commenced. See Topic 4.17 Own initiative concerns.

Important! If a complaints officer is uncertain as to how to resolve and finalise information, they should immediately seek the advice of a complaints manager.

4.28 When to finalise an out-of-scope enquiry
An out-of-scope enquiry may be immediately resolved and finalised if the complaints officer:
- is certain the information is out-of-scope, and
- has clearly documented:
  - why the information is out-of-scope, and
  - the action taken by the complaints officer to assist or refer the person or the information to an organisation that may be able to deal with the information or query.

Where a complaints officer has no concerns regarding the information provided, they may quickly resolve and finalise the out-of-scope enquiry without having to escalate the information to a complaints manager.

Note: Out-of-scope information would usually be finalised within the initial or subsequent contact.

See also:
Factsheet 19. How do I manage out-of-scope cases?

4.29 Sending correspondence for in-scope or out-of-scope enquiries
There is no requirement to send correspondence to a person confirming the finalisation of an in-scope or out-of-scope enquiry. Correspondence need not be sent unless specifically requested by the person.
Where written correspondence is requested, the complaints officer should seek the advice of a complaints manager as to the nature of the correspondence to send.

Activity 6: Escalating complaints to a complaints manager

4.30 Timeframes for escalating a complaint to a complaints manager

The timeframes for escalating complaints to a complaints manager are set out in the IEM and support consistent, robust and timely decision making by ensuring complaints managers have oversight and early input into how complaints are managed.

The IEM also includes the nationally consistent criteria for assessing the likely impact of the issues in the complaint on the safety, health and wellbeing of people receiving care.

**Important!** If a complaints officer is unsure as to when to escalate a complaint, they should check with a complaints manager immediately.

4.31 Using the intake escalation matrix

Either during the first contact with the complainant or immediately thereafter, complaints officers should refer to the details in the IEM and consider each of the issues in a complaint against the likely consequence for the person receiving care. The descriptions of the likely consequences are not exhaustive, so complaints officers should apply sound judgment in selecting the likely consequence that best fits the issues in complaint.

If the complaint identified is of significant concern the complaint must be escalated to a complaints manager immediately and, at a maximum, a complaints manager will have oversight of the complaint within 48 hours.

If a complaint has more than one issue, and the issues require escalation in different timeframes, complaints officers should escalate the complaint to a complaints manager within the shortest timeframe.

Within the timeframe determined by the IEM, complaints officers can continue with the early resolution of a complaint unless, in the complaints officer’s judgment, a preliminary assessment of the provider’s history should be undertaken to decide if early resolution is suitable. For example, if an issue is classed as minor, a complaints officer may continue with early resolution of the complaint for up to 48 hours before notifying a complaints manager.

Activity 7: Preliminary assessment of provider history

4.32 Who completes the preliminary assessment of provider history?

Once a complaints officer notifies a complaints manager of a complaint, it is the complaints manager’s responsibility to determine whether more preliminary assessment of the provider’s history is required to assess:

- if the complaint is suitable for early resolution in the intake phase refer to [Activity 8: Supporting early resolution of complaints](#), or
- if the complaint should be referred to the detailed assessment phase for a more detailed risk assessment and to determine whether a resolution process should be commenced.

To assist in making that decision, a complaints manager may request a complaints officer to undertake a preliminary assessment of the provider’s:

- complaints history
- compliance and sanctions history, or
- accreditation or quality reporting history.
Important! A provider’s history should be assessed within the context of the provider’s response to the complaints – not simply on the basis of the number of complaints the Complaints Commissioner has received. The fact that several complaints have been made does not necessarily indicate a poor complaints history; it could indicate that the provider is encouraging feedback and complaints. It is more important to understand how the provider responded to the complaints.

4.33 Determining the level of provider history required

If a complaint appears suitable for early resolution during the intake phase, the complaints manager should request a preliminary assessment that provides enough history on the provider to assist them in making an informed decision about the suitability of a complaint for early resolution.

At a minimum, it is expected a complaints manager will consider the provider’s compliance and sanctions history in deciding whether the complaint is suitable for early resolution.

Where an issue is not suitable for early resolution during the intake phase, the complaints manager should consider whether a preliminary assessment is required or, whether the complaint should be referred immediately to the detailed assessment phase.

4.34 Using provider history to inform decision making

A provider’s complaints and compliance history will assist managers to understand whether issues similar to the current issue in the complaint have previously been raised and the outcome of any previous complaints resolution process.

The presence or absence of a similar complaints history should not, by itself, be used to decide the veracity of the complaint. It may be used to inform:

- the risk rating of the complaint, which in turn may influence the way in which the Complaints Commissioner responds to the complaint, or
- whether there is a ground for taking no further action, as the issues in the complaint have previously been dealt with by the Complaints Commissioner or the Scheme.

A provider’s accreditation or quality reporting history might also assist a complaints manager to decide whether similar systemic issues have been identified by the Quality Agency or the department. For example, if the issue concerns inadequate staffing, and the Quality Agency has identified concerns with human resources, the risk rating of the complaint could increase and consideration might be given to whether a referral should be made to the Quality Agency. Similarly, where there are concerns that a provider might not be complying with its responsibilities under the Act or the Comprehensive Grant Agreement, the Complaints Commissioner has a role in referring matters for compliance action.

Activity 8: Supporting early resolution of complaints

4.35 Supporting early complaints resolution during the intake phase

In line with the Complaints Commissioner’s objectives, complaints officers should seek to resolve complaints in a manner that will achieve the most timely, proportionate and appropriate outcome for the person receiving care.

Often, the most timely, proportionate and appropriate outcome may be achieved by complaints officers supporting complainants to resolve their complaints directly with providers without the Complaints Commissioner’s ongoing formal involvement.

Important! If a complaints officer is unsure about whether a complaint should be resolved and finalised during the intake phase, they should immediately seek the advice of a complaints manager.

4.36 Issues which are suitable for early resolution
An issue may be suitable for early resolution during the intake phase if:

- based on initial discussions with the complainant and the provider it seems that the parties do not have entrenched positions and are amenable to discussion and negotiation, and either
- the complainant agrees that their complaint can be promptly resolved without the Complaints Commissioner commencing a formal resolution process, or
- the issue does not present a significant risk to the safety, health or wellbeing of a person receiving care and is not likely to be contentious.

**Note:** Some security of tenure issues may be suitable for early resolution. Complaints managers should apply sound judgment when deciding whether a security of tenure issue is suitable for early resolution.

### 4.37 How support for early resolution can be provided

Complaints officers can support the early resolution of a complaint by:

- assisting complainants to clarify the issues in a complaint and what outcome or outcomes they seek
- providing routine information to complainants or providers on the rights and responsibilities of providers and people receiving care
- assisting complainants and providers to communicate with each other; for example by assisting the parties to gain a broader understanding of each other’s point of view, and
- assisting the parties to a complaint to generate ideas for resolving it.

Support for early resolution is usually provided over the telephone. For example, complaints officers make a few calls to the parties and the issue is resolved.

If formal meetings or detailed assessment of information is required to facilitate the resolution of the complaint, complaints officers should speak with a complaints manager to determine whether to workflow the complaint to the detailed assessment phase.

### 4.38 Sending correspondence about early resolution

Correspondence confirming the resolution of a complaint or a complainant’s decision to resolve their complaint directly with the provider should be sent promptly to the complainant unless they indicate that they do not wish to receive correspondence.

Complaints officer should write to the complainant to explain that if they require any future assistance they can contact the Complaints Commissioner at any time.

**See also:**
- Factsheet 20. How do I write feedback and the reasoning behind a decision?
- Template 1b. Finalisation - Intake or Assessment (Complainant)

### 4.39 When the complaint can be finalised

A complaint can be finalised during the intake phase once:

- The complainant advises that their complaint has been resolved or that they would prefer to resolve the complaint directly with the provider without the Complaints Commissioner’s ongoing assistance, and
- the complainant has been advised in writing that the complaint has been finalised and that if they require any future assistance they can contact the Complaints Commissioner at any time.

**Note:** A complaint can also be finalised in the intake phase if a delegate decides under paragraph 7(a) of the Complaints Principles to take no further action for one of the reasons stated under section 8.
4.40 When early resolution falls outside of 30 days

In line with the Complaints Commissioner’s complaints management principles, the focus of early resolution is to support the most timely, proportionate and appropriate resolution of complaints.

When supporting early resolution of a complaint, complaints officers should aim to complete this process within 30 days. If, at the end of this period, there are limited actions that need to take place to complete the process, complaints officers should use their judgment to assess whether the case can be completed quickly. They should then discuss this with a complaints manager to decide whether to continue with early resolution or to progress to the next phase. For example, if one more phone call after the 30 days would complete early resolution of the complaint, this should be discussed with a complaints manager.

If at any point during the 30 days it becomes clear that early resolution will not be possible, complaints officers should escalate the complaint to a complaints manager immediately to determine if it should be referred to the detailed assessment phase for a more detailed risk assessment.

Activity 9: Acknowledging receipt of the complaint

4.41 What to include when acknowledging receipt of a complaint

Complaints officers should promptly write to the complainant to acknowledge receipt of the complaint. This is the first correspondence the Complaints Commissioner sends to a complainant and it provides complainant with:

- their complaint identification number, which they can use to assist in future discussions with the Complaints Commissioner
- an overview of the next steps that the Complaints Commissioner will take in response to their concerns
- the Complaints Commissioner’s Service Offer, which details what the complainant can expect from the Complaints Commissioner and what the Complaints Commissioner can and cannot do, and
- the Complaints Commissioner’s Notice of Collection.

Important! For confidential complaints, complaints officers should ensure that all reasonable and appropriate steps are taken to respect the complainant’s request for confidentiality. All correspondence should be checked to ensure it maintains the request for confidentiality. This is particularly important when correspondence is being sent to a person receiving care at a residential aged care service. In such circumstances, complaints officers should send the correspondence in a form that does not identify that the correspondence is from the Complaints Commissioner.

See also:
Template 1a. Acknowledgement of Complaint (Complainant)

4.42 When to write to the complainant acknowledging their complaint

Where a complaint cannot be resolved during the intake phase, it is important that the Complaints Commissioner acknowledges receipt of the complaint promptly.

Complaints officers should aim to write to the complainant acknowledging a complaint or acknowledging and confirming the issues in a complaint within seven days of receiving the complaint.

Note: This should be achieved by email unless the complainant has indicated a different preference.

Activity 10: Workflow to the detailed assessment phase

When to workflow to the detailed assessment phase
If early resolution cannot be achieved at the intake phase, the complaint should workflow to the detailed assessment phase – see Chapter 5: Detailed Assessment Phase. In this case, key activities should be completed before a complaints manager decides to workflow the complaint.
Chapter 5 - Detailed Assessment Phase

This chapter sets out the key activities to be undertaken by complaints officers during the detailed assessment phase, the second of the four phases of the complaints management process.

Chapter 5 contents

Overview of the detailed assessment phase ........................................................................................................47

5.1 Working with more detailed information ..............................................................................................47

5.2 Purpose of the risk assessment and resolution plan (RARP) ..................................................................47

5.3 Complaints management principles relevant to the detailed assessment phase ......................................47

5.4 Key activities in the detailed assessment phase ...................................................................................48

Activity 1: Collecting and assessing relevant information .................................................................................48

5.5 Determining the level of information to collect to inform the RARP ........................................................48

5.6 Assessing a provider’s complaints history ............................................................................................49

5.7 Assessing a provider’s accreditation or quality reporting history ..........................................................50

5.8 Engaging with the provider ..................................................................................................................50

5.9 Engaging with people receiving care .....................................................................................................51

5.10 Engaging with other persons or organisations ......................................................................................51

Activity 2: Risk assessment and resolution planning .....................................................................................52

5.11 Using the risk assessment and resolution plan (RARP) to progress the complaint ...............................52

5.12 Completing the RARP ........................................................................................................................52

5.13 When should the RARP be updated? ...................................................................................................52

5.14 What is a risk element? .........................................................................................................................53

5.15 Completing the risk assessment ...........................................................................................................53

5.16 Determining an appropriate resolution plan ........................................................................................54

5.17 Determining an appropriate resolution approach to recommend ........................................................54

5.18 Choosing appropriate resolution approaches ......................................................................................55

5.19 Determining the complaint priority and when to commence the resolution approach ..........................56

Activity 3: Supporting early resolution ..........................................................................................................56

5.20 Supporting early complaints resolution during the detailed assessment phase .......................................56

5.21 Complaints which are suitable for early resolution ...............................................................................57

5.22 Support that can be provided and finalising the complaint ..................................................................57

5.23 What to do when early resolution is not successful ............................................................................57

Activity 4: Taking no further action .................................................................................................................58

5.24 Deciding to take no further action ........................................................................................................58

5.25 The grounds for taking no further action during the detailed assessment phase ..................................58

5.26 The issue was not raised in good faith .................................................................................................59

5.27 The issue has been, or is, the subject of a legal proceeding ..................................................................59
5.28 The issue has previously been dealt with under the Complaints Principles .......................................59
5.29 The issue relates to an event that occurred more than one year ago and that is not ongoing ...........60
5.30 The issue is subject to a coronial inquiry ............................................................................................60
5.31 The person receiving care named in the complaint does not wish the issue to be considered ..........60
5.32 The issue is better dealt with by another organisation .......................................................................61
5.33 Having regard to all circumstances, a resolution process in relation to the issue is not warranted ....61
5.34 Advising the parties to the complaint of the decision to take no further action ...................................61

Activity 5: Referral to other areas or organisations......................................................................................61

5.35 When the Complaints Commissioner may refer information or complaint issues ..............................61
5.36 Releasing protected information .........................................................................................................62
5.37 Consultation required for referrals ......................................................................................................63
5.38 What happens to the complaints resolution process if a referral is made? ........................................63
5.39 Informing complainants and providers about referrals .......................................................................63

Activity 6: Correspondence about the progress of the complaint ..............................................................64

5.40 Contact with the complainant .............................................................................................................64
5.41 How to get the issues right .................................................................................................................64
5.42 When to send feedback .......................................................................................................................64
5.43 When to acknowledge the complaint and confirm the issues .............................................................65

Activity 7: Workflow to the resolution phase .................................................................................................65

5.44 Tasks to do once the RARP has been completed ................................................................................65
5.45 Workflowing the complaint ..................................................................................................................65
Overview of the detailed assessment phase

5.1 Working with more detailed information

The detailed assessment phase builds on the work undertaken by complaints officers during the intake phase and takes into account more information to assist in the risk assessment and resolution planning of a complaint. A more detailed assessment also enables complaints officers to manage complaints in a tailored, effective and timely manner.

Important! Complaints officers should remember that the detailed assessment phase is not designed to determine the veracity of the complaint but to guide initial risk assessment and resolution planning.

Complaints officers must ensure that all personal and sensitive information received is handled according to the APPs. A notice of collection will be provided to individuals before collection, at the time of collection or as soon as reasonably practicable after collection unless notification may pose a serious threat to the life, health or safety of any individual.

5.2 Purpose of the risk assessment and resolution plan (RARP)

A risk assessment and resolution plan (RARP) is a tool used by complaints officers to support the timely and effective resolution of complaints. The RARP provides common criteria for determining risk and assists with determining how risks and other information should inform the appropriate action, priority and timeframe for resolving the complaint. The RARP is usually established when the complaint workflows to the detailed assessment phase and records the progress of a complaint as circumstances change.

If early resolution for a complaint cannot be achieved to a complainant’s satisfaction, a RARP is used to clearly document all relevant information collected during the intake and detailed assessment phases to progress the complaint.

The information in the RARP is assessed by complaints managers who assign the complaint a risk rating and a resolution approach if the complaint is to be progressed to the resolution phase.

5.3 Complaints management principles relevant to the detailed assessment phase

In responding to complaints during the detailed assessment phase, complaints officers should have particular regard to the complaints management principles set out below. Complaints officers will:

- seek out and draw on information from diverse sources and use their experience and judgement to analyse what information is important and how it should be used
- promptly escalate complaints in accordance with the Complaints Commissioner’s risk management framework
- seek to draw accurate conclusions by clarifying information to avoid unwarranted assumptions
- aim to resolve complaints within reasonable timeframes, wherever possible
- where appropriate, provide the parties to a complaint with a reasonable opportunity to provide relevant information before key decisions are made
- ensure that any request for confidentiality is complied with unless doing so would pose a risk to the safety, health and wellbeing of any person. In such cases, the complaints officer will reasonably attempt to notify the person who requested confidentiality that information will be released and the basis of the decision
- have awareness of, and sensitivity to, the diversity of the Australian community and be responsive to the different needs of people contacting the Complaints Commissioner
- ensure the resolution approach used is proportionate to the risk posed by the issue in the complaint to the safety, health and wellbeing of a person receiving care
• seek to ensure the resolution approach supports the equitable use of the provider’s and the Complaints Commissioner’s resources
• where possible, seek to foster improved relationships between complainants and providers who have an ongoing relationship
• continue to review the risk profile and resolution approach for a complaint in response to new and relevant information, and
• use their peers and any available resources to support accurate, objective, reasonable and consistent decision making.

5.4 Key activities in the detailed assessment phase

• **Activity 1: Collecting and assessing relevant information** – Complaints officers should determine what additional information to collect to begin the risk assessment and resolution planning process for the complaint.

• **Activity 2: Risk assessment and resolution planning** – Complaints officers need to use the RARP to support a nationally consistent approach to risk assessment and resolution planning.

• **Activity 3: Supporting early resolution** – If complainants agree that their complaints can be promptly resolved without the Complaints Commissioner commencing a formal resolution process, complaints officers can support complainants, providers and other parties to the complaint to achieve early resolution of the complaint.

• **Activity 4: Taking no further action** – Before commencing a resolution process, complaints officers should consider whether grounds for taking no further action exist.

• **Activity 5: Referrals to other areas or organisations** – A delegate may authorise the release of information to assist another organisation to perform its regulatory function. A referral does not prevent the Complaints Commissioner from continuing with a resolution process.

• **Activity 6: Correspondence about the progress of the complaint** – Complaints officers should confirm the issues with complainants before the complaint progresses and provide appropriate feedback to the relevant complaint parties. Feedback will include the possible review rights available to complaint parties.

• **Activity 7: Workflow to the resolution phase** – Complaints managers should perform a quality assurance check and workflow complaints to the resolution phase within the timeframe set out in the RARP.

### Activity 1: Collecting and assessing relevant information

#### 5.5 Determining the level of information to collect to inform the RARP

In addition to the information obtained and provided during the intake phase, the range and level of information complaints officers should collect during the detailed assessment phase to inform the RARP will depend on the specific complaint. It is therefore crucial that complaints officers apply their judgment to what information should be collected and from whom the information should be collected.

When determining who and where to collect information from, it is important that complaints officers confirm with a complaints manager:

• whether an unannounced site visit should be conducted
• whether it is appropriate to engage directly with people receiving care, and
• the most appropriate way to engage with people receiving care; for example over the phone, in writing, in person.

**Important!** If an unannounced site visit is being considered, complaints officers should **not** contact the provider in relation to the unannounced site visit.
Whilst it is important to gather and assess information from a range of sources to ensure informed and appropriate decisions are made about how to manage a complaint, it is equally important to do this in a proportionate manner. Some complaints will not require an extensive assessment due to the nature of the issues raised.

To ensure there is enough information to undertake the risk assessment and resolution planning process, complaints officers can:

- review basic information about the person receiving care
- engage with the provider, people receiving care and other parties, unless it is inappropriate to do so
- review any other information as necessary and relevant; for example, prudential compliance, provider history, aged care funding instrument, and
- undertake a more detailed review of the provider's history; for example, key personnel history.

Important! If a complaints officer is unsure about how much information to collect and assess, they should discuss with a complaints manager. Where the Complaints Commissioner collects personal or sensitive information about an individual, the individual or their representative must be provided a notice of collection.

See also:
Factsheet 7. How do I know what a legally appointed representative is?
Factsheet 13. How do I keep good records and manage information?
Factsheet 22. How do I collect, test and weigh information?

5.6 Assessing a provider's complaints history

To ensure there is enough information to undertake the risk assessment and resolution planning process, a more detailed review of the provider's complaints history may be required. The provider's complaints history could assist complaints officers to understand:

- whether similar issues to the current issue have been raised previously, including to identify key personnel involved in a previous complaint, and the outcome of any previous resolution process. This information might influence the resolution approach adopted; for example, it might not be appropriate to recommend a complaint for provider resolution if the provider has a poor history of dealing with complaints
- whether another complaints officer is dealing with a complaint at the same service to which the new complaint relates. This may assist in determining to which complaints officer the complaint should be allocated, and
- when the Complaints Commissioner last visited the provider, as this information might assist in deciding whether a site visit should be undertaken.

The presence or absence of a similar complaints history should not, in itself, be used to decide the veracity of the complaint, but can be used to inform:

- the risk rating of the complaint, which in turn will influence the priority in which the Complaints Commissioner responds to the complaint, or
- whether there is a ground for taking no further action, where the issues have been dealt with previously by the Complaints Commissioner.

In assessing a provider's complaints history, complaints officers should:

- identify if there is a relationship between the issues in the complaint and any previous complaints received about the service or its accreditation or quality reporting history
• use their experience and judgment to analyse what information is important and how the information should be used in the risk assessment, and
• consider that the number of complaints being made does not necessarily indicate a poor complaints history – it is more important to understand how the provider responded to the complaints.

5.7 Assessing a provider’s accreditation or quality reporting history

If a complaint relates to a residential care provider, complaints officers should assess the provider’s accreditation history.

If a complaint relates to a home care provider, complaints officers should assess the provider’s quality reporting history.

It is important to assess a provider’s accreditation or quality reporting history to understand whether:
• the Quality Agency has planned a visit, to avoid where possible complaints officers visiting on the same day
• the Quality Agency has detected areas for improvement in the same areas as the issues in the complaint, or
• a referral to the Quality Agency team may be required.

Important! Information concerning a provider’s complaints, accreditation and quality reporting history is protected information. This information should not be disclosed by a complaints officer under any circumstances unless authorised by a delegate.

See also:
Factsheet 9. How do I access and run CASPER reports?
Factsheet 28. How do I manage a change of provider during the complaints process?

5.8 Engaging with the provider

The complaints management principles seek to ensure that complaints officers advise providers promptly when the Complaints Commissioner is planning to undertake a resolution process. Where a decision has not yet been made whether a resolution process should be undertaken, complaints officers do not need to advise the provider of the complaint, unless doing so would better inform the RARP.

Important! Before contacting a provider, complaints officers should confirm with a complaints manager whether notifying the provider would, or would be likely to:
• affect the resolution of the issue, for example because an unannounced visit may be planned
• place the safety, health or wellbeing of any person at risk, or
• place the complainant or a person receiving care at risk of intimidation or harassment.

If a decision is made to contact the provider, complaints officers must be courteous and mindful of the resources available to the provider to respond to the complaint. When requesting information, complaints officers should ensure that the request is clear, the timeframe for providing the information is reasonable and only information necessary to assess the complaint is requested.

See also:
Complaints Principles 2015, section 11

5.9 Engaging with people receiving care

If a complainant is raising concerns about the care or services someone else is receiving, the person receiving the services must know about the complaint, unless exceptional circumstances exist.
Where appropriate, complaints officers should promptly engage with the person receiving care. However, during the detailed assessment phase, this might not always be possible, practical or appropriate. If a decision is made to engage directly with the person receiving care, complaints officers should:

- consider the most appropriate way to engage with the person receiving care to minimise any distress, such as visiting the person receiving care in person rather than making a phone call
- be conscious that people receiving care with a cognitive impairment might still be able to express their views and engage in the resolution process, and
- be aware that, if it is not appropriate to engage with the person receiving care, and there is a nominated representative or guardian for the person receiving care, the nominated representative or guardian must be contacted.

**Note:** The person receiving care's nominated representative is the person nominated to the provider for this purpose under the Act.

**Important!** If a complaints officer believes exceptional circumstance exist or is unsure as to whether to contact a person receiving care, they should first consult with a complaints manager.

**See also:**
- Factsheet 7. How do I know what a legally appointed representative is?
- Factsheet 30. What do I do when a complainant withdraws or a person receiving care does not want the complaint to continue?

### 5.10 Engaging with other persons or organisations

At times during the detailed assessment phase it may be necessary to engage with other persons or organisations.

When engaging with others, complaints officers must ensure they comply with the Act and the Complaints Commissioner’s privacy and confidentiality requirements in relation to the use and disclosure of protected information or personal information or commercially sensitive information.

**Important!** If a complaints officer is unsure whether to contact others, they should first consult with a complaints manager.

**Activity 2: Risk assessment and resolution planning**

### 5.11 Using the risk assessment and resolution plan (RARP) to progress the complaint

The RARP is designed to assist complaints officers when considering the common risk elements related to each issue raised in a complaint and to assess the risks, along with other information collected, to decide whether:

- no further action should be taken on the issue
- more support should be provided to facilitate an early resolution of the issue within the detailed assessment phase
- the issue should be progressed to the resolution phase, or
- the issue should be referred to another organisation.

The risk rating in the RARP also assists complaints managers to determine:

- an appropriate resolution approach
- the priority of the complaint and timeframe in which to respond to the complaint, and
- the level of oversight the complaints manager should maintain.
5.12 Completing the RARP
The RARP is drafted by complaints officers undertaking the detailed assessment in consultation with a complaints manager. Complaints officers and complaints managers play a role in completing the RARP. The RARP has two main parts:

Part One – Risk Assessment, which outlines:
- all relevant information for a complaint gathered by a complaints officer, considered against five common risk elements in consultation with a complaints manager, and
- an overall risk rating for the complaint – minor, moderate, major or significant – as assessed by a complaints manager.

Part Two – Resolution Plan, which outlines:
- a resolution plan (early resolution, no further action, progress to resolution phase) developed by a complaints manager, and
- where appropriate, a resolution approach recommended by a complaints manager.

Note: Where a complaint has significant risks, complaints managers may consult with their peers (also referred to as a panel decision or ‘a panel’) to decide the final risk rating.

5.13 When should the RARP be updated?
Considering and assessing risk throughout the management of a complaint is vital to ensure the Complaints Commissioner responds to complaints in a timely, efficient, proportionate and tailored manner. The RARP is designed to be a working document that is updated as circumstances change, regardless of the phase the complaint is in.

Complaints officers are required to review, reassess and update the RARP when new and relevant information is received that could affect a complaint’s risk rating or resolution plan.

Important! Reassessment might not change the overall risk rating or the resolution plan but it provides the rationale for decision making throughout the progress of a complaint.

5.14 What is a risk element?
Risk elements are components that indicate how an issue could affect quality of care and effective complaints resolution. The following list is not exhaustive but reflects five risks commonly seen in complaints to the Complaints Commissioner.

Important! This list should not limit the identification of other types of risks by complaints officers.

The five common risk elements are:
- **Risk element one: Health and/or safety** – This risk element considers the physical and psychological impact of the issue on the person receiving care and the intervention required in response to the impact.
- **Risk element two: Choice and/or dignity** – This risk element considers the frequency, type and outcome of the issue on the person receiving care’s right to choice, respect and dignity, including the person receiving care’s financial wellbeing.
- **Risk element three: Service and/or physical environment** – This risk element considers the frequency, type and outcome of the alleged less than ideal service delivery and the physical environment in which the services are being delivered.
- **Risk element four: Contentious issue/s** – This risk element considers factors that could make the issue contentious. Such factors include where the complainant’s expectations cannot be
achieved by the Complaints Commissioner, where there is conflict between family members or public interest in the complaint.

- **Risk element five: provider history** – This risk element considers whether the provider has any recent or related complaints, compliance, accreditation or quality reporting history and the provider’s response where issues or concerns have been identified.

### 5.15 Completing the risk assessment

To assess risk using the RARP, complaints officers should:

- consider all the information obtained during the intake and detailed assessment phases against each of the five common risks elements (and any other identified risk elements) and determine the grading of each of the risk elements
- consider the complaint as a whole and record an overall risk rating – minor, moderate, major or significant – based on an assessment of the common risk elements by a complaints manager, and
- provide a succinct summary of the rationale for assigning the overall risk rating. For example, the weighting that was given to each of the risk elements by a manager.

The risk rating will be used, along with other information, to inform the:

- appropriate resolution approach
- priority of the complaint and timeframe in which to respond to the complaint, and
- level of oversight a complaints manager should maintain.

If a complaints manager has difficulty deciding the overall risk rating of the complaint or planning the resolution approach, they should consider:

- the complaints management principles in [Chapter 3](#) and seek an approach that is most consistent with these principles, and
- consulting with their peers (a panel) to support consistent and robust decision making.

### 5.16 Determining an appropriate resolution plan

The RARP requires a complaints manager to use the information in Part One – Risk assessment, along with other information collected, to decide whether:

- no further action should be taken under paragraph 7(a) of the Complaints Principles on the basis of one of the grounds in section 8
- more support should be provided within the detailed assessment phase to facilitate an early resolution of the complaint to the satisfaction of the complainant per paragraph 7(b) of the Complaints Principles
- the complaint should be progressed to the resolution phase per paragraph 7(c) of the Complaints Principles, or
- a referral should be sent to another organisation per section 19 of the Complaints Principles.

Once the decision is made by a complaints manager, the rationale and the information relied on in making the decision should be documented in the RARP. The complaints manager’s decision should include the timeframe for complaints officers to action that decision. For guidance on determining the timeframe, see [Topic 5.19 - Determining the complaint priority and when to commence the resolution approach](#).

### 5.17 Determining an appropriate resolution approach to recommend

If a decision is made to refer the complaint to the resolution phase, a complaints manager may recommend a resolution approach – conciliation, provider resolution, investigation or mediation.
Complaints managers should, in deciding on the most appropriate resolution approach, consider:

- the desirability of resolving complaints as quickly as possible, as this is generally in the best interests of the person receiving care, the complainant and the provider
- that the focus of the resolution is to support, wherever possible, positive outcomes for people receiving care
- that the resolution approach should be proportionate to the issues in the complaint
- the desirability of educating complainants (and people receiving care) about their rights and responsibilities to empower them to make informed decisions and, where possible, resolve their concerns directly with the provider
- the privacy status of the complaint – open, confidential or anonymous
- the relationship between the complainant and the person receiving care, noting complaints made by staff members are not suitable for conciliation, and
- the willingness and capacity of the parties to engage in the proposed resolution approach.

In addition, to support timely and effective resolution of each of the complaint issues, complaints managers need to consider:

- wherever possible, adopting one approach for a complaint (regardless of how many issues form the complaint)
- that multiple approaches might be necessary and if so should be planned to achieve the best outcome for the person receiving care in the most proportionate, timely and appropriate way, and
- that the approaches may be flexibly applied and can involve different activities; for example, conciliation can be handled by teleconference rather than meetings, while investigation might require an unannounced site visit or the review of requested documentation.

The rationale for recommending a particular resolution approach should be documented in the RARP with reference to:

- the outcome of the risk assessment
- the privacy status of complainants and their relationship with people receiving care
- the complainant’s desired outcomes
- where appropriate, people receiving care’s views, and
- where relevant, interpersonal considerations between people receiving care and family members.

See also:

- Factsheet 5. How do I access the Translating and Interpreting Service and the NRS for speech and hearing impaired people?
- Factsheet 6. How do I refer a person to an advocacy agency?
- Factsheet 7. How do I know what a legally appointed representative is?

5.18 Choosing appropriate resolution approaches

The following list of the types of issues that might be suitable for the various resolution approaches is a guide.

**Conciliation**

An issue might be suitable for conciliation if:

- the complainant and provider are willing and able to participate in conciliation
- the complainant and provider have agreed to the Complaints Commissioner assisting the parties in conciliation, and
• a conciliated (agreed) outcome is likely to achieve a timely and positive outcome for the person receiving care.

Note: There could be exceptional circumstances in which an issue that poses a significant risk to a person receiving care might be most appropriately dealt with through conciliation; for example, some security of tenure cases where immediate action needs to be negotiated to ensure that the person receiving care has access to services. If a conciliation approach is proposed in such circumstances this should be closely monitored by a complaints manager.

Provider resolution

An issue might be suitable for provider resolution if:

• the Complaints Commissioner is satisfied that the issues do not present any significant risk to the safety, health or wellbeing of people receiving care
• the provider is willing to act on the issues in the complaint
• the provider agrees to provide a written resolution report to the Complaints Commissioner, within the agreed timeframes
• the provider does not have a history of poor complaints management, and
• the complaint will be resolved as comprehensively and effectively by the provider as it would have been if the Complaints Commissioner investigated or conciliated the issue.

Note: While it is not necessary to secure the agreement of the complainant to resolve a complaint through provider resolution, where appropriate, this should be discussed with the complainant.

Investigation

An issue might be suitable for investigation if:

• the issues in the complaint raise significant concerns about whether a provider is meeting its responsibilities. For example, where there are significant concerns about the safety, health or wellbeing of a person receiving care, or
• the issues in the complaint cannot be resolved through another approach and, considering all the circumstances and information available, investigation of the issues is warranted.

Mediation

An issue might be suitable for provider or complainant initiated mediation if:

• the parties agree to mediation and are willing to participate
• one or both of the parties agree to meet the costs of mediation, and
• there are no issues which present a significant risk to a person receiving care or which suggest a provider is not meeting its responsibilities.

5.19 Determining the complaint priority and when to commence the resolution approach

The priority of the complaint will guide the timeframe in which complaints officers commence the resolution approach.

In setting the timeframe for commencing a resolution approach, the complaints manager should consider:

• whether the resolution timeframe will affect the person receiving care and if so, the likely gravity of any impact
• whether the resolution timeframe will affect the Complaints Commissioner’s capacity to achieve timely resolution of the complaint, and
the ability of complaints officers to respond to complaints considering their capability and capacity.

Activity 3: Supporting early resolution

5.20 Supporting early complaints resolution during the detailed assessment phase

While most complaints suitable for early resolution will be resolved during the intake phase, there will be occasions when more information is received after the intake phase that indicates that the complaint may be suitable for early resolution during the detailed assessment phase.

In line with the Complaints Commissioner’s objectives, timely, appropriate and proportionate complaints resolution can be achieved by complaints officers supporting complainants to resolve their complaints directly with providers without the Complaints Commissioner’s ongoing formal involvement.

Complaints are only suitable for early resolution if the complainant agrees that the ongoing involvement of the Complaints Commissioner is not required.

Important! If a complaints officer is unsure about whether a complaint should be resolved and finalised during the detailed assessment phase, they should immediately seek the advice of a complaints manager.

Important! If complaints managers are unsure about whether it is more appropriate to take no further action or to progress the complaint to the resolution phase they should consider:

- the complaints management principles in Chapter 3: Complaints Management Principles and seek an approach that is most consistent with these principles, and
- consulting with their peers to support consistent and robust decision making.

5.21 Complaints which are suitable for early resolution

A complaint may be suitable for early resolution during the detailed assessment phase if:

- the provider does not have a history of poor complaints management, and
- the issues in the complaint do not raise significant concerns about whether a provider is meeting its responsibilities, and
- based on initial discussions with the complainant and the provider it seems that the parties do not have entrenched positions and are amenable to discussion and negotiation, and either
- the complainant agrees that their complaint can be promptly resolved without the Complaints Commissioner commencing a formal resolution process, or
- the issue does not present a significant risk to the safety, health or wellbeing of a person receiving care and is not likely to be contentious.

5.22 Support that can be provided and finalising the complaint

For supporting the early resolution of a complaint and finalising the complaint during the detailed assessment phase, the same principles and guidance apply as for supporting the early resolution of complaints during the intake phase – see Topics 4.35 and 4.36.

5.23 What to do when early resolution is not successful

When early resolution of a complaint is not successful in the detailed assessment phase, complaints officers should immediately advise a complaints manager so a decision can be made as to whether:

- a different resolution approach would result in a more timely, proportionate resolution of the complaint, or
- no further action should be taken under paragraph 7(a) of the Complaints Principles on one or more of the grounds set out in section 8.
Activity 4: Taking no further action

5.24 Deciding to take no further action

Whilst a complaint is in the detailed assessment phase, complaints officers should consider whether grounds exist for taking no further action and if so:

- whether no further action should be taken, or
- whether the complaint should be progressed.

Delegates may decide to take no further action on an issue raised by a complainant and thus finalise a complaint.

Even if there is a basis for taking no further action on one of the grounds in section 8 of the Complaints Principles, the delegate should consider the individual merits of the complaint to decide whether this is the most appropriate action in the circumstances. Depending on the circumstances, quickly resolving the issue or undertaking a resolution process might be more appropriate.

In considering whether no further action should be taken on an issue, complaints officers and delegates must:

- ensure that complainants have been given the opportunity to provide to the Complaints Commissioner any information which might indicate that the process should continue – regardless of whether the matter has been dealt with previously
- identify whether there is any risk to the safety, health or wellbeing of a person receiving care which might indicate that the process should continue, and
- take into account any other relevant considerations which might indicate that the process should continue.

Important! A decision to take no further action should be carefully considered. Delegates should ensure they make a decision that is consistent with the complaints management principles in Chapter 3: Complaints Management Principles and consult with their peers to support consistent and robust decision making if needed.

Important! A decision to take no further action is a reviewable decision. Complaints officers must ensure that the complainant is advised of the decision, the reasons for the decision and the complainant’s right to seek a review.

5.25 The grounds for taking no further action during the detailed assessment phase

A delegate may decide to take no further action under paragraph 7(a) of the Complaints Principles if satisfied that one of the following circumstances under section 8 applies:

- The issue was not raised in good faith
- The issue has been, or is, the subject of a legal proceeding
- The issue has been dealt with under
  - this instrument; or
  - the Complaints Principles 2014;
- The issue is raised in another complaint that is already being dealt with under this instrument;
- The issue relates to an event:
  - that occurred more than one year before the complaint was made to the Complaints Commissioner, and
5.26 The issue was not raised in good faith

The role of complaints officers is not to judge the motivations for which a person may have made a complaint to the Complaints Commissioner, but there are some limited circumstances where information may not have been given by the complainant in good faith. Where complaints officers believe this may be the case, they should raise this matter with a complaints manager who will seek advice from the Guidance Team.

An example of where an issue may not be made in good faith is where a lawyer for one provider makes a complaint about another provider purely for the purposes of uncovering information that might be useful in future private legal proceedings between the two providers. In this case, the delegate may decide that the complaint was not made in good faith because it was made for the purpose of civil legal action, rather than a concern about a person receiving care.

See also:
Factsheet 8. How do I obtain legal advice?
Guidance Portal

5.27 The issue has been, or is, the subject of a legal proceeding

Where complaints officers are advised, or become aware through their enquiries, that an issue in the complaint is subject to legal proceedings, complaints officers should immediately advise a complaints manager.

A delegate may decide to take no further action on the basis that the actions by the Complaints Commissioner could interfere with the legal proceeding (this includes where the police are considering laying charges).

5.28 The issue has previously been dealt with under the Complaints Principles

Where an issue in the complaint has been dealt with under the Complaints Principles the delegate may decide to take no further action in respect to that issue.

An example is where a complainant makes a complaint with identical or very similar concerns to one that has already been resolved. In such circumstances, the delegate may decide to take no further action.

5.29 The issue relates to an event that occurred more than one year ago and that is not ongoing

Where an issue relates to an event that occurred more than one year before the complaint was made and that is not ongoing, a delegate may decide to take no further action.
For example, the delegate may decide to take no further action if a complaint is made about inadequate air conditioning from a particular day more than a year ago because it was an isolated event that occurred more than a year ago and is not ongoing.

The delegate may decide to commence a resolution process where a complaint is made about an event that occurred more than a year ago and which is not ongoing. For example, a complaint relating to a deceased person could be made more than a year later where the family has been grieving and has not yet felt ready to make a complaint.

Important! The issue must satisfy both elements: if the issue relates to an event that occurred more than a year ago but it is an ongoing issue, then a decision to take no further action can’t be justified.

5.30 The issue is subject to a coronial inquiry

If complaints officers become aware that an issue is subject to a coronial inquiry, the delegate may decide to take no further action.

For example, if a complainant alleges that the failure to administer correct medication caused a death, the delegate may decide to take no further action in respect of that issue because determining the cause of death is a matter for the coroner.

If there are issues about care that are not directly related to the coronial inquiry, such as where someone has concerns about the continence management of a person receiving care immediately before they died, such issues can be resolved without interfering with a coronial inquiry.

Important! Complaints managers should exercise caution when considering whether issues such as these can be resolved while a coronial inquiry is going on and should seek the advice from their peers or the Guidance Team.

See also:
Factsheet 8. How do I obtain legal advice?
Factsheet 31. How do I deal with a coroner’s case?
Guidance Portal

5.31 The person receiving care named in the complaint does not wish the issue to be considered

Where the person receiving care to whom an issue relates advises that they do not want the issue to be resolved, the delegate may decide to take no further action.

The wishes of the person receiving care should be respected and the case should be finalised unless there are ongoing concerns for the safety, health or wellbeing of the person receiving care or other people receiving care at the service. The delegate may decide to continue to deal with the complaint, being mindful that the confidentiality of the person receiving care should be respected and care should be taken to minimise any distress the Complaints Commissioner’s actions could cause.

See also:
Factsheet 30. What do I do when a complainant withdraws or a person receiving care does not want the complaint to continue?

5.32 The issue is better dealt with by another organisation

A delegate may decide to take no further action on an issue if the issue could be more appropriately dealt with by another organisation, such as the Australian Aged Care Quality Agency (Quality Agency), the Australian Health Practitioner Regulation Agency, the coroner, health care complaints bodies or the police.
5.33 Having regard to all circumstances, a resolution process in relation to the issue is not warranted

A delegate can decide to take no further action on the basis that a resolution process is not warranted.

An example is where a complainant previously raised six issues relating to the care of a person receiving care who is deceased. The Complaints Commissioner completed a resolution process for all six of these issues and identified that the provider had met its responsibilities. If the complainant later raises a seventh issue which is minor, specific to the person receiving care and for which there would be no public interest advanced in undertaking a resolution process, the delegate may decide that a resolution process is not warranted in relation to the issue.

5.34 Advising the parties to the complaint of the decision to take no further action

Where a delegate decides to take no further action on an issue a complaints officer must ensure the complainant is promptly advised in writing of:

- the decision
- the reason for the decision
- the complainant’s review rights, and
- any other relevant feedback where it is appropriate to do so.

Where providers and people receiving care have been contacted in the course of assessing a complaint, feedback may also be provided confirming that the complaint is being finalised.

Activity 5: Referral to other areas or organisations

5.35 When the Complaints Commissioner may refer information or complaint issues

If sufficient information is obtained to indicate that information received may assist another organisation to perform its regulatory function, a delegate may authorise the release of the information in accordance with the requirements related to the disclosure of protected information, personal information and confidential information.

Note: Information referrals would most commonly be made during the detailed assessment phase, but they can be made at any time throughout the complaints management process.

Referrals of information or complaint issues can be made to areas or organisations including:

- the department
- the Quality Agency
- state and territory governments
- Public Health Units
- the police
- the coroner
- the Australian Health Practitioner Regulation Agency, and
- health care complaints bodies.

Important! Complaints managers must ensure that, where appropriate and possible, reasonable action is taken to advise complainants that their personal information may be released to another organisation. The complainant should also be advised of the possible uses and the circumstances in which the information may be used and disclosed by the Complaints Commissioner.
5.36 Releasing protected information

There are restrictions on releasing information held by the Complaints Commissioner to other organisations.

Much of the information officers deal with is protected information under division 86 of the Act. Protected information is defined in section 86-1 of the Act as information that was acquired under, or for the purposes of, the Act and the information:

- is personal information, or
- relates to the affairs of an approved provider, or
- relates to the affairs of an applicant for approval as an approved provider of aged care under the Act or for a grant.

Division 86 of the Act sets out the requirements for disclosing protected information. In particular, section 86-2 describes a general rule; this prohibits a person from using or disclosing protected information acquired by that person in the course of performing duties or exercising powers or functions under the Act.

However, subsection 86-2(2) and section 86-3 allow protected information to be used in certain ways and disclosed in certain circumstances such that a delegate may authorise the release of the information in accordance with division 86 of the Act.

Important! Complaints officers must not release protected information without written approval from a delegate.

If complaints managers are unsure about releasing protected information, they should consider:

- the principles in Chapter 3: Complaints Management Principles, and seek an approach that is most consistent with these principles, and
- consulting with their peers to support consistent and robust decision making.

See also:

Factsheet 21. How do I disclose protected information?

5.37 Consultation required for referrals

Where a referral to AHPRA (or the Health Complaints Entities), a Coroner, the police or other law enforcement body is being considered, the delegate must consider legal advice before making a decision. In addition, the Clinical Advisory Section must be consulted about a referral to AHPRA (or the Health Complaints Entities).

In all circumstances the instrument of release must be cleared by the Complaints Commissioner’s legal advisers before the delegate authorises the release of information.

Consultation with the Complaints Commissioner’s legal advisers is facilitated by the Guidance Team.

See also:

Clinical Unit
Guidance Portal
Factsheet 1. When should I seek advice from the Clinical Unit?
Factsheet 8. How do I obtain legal advice?
5.38 What happens to the complaints resolution process if a referral is made?
If a complaint issue is referred to another organisation:
- the referral does not preclude the Complaints Commissioner continuing to deal with the issue, and
- a delegate may decide to take no further action because the matter is better dealt with by another organisation.

Note: If systemic concerns arise during a resolution process that are appropriate for the Quality Agency to consider, this does not preclude the Complaints Commissioner from seeking an outcome for the issues raised by the complainant which are specific to the person receiving care.

If a referral is made to another organisation it may, at times, not be appropriate for the Complaints Commissioner to commence or to continue a resolution process if it is likely to interfere with their processes (for example, where a resolution process could interfere with a police investigation).

5.39 Informing complainants and providers about referrals
When making referrals, complaints officers must consider whether there is any reason to not advise the complainant and the provider about the referral. Such situations include where:
- advising either of the parties could hinder the processes of the referral organisation, for example, the police or Quality Agency, or
- advising the parties would require an unnecessary release of protected information.

Important! Complaints officers must not advise the parties where a type two or type three referral will be made to the Quality Agency, if this could hinder the Quality Agency from effectively undertaking its processes.

See also:
Factsheet 33. How do I make referrals to external organisations?

Activity 6: Correspondence about the progress of the complaint

5.40 Contact with the complainant
Complaints officers should contact the complainant during the intake and detailed assessment phases to confirm and agree on the issues which will form part of the complaint.

Accurate understanding of the issues raised by the complainant, identifying the complainant's desired outcomes and informing the complainant of the Complaints Commissioner's processes enables complaints officers to set shared, realistic expectations of how the complaint will be progressed.

Where a complaint cannot be resolved during the detailed assessment phase, it is important that complaints officers ensure the issues are confirmed with the complainant before working with them to resolve them in the resolution phase.

5.41 How to get the issues right
Individual complaints may contain one or more issues. It is critical to the success of the complaints management process to correctly identify and articulate the complaint issues, particularly when they progress to the resolution phase.

Issues should be specific, expressed in the complainant’s own words wherever possible and relate to the providers responsibility under the Act. For example, “over the last two months, staff have failed to bathe and dress Mrs Kelly in time to attend her regular exercise class”.

Important! Complaints officers must assist complainants to articulate their issues while not influencing the issues based on their own interpretation (for example, based on knowledge of the legislation).
Once the issues have been confirmed orally, complaints officers must write to the complainant to acknowledge the complaint and to confirm the issues in the complaint. This provides the complainant with an opportunity to indicate if their issues have not been correctly identified.

**Note:** Any change to how an issue is expressed must be accurately recorded on the Complaints Commissioner’s official information management system and in the RARP.

**Important!** The advice of a complaints manager should be sought if a complaints officer is unsure how to express the issues.

### See also:
- NCCIMS Resources

#### 5.42 When to send feedback

**Early resolution**

There is no requirement to send correspondence to a person confirming the finalisation of a complaint by early resolution (under paragraph 7(b) of the Complaints Principles) or to provide feedback. See **Topic 4.38: Sending correspondence about early resolution**.

**No further action**

It is a requirement under section 16 of the Complaints Principles that the Complaints Commissioner will advise the complainant in writing that no further action will be taken, unless the complaint was received anonymously or the complainant has advised that they do not wish to receive correspondence.

### See also:
- Factsheet 20. How do I write feedback and the reasoning behind a decision?

#### 5.43 When to acknowledge the complaint and confirm the issues

After it is decided that the complaint is being referred to the resolution phase, complaints officers should promptly write to the complainant to acknowledge the complaint and to confirm the issues in the complaint. This should be done within seven days of the date of the decision to refer the complaint to the resolution phase wherever possible.

### Activity 7: Workflow to the resolution phase

#### 5.44 Tasks to do once the RARP has been completed

Once a complaints manager has decided the complaint should progress to the resolution phase and the RARP has been completed, complaints officers should:

- write to the complainant and the provider confirming the issues
- check that all relevant information collected and provided is clearly documented
- check that all decisions made in respect to the complaint are clearly documented, and
- workflow the complaint to a complaints manager for quality assurance before the complaint workflows to the resolution phase.

#### 5.45 Workflowing the complaint

Complaints managers should workflow the complaint to the resolution phase within the timeframe set out in the resolution plan, once they have completed a quality assurance check, to ensure that:

- the complaint has been acknowledged in writing and the issues confirmed in writing
• all relevant information has been collected, and
• all decisions made have been clearly documented – this would generally be set out in the RARP.
Chapter 6 - Resolution Phase

This chapter sets out the key activities to be undertaken by complaints officers during the resolution phase, the third of the four phases of the complaints management process.

Chapter 6 contents

Overview of the resolution phase ...................................................................................................................69

6.1 Progressing a complaint in the resolution phase ................................................................................69
6.2 Complaints management principles relevant to the resolution phase ..............................................69
6.3 Role of complaints officers during the resolution phase ....................................................................70
6.4 Manager involvement throughout the resolution phase ....................................................................70
6.5 Delegate’s role in the resolution phase ..............................................................................................71
6.6 Resolution approaches .......................................................................................................................71
6.7 Key activities in the resolution phase .................................................................................................71

Activity 1: Determining the resolution approach ..........................................................................................72
6.8 Adopting one or more resolution approaches, .....................................................................................72
6.9 Considerations when determining the resolution approach ...............................................................72
6.10 Ongoing review of the appropriate resolution approach through the RARP .......................................73

Activity 2: Contacting the complaint parties .................................................................................................74
6.11 Making contact with the complainant ..................................................................................................74
6.12 Making contact with the provider ........................................................................................................74
6.13 Making contact with the person receiving care ...................................................................................74

Activity 3: Planning the resolution approach ................................................................................................75
6.14 Planning how to apply the resolution approach ..................................................................................75

Activity 3a: Conciliation ...................................................................................................................................75
6.15 What conciliation involves and potential outcomes ............................................................................75
6.16 Issues suitable for conciliation ..........................................................................................................75
6.17 Role of the complaints officer in conciliation .....................................................................................76
6.18 Planning conciliation ...........................................................................................................................76
6.19 Methods for conciliation ......................................................................................................................76
6.20 Confirming the engagement of all parties ...........................................................................................77
6.21 Conciliation meeting ...........................................................................................................................77
6.22 Teleconferencing to facilitate conciliation ...........................................................................................78
6.23 Speaking separately to the parties to facilitate conciliation ...............................................................78

Activity 3b: Provider resolution ......................................................................................................................78
6.24 What provider resolution involves and potential outcomes ...............................................................78
6.25 Issues which may be suitable for provider resolution ......................................................................79
6.26 Planning provider resolution .............................................................................................................79
6.27 Confirming the engagement of all parties
6.28 Referring the issues to the provider for resolution
6.29 Assessing the provider’s resolution outcome
6.30 Dealing with new information received during provider resolution

Activity 3c: Mediation
6.31 What mediation involves and potential outcomes
6.32 Issues which may be suitable for mediation

Activity 3d: Investigation
6.33 What investigation involves and potential outcomes
6.34 What types of issues may be suitable for investigation?
6.35 Role of the complaints officer in meeting the principles of good investigation
6.36 Planning an investigation – using the investigation matrix

Activity 4: Collecting information
6.37 Collecting information – sources and types
6.38 Considerations about information the Complaints Commissioner might receive
6.39 Taking of photographs and recording interviews

Activity 5: Undertaking a site visit or on-site meeting
6.40 What an announced or unannounced site visit involves
6.41 Circumstances in which a site visit to a residential service or provider’s office will be conducted
6.42 When an onsite meeting would be conducted
6.43 Powers of an authorised complaints officer undertaking a site visit under the Act
6.44 Entry interview
6.45 Exit interview
6.46 When a site visit to a private home would be conducted
6.47 Planning for a site visit to a private home

Activity 6: Assessing collected information
6.48 Analysing collected information
6.49 Making findings and conclusions in relation to a burden of proof

Activity 7: Referrals to other organisations
6.50 Making a referral to another organisation

Activity 8: NIIDs and Directions
6.51 The NIID
6.52 What to include in a NIID
6.53 Responding to a NIID
6.54 Complaints Commissioner’s consideration of the provider’s response to a NIID
6.55 Directions
6.56 Information to be included in a direction
6.57 **Determining timeframes for a direction to be met** ................................................................. 92

**Activity 9: Documenting the resolution process** ........................................................................... 93

6.58 **Preparing a conciliation meeting report** ................................................................................ 93

6.59 **Preparing a site visit report or onsite meeting report** .......................................................... 93

6.60 **Providing feedback to parties to a complaint** ...................................................................... 93

6.61 **Completing a DRR** ................................................................................................................. 93
Overview of the resolution phase

6.1 Progressing a complaint in the resolution phase

During the resolution phase, a resolution approach is applied to resolve the complaint or own initiative concern.

A complaint (or an issue within a complaint) will progress to the resolution phase where:

- it cannot be resolved to the satisfaction of the complainant through early resolution (refer to Chapter 4: Intake Phase and Chapter 5: Detailed Assessment Phase), or
- more action is required because none of the statutory grounds on which the delegate may decide to take no further action apply or the delegate does not decide to take no further action (refer to Chapter 5: Detailed Assessment Phase).

The Complaints Commissioner may decide to undertake an own initiative resolution process when information is received from any source which raises sufficient concern about whether a provider is meeting its responsibilities (refer to Chapter 4: Intake Phase).

To commence the resolution phase, a complaints manager will assess whether the recommended resolution approach identified during the detailed assessment phase (refer to Chapter 5: Detailed Assessment Phase) is appropriate and then develop a resolution plan to progress the complaint. As a complaint progresses and circumstances change, complaints officers in consultation with complaints managers must adjust and update the RARP. Complaints officers will document the resolution process in relevant reports including in the DRR.

6.2 Complaints management principles relevant to the resolution phase

In responding to complaints during the resolution phase, complaints officers should have particular regard to the complaints management principles set out below. Complaints officers will:

- treat complaints with an open mind and will not prejudge the veracity of a complaint based on any previous interactions with any parties to the complaint
- where appropriate, provide the parties to a complaint with a reasonable opportunity to provide relevant information before key decisions are made
- wherever possible, seek to determine the wishes of the person receiving care
- support open and timely communication between the parties to a complaint, unless information must be limited for confidentiality, privacy or other reasons
- actively monitor the progress of complaints and instigate action to resolve complaints that are not progressing within reasonable timeframes
- provide all parties to a complaint with an opportunity to comment on any adverse findings or evidence before finalising the resolution process
- attempt to resolve complaints in a way that will achieve the most timely, proportionate and appropriate outcome for people receiving care
- use these Guidelines and RARP to identify risk and support the timely, proportionate and appropriate resolution of complaints
- continue to review the risk profile and resolution approach for a complaint in response to new and relevant information
- consider the capacity and wishes of the complainant, person receiving care and provider in determining the most appropriate resolution approach
- where possible, seek to foster improved relationships between complainants and providers who have an ongoing relationship
exercise judgment and discretion and be responsible and accountable when applying the complaints management principles to processes

exercise skill and diligence to ensure that information and advice provided are accurate

seek out and draw on information from diverse sources and use experience and judgement to analyse what information is important and how it should be used

systematically analyse information to identify relationships between factors, identify problems, assess their significance and take appropriate action to resolve them

seek to draw accurate conclusions by clarifying information to avoid unwarranted assumptions

work within the scope of their delegation

seek advice from a complaints manager if they are unsure about the application of policies and procedures or how to manage an issue in accordance with the complaints management principles, and

use their peers and broader resources to support accurate, objective, reasonable and consistent decision making.

6.3 Role of complaints officers during the resolution phase

During the resolution phase, complaints officers will consider:

- the different approaches that can be used as part of a resolution process
- how to commence and conduct a resolution process
- how to review the approach and make adjustments depending on the progress of the complaint, and
- how to document the outcomes of a resolution process.

6.4 Manager involvement throughout the resolution phase

Complaints managers are expected to provide oversight during the resolution phase. At a minimum they are expected to:

- assist complaints officers as needed, including when a complaints officer needs to debrief and seek guidance or advice
- consult with their peers and other sources of information to formulate their approach in relation to a complaint
- review the reasoning for, and agree to the proposed approach to, any site visit
- review and agree to any planning documents relating to the resolution process (for example, conciliation plan or investigation matrix), including any change in the RARP, and
- assist complaints officers as needed to review information, develop a NIIDR and the DRR.

The extent of complaints manager involvement in any particular complaint will depend on the nature of the complaint, the issues identified and the experience of the complaints officers involved. The complaints manager should discuss the required level of involvement with the complaints officer to whom the complaint is allocated and review if circumstances change.

6.5 Delegate’s role in the resolution phase

The delegate might be the complaints manager overseeing the resolution process or a person who has not been involved in the management of the case. The key roles of the delegate are to:

- provide feedback to the complaints officer regarding any changes that are required to inform the delegate’s decision making process
- review and, if satisfied, approve any decision to take no further action
• review and, if satisfied, approve any NIIDR and sign the letter accompanying the NIID, and
• review and, if satisfied, approve the DRR.

Important! In some cases, delegates may need to seek the advice of their peers to support accurate, objective, reasonable and consistent decision making.

6.6 Resolution approaches

A resolution approach is an approach taken during the resolution phase to resolve a complaint issue.

The resolution approaches available to the Complaints Commissioner to facilitate the resolution of a complaint are:

• Conciliation – this involves complaints officers assisting the parties to work together to discuss the issues and reach agreement. This could be achieved by phone discussion or through meetings between the parties. Following a successful conciliation process, the delegate may end the resolution process on the basis that the parties have reached agreement.

• Provider resolution – this involves the Complaints Commissioner referring a complaint (or issues within a complaint) to a provider to resolve through its own complaints management processes. A delegate may end the resolution process if satisfied with the outcome, taking into account the views of the complainant and person receiving care.

• Mediation – this involves an independent mediator working with the parties to discuss the issues and attempt to reach agreement or an otherwise acceptable outcome. If a mediator is engaged, it will be at the cost of the provider and complainant. A delegate may end the resolution process on the basis that the parties are undertaking mediation.

• Investigation – this involves obtaining information from documents or talking to relevant complaint parties, other persons and organisations, including through site visits. Investigation might be required where more information is required and it is determined that other approaches are inappropriate, impossible or unlikely to achieve a positive outcome. A delegate may end the resolution process on the basis of the findings.

6.7 Key activities in the resolution phase

During a resolution process, complaints officers can undertake a range of activities relevant to the resolution approach adopted to assist them to reach an outcome.

• Activity 1: Determining the resolution approach – complaints officers must determine the most appropriate resolution approach based on recommendations from a complaints manager during the detailed assessment phase, and where the approach needs to be reassessed during the resolution process. Throughout the resolution process, complaints officers should consider any changes that may affect the adopted resolution approach, outcome or risk profile, such as changes that affect a person receiving care or the provider.

• Activity 2: Contacting the complaint parties – once complaints officers have reviewed all background material they should contact the complainant and where appropriate the provider and person receiving care to discuss the issues.

• Activity 3: Planning the resolution approach – complaints officers should review the RARP and, in consultation with a complaints manager, plan and document the resolution approach.

• Activity 4: Collecting information – complaints officers may collect information from complainants, providers, people receiving care and other parties.

• Activity 5: Undertaking a site visit or onsite meeting – complaints officers may visit the site where services are provided or the provider’s offices to collect information. Complaints officers may also meet with the provider or a person receiving care to discuss the resolution process.
Activity 6: Assessing collected information – complaints officers must assess sufficient information collected during the resolution process to reasonably satisfy a delegate that a fact has been established or about the most probable version of events.

Activity 7: Referrals to other organisations – a delegate may authorise the release of information to assist another organisation to perform its regulatory function. A referral does not prevent the Complaints Commissioner from continuing with the resolution process.

Activity 8: NIIDs and directions -

Activity 9: Documenting the resolution process – complaints officers must document the resolution process in appropriate planning documents, reports and notices to inform the delegate’s decision making process.

Activity 1: Determining the resolution approach

6.8 Adopting one or more resolution approaches

The Complaints Commissioner can adopt one or more resolution approaches for dealing with a complaint or an issue within a complaint. Complaints officers should seek to resolve the issues in the complaint using one resolution approach where possible as this supports the efficient use of the time of the complainant, provider and the Complaints Commissioner.

The choice of the resolution approach rests with a complaints manager, who should:

- seek to adopt one approach for a complaint where possible, regardless of how many issues there are in the complaint, and
- decide to use multiple approaches or adjust the original recommended approach to achieve a better outcome for the person receiving care. In this circumstance the complaints manager should seek to achieve timely and proportionate resolution that equitably and efficiently uses the resources of the provider and the Complaints Commissioner.

6.9 Considerations when determining the resolution approach

To determine the most appropriate resolution approach at the commencement of or during the course of the resolution process, complaints officers in consultation with a complaints manager will consider:

- the desirability of resolving complaints as quickly as possible if this is clearly in the best interests of people receiving care, complainants and providers
- supporting positive outcomes for people receiving care
- ensuring that the resolution approach is proportionate to the issues in the complaint
- the privacy status of the complaint
- the relationship between the complainant and the person receiving care
- the willingness and capacity of the parties to engage in the proposed resolution approach
- the nature of the issues raised and the identified risks
- the desirability of educating complainants and people receiving care on their rights and responsibilities so they are empowered to make informed decisions and, where possible, resolve their concerns directly with the provider, and
- the most appropriate activities to apply within a resolution approach.

Complaints officers should use a range of information to determine the most appropriate resolution approach, including:

- the RARP, to familiarise themselves with the complaint
• background information collected during the intake and detailed assessment phases including file notes of discussions and reports that have informed the risk rating and recommended resolution approach
• the recommendations made at the end of the detailed assessment phase and the rationale for those recommendations to make considered judgments about whether the recommended approach continues to be appropriate (refer to Chapter 5: Detailed Assessment Phase)
• the complaints history of the provider, and
• additional information collected by contacting, where appropriate, the complainant, the person receiving care and the provider to fill in any gaps that may assist to determine the most appropriate approach.

Complaints officers in consultation with a complaints manager will determine the most appropriate resolution approach and seek complaints manager approval of the recommended or adjusted resolution approach.

Important! If significant new information, or a change in circumstances, arises during any resolution process regardless of approach used, complaints officers should immediately discuss the issue with a complaints manager as the RARP may need to be updated.

Important! Where complaints managers decide to adjust an approach, the rationale for their decision must be documented in the resolution plan.

See also:

Factsheet 7. How do I know what a legally appointed representative is?

6.10 Ongoing review of the appropriate resolution approach through the RARP
Throughout a resolution process, complaints officers should consider any changes which might affect:
• the resolution approach being adopted
• the outcome of the resolution, or
• the risk profile of the case.

Complaints officers should review and reassess the RARP when new information is received. For example where:
• new information indicates a change in the impact on the person receiving care
• a process breaks down – such as the complainant, person receiving care or provider advising that they no longer wish to participate in conciliation
• the health status of the person receiving care changes rapidly, or
• compliance action is initiated against the provider (possibly as the result of another case) or if other contentious matters are identified.

Any changes that affect the risk profile or resolution approach must be updated in the RARP. The revised plan must be discussed with and approved by a complaints manager.

See also:

Template 3a. Risk Assessment and Resolution Plan (Internal)

Activity 2: Contacting the complaint parties

6.11 Making contact with the complainant
Once complaints officers have reviewed all background materials, they should contact the complainant to:
introduce themselves
- re-confirm the complainant's agreement to the issues as set out during the detailed assessment phase in the correspondence from the Complaints Commissioner – see Chapter 5: Detailed Assessment Phase, and
- discuss the proposed resolution approach.

If a complainant does not agree with the issues the complaints officer is seeking to confirm, the complaints officer must invite the complainant's feedback and send additional correspondence confirming the agreed issues.

6.12 Making contact with the provider

Complaints officers should make contact with the provider by telephone to follow up on any previous discussions that may have occurred during the intake and detailed assessment phases unless it has been decided to not contact or delay contacting the provider during the resolution process due to the resolution approach being adopted and the issues within a complaint.

The provider must be notified in writing about any issue when the Complaints Commissioner decides to undertake a resolution process unless informing the provider would likely impede the resolution process or place any person at risk. This is particularly important where an unannounced site visit may be a part of a resolution process.

Note: Informing the provider about the complaint issues and resolution process is an important procedural fairness step and it enables a provider to be fully involved in the complaint.

6.13 Making contact with the person receiving care

Where the complainant is not the person receiving care, complaints officers should consider the appropriateness of contacting the person receiving care while planning the resolution approach and discuss this with a complaints manager.

See also:
- Factsheet 7. How do I know what a legally appointed representative is?
- Factsheet 24. How do I determine a person receiving care's wishes when they are named in a complaint?
- Factsheet 30. What do I do when a complainant withdraws or a person receiving care does not want the complaint to continue?

Activity 3: Planning the resolution approach

6.14 Planning how to apply the resolution approach

The first important step for all resolution approaches is to plan how the approach will be applied. Planning can save time and resources as the conciliation, provider resolution, mediation, or investigation proceeds. This is discussed in relation to each of the resolution approaches in the following topics.

Complaints officers must document the resolution process and outcomes in appropriate planning documents, reports and notices, including completing a DRR (refer to Activity 8: Documenting the resolution process).

Activity 3a: Conciliation

6.15 What conciliation involves and potential outcomes
Conciliation involves complaints officers assisting the parties to work together to discuss the issues, ideally to reach agreement.

Following a successful conciliation process, the delegate will end the resolution process on the basis that the parties have reached agreement. As agreement is reached between the parties and solutions are not directed by the Complaints Commissioner, the Complaints Commissioner will not monitor the resolution outcomes or enforce these solutions. However, complainants may come back to the Complaints Commissioner if they continue to have concerns.

If agreement cannot be reached between the parties:

• a complaints manager may decide to adopt an alternative approach with the aim of bringing the resolution process to an end, or
• a delegate may decide to end the resolution process.

The outcome of the resolution process and agreed solutions will be described in feedback provided to both parties.

See also:

Factsheet 12. How do I conduct a conciliation meeting?

6.16 Issues suitable for conciliation

An issue may be suitable for conciliation if:

• the complainant and provider are willing and able to participate in the conciliation process
• the complainant and provider have agreed to the Complaints Commissioner assisting them to conciliate the issue, and
• a conciliated outcome is likely to achieve a timely and positive outcome for the person receiving care.

6.17 Role of the complaints officer in conciliation

Complaints officers can assist complainants and providers to resolve complaints and reach satisfactory outcomes by:

• asking questions to clarify the issues
• advising the complainant and provider of their rights and obligations
• facilitating discussions, and
• if requested and appropriate, providing options and making suggestions to help the parties resolve the issue and reach agreement.

Complaints officers cannot allow the parties to agree to something that is contrary to a provider’s responsibilities under the Act, the Aged Care Principles or the Comprehensive Grant Agreement. The parties can agree to something about which the legislation or Comprehensive Grant Agreement is silent. For example, a complaints officer could not allow the parties to agree to share the cost of toiletries such as toothbrushes, soap and toilet paper for a person receiving care because the provider is responsible for providing toiletries to all people receiving care who require them. The parties could agree that the provider will provide a person receiving care with an extra two pieces of fruit every afternoon even if there is nothing expressed about this in the legislation.

Important! If during the course of conciliation complaints officers are unsure whether something is within a provider’s responsibilities, or they require clarification on a matter raised, they should pause the meeting and seek advice from a complaints manager.

6.18 Planning conciliation
At the commencement of a conciliation process, complaints officers must, in consultation with a complaints manager, plan their approach to conciliation. For example, complaints officers might consider:

- the expectations of the parties
- any risks in bringing the parties together
- any special needs of the parties
- the best way to progress the conciliation, and
- a review of relevant information or documents obtained from the parties to assist in the planning process.

Planning should be done in consultation with all the parties to the complaint because their views will influence the best approach. This will be a fluid process that requires complaints officers to be adaptable.

Complaints officers should reflect their planning in the Conciliation Plan. This is an internal document used for the management of cases.

See also:

Template 5a. Conciliation Meeting Plan (Internal)

6.19 Methods for conciliation

Depending on the parties involved and the nature of the complaint, complaints officers can facilitate the conciliation process by any of the following methods:

- facilitating a meeting between the complainant and provider
- facilitating a teleconference meeting between the complainant and provider, or
- talking to the complainant and provider separately.

It is not always necessary or appropriate for complaints officers to organise a meeting to facilitate a conciliation resolution process.

6.20 Confirming the engagement of all parties

Complaints officers should ensure that the resolution approach adopted has been discussed with all parties and that the parties are willing to engage in the conciliation process. Complaints officers should:

- confirm that both the provider and the complainant are willing to continue to participate in the conciliation process
- confirm the issues to be resolved through conciliation
- gain an understanding of the expectations of the parties about conciliation and address any misconceptions
- confirm that all parties are aware that complaints officers are not acting as an advocate for either party but will assist the parties to try and find common ground and agree to a way forward, and
- discuss possible ways that the conciliation may proceed (for example, through phone calls, teleconference or meeting).

6.21 Conciliation meeting

If a conciliation meeting is proposed, complaints officers should confirm in writing all meeting arrangements with the participants. This should include a description of the roles of each of the relevant parties including complaints officers during the conciliation meeting.
Use of lawyers in a conciliation meeting

The intention of a conciliation meeting is to bring two or more parties together to discuss and attempt to resolve the issues themselves.

Participants should be advised that the meeting is not a legal proceeding and that it is not appropriate for any of the parties involved to have legal representation at a conciliation meeting.

If any party asks to have legal representation officers should advise them that this is not in keeping with the focus of a conciliation meeting. If any party insists a lawyer be present complaints officers should consult with a complaints manager.

**Note:** Complaints officers can terminate a conciliation meeting if a party attends accompanied by legal representatives.

Audio or video recording a conciliation meeting

Recording of conciliation meetings using audio or video equipment is not permitted except in exceptional circumstances. For example, where one party is unable to take written notes or arranges for someone to take written notes for them.

**Important!** Complaints officers should discuss any requests to use audio or video recording equipment in such circumstances with a complaints manager and all parties must agree with the arrangement.

6.22 Teleconferencing to facilitate conciliation

Situations in which organising a teleconference with both parties may be appropriate include:

- where there are relatively straightforward or minor issues that can be discussed over the telephone without the need to meet
- where the complainant is not located near the provider and a meeting is not practical, or
- where the complainant has limited mobility and is unable to attend a meeting.

6.23 Speaking separately to the parties to facilitate conciliation

Speaking with each party separately may be appropriate when the complainant is open to a conciliated outcome but does not feel confident to meet with the provider. In these situations complaints officers must confirm the information presented by one party with the other party.

Activity 3b: Provider resolution

6.24 What provider resolution involves and potential outcomes

Provider resolution involves the Complaints Commissioner referring a complaint or specific issues within a complaint to a provider to resolve through its own complaints management processes.

Providers of aged care are required to have complaints management processes in place. These requirements are set out in the *Quality of Care Principles 2014* or in the Comprehensive Grant Agreement and are also required under the relevant Accreditation Standards, Home Care Standards or Quality Framework Standards. A provider may investigate the issue or meet with the complainant and any other relevant parties to discuss and resolve the issues in a complaint.

The advantages of provider resolution include that:

- it supports continuous improvement within an aged care service
- if solutions are implemented by the provider working with complainants and people receiving care, rather than having solutions imposed on them, the changes are more likely to be sustainable
- it assists in building a relationship between providers and complainants and people receiving care, and
• it can be useful in the case of anonymous complaints.

Complaints officers actively monitor a provider's resolution of a complaint and may require the provider to provide a written report on any action taken to resolve the complaint. Complaints officers, with the agreement of a complaints manager, may also request the provider to provide additional information to assist the Complaints Commissioner in assessing the provider's response.

The delegate may end the resolution process if satisfied with the report. The Complaints Commissioner may provide a copy of the provider's full report or a summary of the report to the complainant.

See also:

Template 6b. Referral of Complaint for Provider Resolution (Provider)

6.25 Issues which may be suitable for provider resolution

A complaint, or issues within a complaint, may be suitable for provider resolution if:

• the Complaints Commissioner is satisfied that the issues do not present any significant risk to the safety, health or wellbeing of people receiving care
• the provider is willing to act on the issues in the complaint
• the provider is agreeable to providing a written resolution report to the Complaints Commissioner within the agreed timeframes
• the aged care service and, where relevant, the provider do not have a history of poor complaints management, and
• the complaint will be resolved in as timely and comprehensive a manner by the provider as it would be by the Complaints Commissioner investigating or conciliating the complaint.

Important! It is essential that complaints officers are aware of the limits on the types of complaints that may be resolved through provider resolution and seek the approval of a complaints manager before progressing to provider resolution.

Note: It is not necessary to secure the agreement of a complainant to attempt to resolve a complaint through provider resolution but, where appropriate, this should be discussed with the complainant.

6.26 Planning provider resolution

At the commencement of a resolution process, having reviewed the RARP, complaints officers should plan their approach to provider resolution. In planning the resolution approach, complaints officers should consider:

• the timeframes within which a report from the provider will be expected – refer to ‘Discussions with providers’ below
• what information the provider has in relation to the issues and whether additional information should be given to the provider, and
• any other suggestions that might assist the provider to undertake the resolution process.

This planning should be done in consultation with a complaints manager and the parties involved.

6.27 Confirming the engagement of all parties

Complaints officers should ensure, where appropriate and relevant, that the resolution approach has been discussed with all parties.

In discussions with the provider, complaints officers should:
• confirm that the provider is willing to engage in provider resolution of the complaint
• confirm the issues to be resolved through provider resolution
• confirm the process that will be adopted in relation to provider resolution. The provider needs to commit to:
  o examine the issues within an agreed timeframe, and
  o provide a resolution report and any other relevant information to the Complaints Commissioner
• make an assessment about whether the process and outcome achieved meet the Complaints Commissioner’s expectations. This is to be done in consultation with the provider and the complainant, and
• confirm that a copy of the provider’s report will, in most cases, be provided to the complainant by the Complaints Commissioner.

In discussion with the complainant, complaints officers should:
• explain the provider resolution process
• confirm whether they wish to be contacted by the provider and agree to their contact details being provided to a provider so the provider can contact them directly, and
• advise that they will be provided with feedback about the outcome of the provider resolution process.

6.28 Referring the issues to the provider for resolution

When the involvement of the parties has been confirmed and the planning undertaken, complaints officers should write to the provider:
• notifying them of the complaint, the contact details of the complainant, if appropriate, and the issues in the complaint
• requesting them to work with the complainant, if appropriate, to resolve the issues, and
• requesting that they provide a resolution report within a specified timeframe.

Note: The resolution report must include sufficient information to enable complaints officers to assess that appropriate action has been taken to resolve the complaint. The provider will be provided with an optional template to assist with completing this written report.

Complaints officers should write to the complainant to advise:
• that the issues have been referred to the provider for resolution
• that the contact details of the complainant have been provided to the provider so that the provider can contact them and invite them to work together on the issues, as previously agreed by the complainant
• the date on which the provider is expected to provide a report to the Complaints Commissioner, and
• that the complainant will receive feedback from the Complaints Commissioner about the outcome of the provider resolution process.

See also:
Template 6b. Referral of Complaint for Provider Resolution (Provider)
Template 6e. Referral of Complaint for Provider Resolution (Provider – South Australia ONLY)

6.29 Assessing the provider’s resolution outcome
The complaints officer will advise the provider of the timeframe in which the resolution process is to be conducted and when the resolution report is to be provided. However, the nature of the resolution process adopted by the provider is a decision for them.

If the provider informs the Complaints Commissioner of a possible delay to the resolution process, complaints officers will determine, in consultation with a manager, whether or not the delay is acceptable. If a complaints manager decides the delay is unacceptable, the RARP will be reviewed and updated, as appropriate.

Assessment of the provider resolution report

Once the provider’s resolution report has been received, officers will:

- confirm receipt of the report with the provider either orally or in writing
- review the report
- discuss the report with the provider, clarify any issues and, if necessary, request more information, and
- consult with the complainant to discuss the actions taken by the provider and the extent to which the provider addressed the issues raised by the complainant.

Important! Providers should be aware that the Complaints Commissioner may provide the resolution report to the complainant. Complaints officers should consider the relationship between people receiving care and complainants when considering whether to provide a full report or a summary of the outcomes.

If the issues have been addressed and the delegate is satisfied with the actions of the provider, the delegate may end the resolution process.

If the issues have not been adequately addressed by the provider:

- in the first instance, a complaints manager may decide to provide the provider with an opportunity to respond to and address the concerns identified
- a complaints manager may decide to adopt an alternative approach with the aim of bringing the resolution process to an end, or
- a delegate may decide to end the resolution process if the complainant and provider have agreed on an outcome.

The outcome of the resolution process will be described in feedback provided to both parties (refer to Chapter 7: Outcome Phase).

6.30 Dealing with new information received during provider resolution

If at any stage during a provider resolution process new information is brought to the attention of complaints officers, a reassessment of the RARP should be undertaken and this should be discussed with a complaints manager.

Any information that can significantly affect the Complaints Commissioner’s decision to continue with provider resolution will need to be brought to the attention of the complainant and provider. The timing of this will need to be considered in light of the processes a provider has in place to resolve the matters of concern.

Activity 3c: Mediation

6.31 What mediation involves and potential outcomes

Through the Complaints Commissioner’s approach to mediation, the complainant and provider use an independent mediator to develop resolution options and endeavour to reach agreement.
The Complaints Commissioner may suggest to providers and complainants that mediation may be the most appropriate resolution approach. They should advise that mediation is initiated by the provider and the complainant at their own expense.

A delegate will end the resolution process if the parties indicate that they agree to the mediation approach or the parties independently initiate mediation.

A delegate must write to both the provider and the complainant confirming that:

- the parties have agreed to proceed with or are proceeding with mediation at their own expense
- the Complaints Commissioner will end the resolution process and finalise the complaint on the basis that the parties are undertaking mediation, and
- if the issues are not resolved by mediation, the complainant may return to the Complaints Commissioner with the issues or any new issue and these issues will be treated as a new complaint.

Note: Where the complainant returns to the Complaints Commissioner with the issues related to a complaint that has ended or any new issue the delegate may exercise discretion to take no further action if the issues have already been dealt with under the Complaints Principles.

### 6.32 Issues which may be suitable for mediation

An issue may be suitable for provider or complainant initiated mediation if:

- the parties agree to mediation and are willing to participate
- one or both of the parties agree to meet the costs of mediation, and
- there are no issues which present a significant risk to a person receiving care or which suggest significant non-compliance by a provider with its responsibilities under the Act or their Comprehensive Grant Agreement.

Important! If complaints officers consider that a complaint might be suitable for mediation, they should discuss this with a complaints manager before proceeding.

### Activity 3d: Investigation

#### 6.33 What investigation involves and potential outcomes

Investigation involves investigating complaint issues where other approaches are inappropriate, impossible or unlikely to achieve a positive outcome. An investigation may involve many activities. Officers, in consultation with their managers, will determine the most appropriate activities based on the nature of the complaint and severity of the issues. Officers may obtain information by:

- requesting and reviewing documents from the parties, the person receiving care, other relevant persons (such as medical practitioners) and organisations
- talking to any relevant parties about the issues, and
- conducting site visits to obtain independent observations.

A delegate may end the resolution process on the basis of the findings from an investigation. The outcome of the resolution process will be described in feedback provided to both parties.

#### 6.34 What types of issues may be suitable for investigation?

Some issues raised with the Complaints Commissioner are inappropriate, impossible or unlikely to achieve a positive outcome by any other method or approach. In these instances, a complaints manager may choose to undertake an investigation.

#### 6.35 Role of the complaints officer in meeting the principles of good investigation
In conducting an investigation, complaints officers are expected to:

- plan the investigation, including whether or not a site visit is warranted
- gather information relevant to the issue
- regularly review and update the RARP if any new information is received during an investigation
- maintain regular contact with all parties to the complaint
- observe the principles of procedural fairness, ensuring the investigation is conducted fairly and without bias
- conduct the investigation promptly
- maintain a record of the investigation
- examine relevant information, and
- ensure that the facts and information support any findings.

6.36 Planning an investigation – using the investigation matrix

By planning an investigation, complaints officers and complaints managers can ensure that:

- the investigation is carried out methodically
- resources are used to best effect, and
- sources of information are not overlooked.

The investigation matrix is an internal document used for the management of the complaint which provides a structure for planning a timely, thorough and comprehensive investigation. Complaints officers must complete the investigation matrix before conducting any investigation to:

- clarify the issues in a complaint and the investigation process to be taken
- identify what relevant information needs to be obtained during the investigation to address the complaint, and
- identify where to get the required information, including other parties that may be contacted for more information.

When completed, the complaints officer must seek complaints manager approval of the investigation matrix before the commencement of an investigation, including approval of a site visit.

See also:
Factsheet 10. How do I complete an Investigation Matrix?

Activity 4: Collecting information

6.37 Collecting information – sources and types

Complaints officers should only request information that is relevant or necessary to resolution of the complaint issues.

Information can be collected from a wide range of sources including:

- complainants
- people receiving care
- providers
- staff at aged care services
- relatives or friends of people receiving care
- representatives and advocates of people receiving care, and
• health professionals.

**Note:** Third parties may agree or decline to give information or documents to the Complaints Commissioner.

Types of information that may be collected, regardless of whether it is dated or undated, include:

- personal observations or accounts of things observed or heard by any person, even if the person is unable to substantiate the information with written documentation
- business documents such as annual reports, policies and procedure manuals, files, incident reports, financial records, resident agreements, education and training documentation and complaints registers
- care documentation such as person receiving care’s files, care plans, progress notes and reports and surveys that reflect service provision or care needs, and
- any other information which could materially affect the decisions of the Complaints Commissioner.

**Important!** Complaints officers must ensure that all personal and sensitive information received is handled appropriately in accordance with the APPs. A notice of collection will be provided to individuals before collection, at the time of collection or as soon as reasonably practicable after collection unless notification may pose a serious threat to the life, health or safety of any individual.

During information collection, complaints officers should advise the parties to the complaint that:

- there is no requirement for either the complainant or the provider to produce sufficient information to prove or disprove an issue. The parties should be encouraged to provide any information or evidence that it is within their power to provide, and
- sufficient information is needed to allow the delegate to form an acceptable, fair, valid and reasonable conclusion.

**See also:**

[**Factsheet 14. How do I handle unsolicited personal information?**](#)

[**Factsheet 22. How do I collect, test and weigh information?**](#)

### 6.38 Considerations about information the Complaints Commissioner might receive

The Complaints Commissioner will accept any information. However complaints officers must consider whether the information is relevant to and necessary for dealing with a complaint and the appropriate handling of that information. This includes:

- information that might have been obtained without the knowledge or consent of the person or persons involved, such as copies of documents, audio recordings, video recordings or photographs of people receiving care or others
- information that requires clarification about whom and what it relates to, such as photographs of a wound or body part, and
- information that was provided confidentially.

Clarification or consent about information the Complaints Commissioner receives might need to be obtained from the person involved.

If the Complaints Commissioner did **not** request the information and it is **not** relevant to the complaint issues raised the information will **not** be considered further and, as appropriate, the information will not be retained. Otherwise, complaints officers will consider how the information guides the Complaints Commissioner’s line of enquiry into relevant complaint issues.

**Important!** If complaints officers are unsure about how to handle information received, including where complaints officers **cannot** be satisfied that consent was obtained from the person involved or the information was provided confidentially, they must consult a complaints manager.
Important! Where unsolicited personal and sensitive information is received by the Complaints Commissioner, complaints officers must ensure it is handled appropriately and in accordance with the APPs.

See also:
- Factsheet 13. How do I keep good records and manage information?
- Factsheet 14. How do I handle unsolicited person information?

6.39 Taking of photographs and recording interviews

Generally, complaints officers will not take photographs. Where it is deemed relevant and important to the resolution process, complaints officers may take photos of:
- people receiving care, where a person receiving care has requested and thus consented to this without prompting, and
- objects, such as unsafe equipment or environments or unclean rooms or equipment.

If taking photographs, complaints officers should discuss this with the provider or the owner of the property and be mindful that any unrelated parties (for example, other people receiving care) are not in the photograph.

Complaints officers will generally take written records of interviews. In the circumstance that a complaints officer cannot perform their role using this method, a complaints officer may use a voice recording device to perform this function with the consent of the individual(s) being interviewed. Complaints officers should also discuss this with the provider.

Important! Complaints officers should discuss the circumstance for using voice recording equipment with a complaints manager and all parties must be in agreement with the arrangement.

Activity 5: Undertaking a site visit or on-site meeting

6.40 What an announced or unannounced site visit involves

Site visits allow complaints officers to get a sense of the environment within which services are provided and can be an effective means by which to collect information, including through independent observations and interviews with care staff and people receiving care.

A site visit involves complaints officers exercising their relevant powers when visiting:
- a residential care service
- the offices of a provider, or
- the private home of a person receiving care receiving home care services or a complainant.

The Complaints Commissioner can undertake announced or unannounced site visits depending on the issues identified in the complaint.

- Announced visits – where notice is provided in relation to the visit. The notice can be any period including a matter of hours.
- Unannounced visits – where no notice is given before complaints officers arrive at the premises.

Complaints offices will provide notice of a site visit, except where it is considered inappropriate to do so because it is likely to:
- impede the resolution of the issue
- place the safety, health or wellbeing of any person at risk, or
- place any person at risk of intimidation or harassment.
6.41 Circumstances in which a site visit to a residential service or provider's office will be conducted

Whether or not a site visit should be conducted will depend on the specific issues identified in the case.

Complaints officers should consider:
- the purpose of the visit (for example, is a site visit the most efficient and effective way to gather the necessary information?)
- whether there is sufficient concern to warrant a site visit, and
- the timing of the last visit to this service (this will be relevant if, for example, a site visit was conducted very recently on a very similar issue).

Visiting a residential service during a communicable disease outbreak

At times, it may be necessary for complaints officers to do a site visit to a residential aged care service during a communicable disease outbreak to ensure that the provider is meeting its responsibilities under the Act.

Where a site visit is required during a communicable disease outbreak:
- complaints officers should contact the relevant health authority before the site visit and work in collaboration with them. The responsibility for monitoring communicable diseases rests with the relevant state or territory public health unit.
- two complaints officers should conduct the site visit. One complaints officer should have an appropriate clinical background and will ensure that appropriate personal protective equipment is available and used correctly.
- the Clinical Advisory Section can be contacted to seek advice. If advice is required after hours or on weekends, contact the Director, Clinical Advisory Section.

See also:
Clinical Unit
Factsheet 1. When should I seek advice from the Clinical Unit?

6.42 When an onsite meeting would be conducted

An onsite meeting involves a complaints officer meeting with the provider or a person receiving care. In this situation, entry is gained in the same manner as a site visit, by complaints officers exercising their relevant powers, but the intention of the visit is for a meeting and not for investigation purposes.

For example: A person receiving care is not comfortable speaking over the phone and would like to meet with a complaints officer to discuss issues of a complaint or a conciliation meeting is undertaken at a service, a provider's office or a person receiving care's home.

Important! Should a complaints officer observe anything of potential concern or have the need to gather documentation after entering the premises, they may do so because they gained entry under their relevant powers.

6.43 Powers of an authorised complaints officer undertaking a site visit under the Act

When complaints officers undertake site visits for the purposes of assessing whether a provider is complying with its responsibilities under the Act, they must have the delegated authority to do so. The powers of an authorised complaints officer are set out in Part 6.4A of the Act (refer to the Legislation Register website).

Commencing a site visit – consent for entry
When arriving at a provider’s office or service, authorised complaints officers must:

- identify themselves to the person receiving them, including showing their authorised complaints officer identification
- ask to speak to one of the ‘key personnel’ of the provider, the occupier of the premises or the person in charge
- advise the representative of the provider that consent for access to the premises can be withdrawn at any time under subsection 94B-3(3) of the Act
- advise about the purpose of the visit including the nature of the complaint or issues being examined, and
- if the visit is unannounced, give the provider a letter advising of the issues in the case.

It should be explained that under section 94B-4 of the Act, an authorised complaints officer may ask a person at the premises to answer questions or produce documents or records.

6.44 Entry interview

Following entry, an entry interview should be conducted with management or staff identified by the provider. Usually this will be key personnel.

An entry interview provides an opportunity for the complaints officers to:

- introduce themselves to relevant personnel
- explain that they are authorised complaints officers and what this means
- outline the intended schedule for the visit
- confirm the practical arrangements for conducting the visit, and
- clarify any questions that the provider may have.

6.45 Exit interview

Site visits would normally conclude with complaints officers conducting an exit interview with one or more key personnel or other staff of the provider.

Exit interviews provide an opportunity:

- to discuss the key observations made by the complaints officers or any other information gained during the site visit
- for the provider to address any of the issues identified or to provide other relevant information
- for the complaints officers to give the provider general information about the Complaints Commissioner’s process following the site visit, and
- for the provider to ask any questions about the site visit and the Complaints Commissioner’s processes.

In discussing the information arising from the site visit, complaints officers should make it clear that the information obtained is preliminary information only, that more work will be done, and that ultimately the decision regarding the outcome of the resolution process will rest with a delegate (whose decision cannot be pre-empted at the site visit).

**Important!** If, during the course of a site visit, complaints officers identify any immediate concerns regarding the safety, health or wellbeing of people receiving care (for example, equipment blocking a fire exit), these should be raised with the provider immediately while at the service.

6.46 When a site visit to a private home would be conducted
Whether or not a visit to an individual’s private home should be conducted will depend on the specific issues identified in the case. A key consideration is the purpose of the visit. Complaints officers should seek the approval of a complaints manager before undertaking a home visit.

Some specific circumstances in which a home visit might be considered include:

- where an interview with the person receiving care or complainant is required and this cannot be completed over the telephone, in the Complaints Commissioner’s office or an alternative location
- where there is information relevant to the complaint in the home of the person receiving care or complainant
- the preferences of the person receiving care or complainant, taking into account any special requirements they may have, and
- where a meeting with the person receiving care or complainant or any other relevant party is part of the strategy to resolve the complaint.

See also:
Factsheet 5. How do I access the Translating and Interpreting service and the NRS for speech and hearing impaired people?
Factsheet 23. How do I conduct a home visit?

### 6.47 Planning for a site visit to a private home

Before conducting a visit to a private home, complaints officers must:

- discuss the proposed visit with the occupier of the home (usually the person receiving care or complainant) including:
  - advising the person of the purpose of the proposed visit
  - seeking the agreement of the person to the visit
  - arranging a mutually convenient time for the visit (taking into consideration the timing of visits from care workers)
  - explaining what will happen during the visit and how information collected will be used
  - discussing options for making the person feel most comfortable (for example, having a support person present or having a male or a female officer conduct the visit). If conducting a visit to a female person receiving care or complainant who will be alone, at least one female complaints officer should be present. Conversely, if visiting a male person receiving care or complainant who will be alone, at least one male complaints officer should be present.
  - collecting as much information as possible about the home (for example, who is also likely to be in the house during the visit, whether they have animals and so on) to assess potential risks, and
- use this information to complete a Home Visit Safety Plan.

Complaints officers are expected to:

- phone the person receiving care or complainant to confirm arrangements, before visiting the home on the day of the visit
- ensure that a colleague or manager has access to the information pertaining to the visit, before leaving for the person’s home, and
- phone a complaints manager, just before arrival and just following departure from the home, if telephone reception is available. If the home is in a rural area which does not have mobile contact, complaints officers should phone a complaints manager when leaving the last known reception area and contact again when back in range.
Activity 6: Assessing collected information

6.48 Analysing collected information

When analysing information, complaints officers are expected to consider whether:

- the information obtained answers the questions identified during the planning phase, as adjusted over the course of the resolution process;
- it is possible to make a conclusion on all of the relevant questions, based on the information before the complaints officer;
- there is any other information that supports or corroborates one conclusion over another, if information is conflicting;
- any new information should be provided to other parties to seek their response, and
- to take into account the reliability of the information, the context and the nature or type of information.

Important! If complaints officers are uncertain about particular information collected, they should seek advice from a complaints manager.

See also:
Factsheet 22. How do I collect, test and weigh information?

Activity 7: Referrals to other organisations

6.50 Making a referral to another organisation

The Complaints Commissioner can make a referral during any phase of the complaints management process. If sufficient information is obtained to indicate that information received may assist another organisation to perform its regulatory function, a delegate may authorise the release of the information in accordance with the requirements related to the disclosure of protected information, personal information and confidential information.

Referrals of information or complaint issues can be made to organisations including:
• the department
• the Quality Agency
• state and territory governments
• the Public Health Unit
• the police
• the Coroner
• the Australian Health Practitioner Regulation Agency (AHPRA), and
• health care complaints bodies.

See also:
Factsheet 33. How do I make referrals to external organisations?
Guidance Portal

Activity 8: NIIDs and Directions

6.51 The NIID

During the course of a resolution process, it might become clear that it would be appropriate to issue a direction to a provider to take action to comply with its responsibilities under the Act and Aged Care Principles.

The Complaints Commissioner must issue the provider with a NIID before issuing a direction.

A NIID describes the Complaints Commissioner’s preliminary findings, identifies concerns regarding the apparent failure of the provider to meet its responsibilities under the Act and Aged Care Principles and provides an opportunity for the provider to identify how it has or will address the issues raised.

Note: A NIID may be issued during any resolution process regardless of the resolution approach being used.

6.52 What to include in a NIID

Complaints officers must complete and submit a NIID Report (NIIDR) to a delegate to appropriately document the reasons for issuing a NIID and to obtain delegate approval to proceed with a NIID. The NIIDR is an internal report used for the management of complaints.

Where a delegate agrees to proceed with issuing a NIID, complaints officers should draft the notice to the provider:

• describing the preliminary findings of the delegate and the concerns held by the delegate regarding the apparent failure of the provider to meet its responsibilities under the Act, the Aged Care Principles or the Comprehensive Grant Agreement
• to give the provider the opportunity to respond to these findings and concerns by identifying how they have, or will, address the matters identified, and
• to provide notice that the Complaints Commissioner may, after considering any response from the provider, direct the provider in writing to take actions to comply with its responsibilities under the Act, the Aged Care Principles or the Comprehensive Grant Agreement

The NIID must be approved by the delegate before being given to the provider. The NIID must not be provided to the complainant or any other party.

6.53 Responding to a NIID

The provider may decide whether or not to respond to a NIID issued by the Complaints Commissioner.
The NIID must state the timeframe which the provider has to respond. A period of 14 days is usually appropriate but the delegate may specify any period.

**Important!** A shorter time might be specified if action needs to be taken quickly to protect the safety, health or wellbeing of people receiving care.

### 6.54 Complaints Commissioner’s consideration of the provider’s response to a NIID

If a provider provides a response to a NIID, complaints officers must promptly consider the following while updating the NIID follow up report:

- the adequacy of the response, with input from their peers, a complaints manager and if necessary from the Clinical Advisory Section
- whether the provider has taken sufficient action to remedy the issue and therefore the resolution process can be ended without issuing a direction
- whether the provider has provided a response which adequately details how and when it will implement improvements to meet its responsibilities in respect of the issues raised and, whether it is appropriate to give a direction based on the actions and timeframes proposed by the provider, and
- whether the actions and timeframes proposed by the provider are inadequate and if so, whether a direction should be issued detailing appropriate actions and timeframes. For information on issuing a direction to a provider, refer to Chapter 7: Outcome Phase.

See also:

- Clinical Unit
- Factsheet 1. When should I seek advice from the Clinical Unit?

### 6.55 Directions

The Complaints Commissioner may end a resolution process if a direction has been issued to the provider. Cases may be closed using other grounds of the Complaints Principles other than directions have been issued.

A direction requires a provider, who is the subject of a resolution process, to take action to comply with its responsibilities under the Act, the Aged Care Principles or the Comprehensive Grant Agreement. A direction may only be issued after a provider’s response to a NIID has been considered and deemed inadequate (refer to Topic 6.58 Complaints Commissioner’s consideration of the provider’s response to a NIID).

### 6.56 Information to be included in a direction

If the delegate decides to issue a direction, the complaints officer should prepare the direction for the provider. The direction must include:

- the actions the provider is required to take, and
- the timeframe in which the actions must be undertaken.

**Note:** Once a direction is issued the Complaints Commissioner will monitor the provider’s actions to ensure it will meet its responsibilities before closing the case (refer to Topic 7.28 Monitoring the provider’s response to a direction).

### 6.57 Determining timeframes for a direction to be met

Complaints officers, in consultation with a manager, must determine the timeframes in which a direction must be met on a case-by-case basis.
Matters that complaints officers should take into account in determining appropriate timeframes include:

- the potential risk to people receiving care
- the appropriateness of any timeframes proposed by the provider in its response to the NIID, and
- the timeframe required for a provider to appropriately implement required changes to ensure sustainable outcomes.

Note: An extension of time can be given to the provider to meet a direction. In this circumstance, the provider will be advised of this extension in writing and the provider monitored against these extended timeframes (refer to Topic 7.29 Action if the provider fails to meet a direction)

Activity 9: Documenting the resolution process

6.58 Preparing a conciliation meeting report

Following a meeting, complaints officers should document the agreed outcomes in a conciliation meeting report. This is an internal report used for the management of cases.

During or following a teleconference or speaking separately to conciliation parties, if agreement on the issues is reached, complaints officers should confirm the understanding of both parties of what has been agreed and what action, if any, will be taken by the provider. This can be done orally or in writing.

See also:

Factsheet 12. How do I conduct a conciliation meeting?

6.59 Preparing a site visit report or onsite meeting report

A site visit report must be prepared following every site visit. This is a contemporaneous record summarising the observations, discussions and documents reviewed at the site visit by the complaints officers. This is an internal report used for the management of complaints.

Complaints officers must prepare an onsite meeting report following an onsite meeting. This is a contemporaneous record summarising any discussions between the complaints officers and the relevant parties. This is an internal report used for the management of complaints.

Note: Site visit reports and onsite meeting reports should be completed as soon as possible to preserve the contemporaneous record taken during the site visit, including any discussions between the complaints officers and the relevant parties. All visits to provider premises should be disclosed to relevant parties and therefore cannot remain confidential.

6.60 Providing feedback to parties to a complaint

The parties to the complaint will receive details about the resolution process outcome through written feedback once the resolution process is ended (refer to Chapter 7: Outcome Phase).

6.61 Completing a DRR

Complaints officers must document the resolution process in a DRR. The purpose of the DRR is for complaints officers to record in a consolidated report:

- the issues in the case
- a summary of the resolution process adopted
  - in cases where a NIID is issued to a provider, the DRR will detail the provider’s response to the NIID,
- the outcome recommended in relation to each issue, and
• the rationale for recommending the proposed outcome in relation to each of the issues.

A DRR is an internal report used for the management of complaints. The DRR will inform the delegate’s decision regarding the complaint and must be approved by the delegate. The DRR also informs the delegate’s decision about how to end the resolution process.

**Note:** A DRR is not required for complaints resolved by early resolution at the intake or detailed assessment phases (refer to Chapter 4: Intake Phase and Chapter 5: Detailed Assessment Phase).

**See also:**

Factsheet 26. What information should I include in the background information section of our documents?
Chapter 7 - Outcome Phase

This chapter sets out the key activities to be undertaken by complaints officers during the outcome phase, the fourth and final phase of the complaints management process.

Chapter 7 contents

Overview of the outcome phase .....................................................................................................................97

7.1 Making a decision to end a complaints resolution process .................................................................97
7.2 Complaints management principles relevant to the outcome phase ..................................................97
7.3 Complaints manager role at the outcome phase ...............................................................................97
7.4 Delegate's role in the outcome phase .................................................................................................98
7.5 The available decisions to end the complaints resolution process in the outcome phase .................98
7.6 Deciding to end as the issue has been resolved ................................................................................99
7.7 Deciding to end as the provider has addressed the issue to our satisfaction ......................................99
7.8 Deciding to end because a direction has been issued to a provider ..................................................99
7.9 Deciding to end as the department has initiated compliance action ..................................................100
7.10 Deciding to end as the complainant has withdrawn from the process .............................................100
7.11 Deciding to end as the issue is better dealt with by another organisation ........................................101
7.12 Seek feedback from the referral organisation ...................................................................................101
7.13 Deciding to end as continuation of the resolution process is not warranted ......................................101
7.14 Circumstances giving rise to the complaint cannot be determined ..................................................101
7.15 Information not given in good faith ...................................................................................................102
7.16 The issue is subject to legal proceedings or coronial inquiry ...........................................................102
7.17 The issue has been dealt with previously .........................................................................................102
7.18 Person receiving care does not want the process to continue ...........................................................103
7.19 Having regard to all circumstances continuation not warranted .......................................................103

Feedback to complaint parties and referrals ...............................................................................................103

7.20 Feedback which must be provided when a complaint is finalised .....................................................103
7.21 The importance of providing informal feedback throughout the resolution process ......................103
7.22 Information to be included in written feedback to the complainant and the provider ......................104
7.23 Feedback for the complainant and the provider can differ ...............................................................104
7.24 Review rights afforded to the complainant and provider ....................................................................105
7.25 Feedback can be given to others .......................................................................................................105
7.26 Restrictions on providing feedback about referrals ..........................................................................106

Finalising the case .........................................................................................................................................106

7.27 When the Complaints Commissioner will not monitor resolution outcomes ..................................106
7.28 Monitoring the provider’s response to a direction ............................................................................107
7.29 Action if the provider fails to meet a direction ................................................................................107
7.30 Finalising the case following a direction ...........................................................................................107
Overview of the outcome phase

7.1 Making a decision to end a complaints resolution process

The complaints outcome phase is one of the key decision points in the resolution process. The decision to end a complaints resolution process must be made by a delegate with the appropriate authority.

Complaints officers make recommendations to the delegate in the outcome phase about the most appropriate reasons for ending a resolution process under section 14 of the Complaints Principles. Complaints officers are encouraged to seek the views of a complaints manager and peers to support objective, reasonable and consistent decision making. This is particularly important where a delegate is considering issuing a direction to a provider, or where a delegate is considering ending a resolution process because they do not believe continuation is warranted. Written feedback signed by the delegate must be provided to the complainant and provider outlining the resolution process undertaken and the decision of the delegate.

Complaints officers will finalise the case in the Complaints Commissioner’s official information management system once the complainant and provider have received appropriate feedback.

Note: Early resolution during the intake phase or detailed assessment phase is not a formal resolution process and is not discussed in this Chapter; there is no requirement to provide feedback to complaint parties where a complaint has been resolved by early resolution.

7.2 Complaints management principles relevant to the outcome phase

When deciding on complaint outcomes during the outcome phase, complaints officers should have particular regard to the complaints management principles set out below. Complaints officers will:

- provide an opportunity for the parties to a complaint to provide relevant information before key decisions are made
- seek out and make decisions based on the best available and relevant information
- base their decisions on a reasonable interpretation of all the available information
- make informed, objective and consistent decisions and ensure that delegates making a decision have access to all relevant information that will inform their decision
- make decisions which are consistent with the Act and Aged Care Principles and which support the Complaints Commissioner’s objectives
- work within the scope of their delegation
- use their peers and broader resources to support accurate, objective, reasonable and consistent decision making
- ensure all parties to a complaint, except for anonymous complainants, are advised of their right to a review of the Complaints Commissioner’s decision and the handling of a complaint, and
- not disclose protected information or documents other than as required by law or where proper authorisation is given.

7.3 Complaints manager role at the outcome phase

Complaints managers support complaints officers to undertake their role and provide oversight for all decision making processes.

Complaints managers will be involved in assisting complaints officers to make recommendations to the delegate during the outcome phase. This is particularly important where consideration is being given to ending the process on the basis of the issuing a direction, or whether continuation of the process is not warranted or because issues have been referred to other organisations.

At a minimum, complaints managers are expected to:
assist complaints officers as needed, including when a complaints officer needs to debrief or seek guidance or direction

review and agree to any change in risk or situation within the case which may mean the suggested outcome is no longer appropriate

provide assistance as complaints officers finalise their reports to the delegate, and

review and clear any report prepared for the delegate including the DRR, a NIIDR and a direction.

The extent of complaints manager involvement in any particular complaint will depend on the nature of the complaint, the issues identified and the experience of the complaints officers involved. The complaints manager should discuss the required level of involvement with the complaints officer to whom the complaint is allocated and review if circumstances change.

7.4 Delegate’s role in the outcome phase

The delegate might be the complaints manager overseeing the resolution process or a person who has not been involved in the management of the case. The key roles of the delegate are to:

provide feedback to the complaints officer regarding any changes that are required to inform the delegate’s decision making process

where needed, seek the advice of their peers in some difficult cases

sign the DRR, once satisfied with it

sign feedback letters to the complainant and the provider, including the letter to the provider in which a direction is issued, once satisfied, and

consider and, where appropriate and within scope of their delegations, release any relevant information to other organisations.

7.5 The available decisions to end the complaints resolution process in the outcome phase

Under section 14 of the Complaints Principles, the Complaints Commissioner may end a complaints resolution process on the basis of any of the following:

the issues have been resolved because the complainant and the provider have agreed on an outcome

the provider has addressed the issues to the satisfaction of the Complaints Commissioner

the Complaints Commissioner has directed the provider to take actions to comply with its responsibilities under the Act and Aged Care Principles

compliance action under Part 4.4 of the Act has been initiated

the complainant has withdrawn from the resolution process

the issue is better dealt with by another organisation, or

continuation of the resolution process is not warranted.

7.6 Deciding to end as the issue has been resolved

One of the key aims of the Complaints Commissioner is to assist parties where possible to resolve concerns to achieve good outcomes for people receiving care. The Complaints Commissioner may end a resolution process if the complainant and the provider have reached an agreed outcome in relation to an issue.

7.7 Deciding to end as the provider has addressed the issue to our satisfaction

The Complaints Commissioner may end a resolution process if the provider has addressed the issue to the Complaints Commissioner’s satisfaction.
Complaints officers may come across situations where, although a complainant may not be satisfied with the outcome, the provider is able to demonstrate to the delegate’s satisfaction that it has taken sufficient action to ensure it is meeting its responsibilities in relation to the issues raised.

If the complainant continues to believe the issues have not been resolved, complaints officers must give the complainant reasonable opportunity to provide more information to demonstrate why.

7.8 Deciding to end because a direction has been issued to a provider

The Complaints Commissioner may end a resolution process if a direction has been issued to the provider. Cases may be closed using other grounds of the Complaints Principles other than directions have been issued.

A direction requires a provider, who is the subject of a resolution process, to take action to comply with its responsibilities under the Act, the Aged Care Principles or the Comprehensive Grant Agreement. A direction may only be issued after a provider’s response to a NIID has been considered and deemed inadequate (refer to Topic 6.58 Complaints Commissioner’s consideration of the provider’s response to a NIID).

Information to be included in a direction

If the delegate decides to issue a direction, the complaints officer should prepare the direction for the provider. The direction must include:

- the actions the provider is required to take, and
- the timeframe in which the actions must be undertaken.

Note: Once a direction is issued the Complaints Commissioner will monitor the provider’s actions to ensure it will meet its responsibilities before closing the case (refer to Topic 7.28 Monitoring the provider’s response to a direction).

Determining timeframes for a direction to be met

Complaints officers, in consultation with a manager, must determine the timeframes in which a direction must be met on a case-by-case basis.

Matters that complaints officers should take into account in determining appropriate timeframes include:

- the potential risk to people receiving care
- the appropriateness of any timeframes proposed by the provider in its response to the NIID, and
- the timeframe required for a provider to appropriately implement required changes to ensure sustainable outcomes.

Note: An extension of time can be given to the provider to meet a direction. In this circumstance, the provider will be advised of this extension in writing and the provider monitored against these extended timeframes (refer to Topic 7.29 Action if the provider fails to meet a direction).

A direction can be enforced

Under the Complaints Principles, providers are required to comply with a direction. Failure by the provider to comply with a direction provides grounds for the department to initiate compliance action under Part 4.4 of the Act or under the terms of the Comprehensive Grant Agreement.

The provider will be notified that the Complaints Commissioner requires a written response addressing the direction, including evidence that the required actions have been taken. Refer to Topic 7.28 Monitoring the provider’s response to a direction.

7.9 Deciding to end as the department has initiated compliance action
In some circumstances, a resolution process will identify that a provider's non-compliance with the responsibilities detailed in the Act, the Aged Care Principles or the Comprehensive Grant Agreement is of such concern that the department will initiate compliance action.

Part 4.4 of the Act, and the Comprehensive Grant Agreement, provide that the Secretary may take compliance action in respect of a provider if:

- the provider has not complied with its responsibilities
- the Secretary considers that it is appropriate to take compliance action, and
- the delegate complies with the procedure detailed in the Act for imposing sanctions or with the relevant requirements in the Comprehensive Grant Agreement

The compliance process is explained on the department’s website.

If such action is taken, it will be made publicly available on the department’s website. At this point the Complaints Commissioner may end a resolution process on the basis that the department has initiated compliance action.

7.10 Deciding to end as the complainant has withdrawn from the process

There may be circumstances in which a complainant, for whatever reason, decides that they no longer wish to be part of a resolution process. This may occur where the:

- complainant is a person receiving care and the issues are no longer of concern to them, or
- issues are specific to a person receiving care and do not appear to be ongoing.

The delegate must take the complainant's wishes into account and may decide to end a resolution process if the complainant withdraws from the process.

However, the resolution process can continue without the involvement of the original complainant. The delegate may decide to continue with the process where the complainant still has concerns, but is unable to continue to be engaged in the process, or where the delegate continues to have concerns with the care and services being provided. This decision must be based on risk assessment and with consideration of achieving a proportionate response.

7.11 Deciding to end as the issue is better dealt with by another organisation

The Complaints Commissioner may end a resolution process if the issues raised in a complaint can more appropriately be dealt with by another organisation such as the Australian Health Practitioner Regulation Agency (AHPRA), the police, the coroner, a food safety authority or the Quality Agency. This decision will be made by the delegate.

In most situations, complaints officers will be aware when a complaint is first received whether it is within the Complaints Commissioner’s jurisdiction. However it may not be until a resolution process has been commenced that complaints officers identify to the delegate that the issues raised in the complaint are more appropriately managed by another organisation.

For example: if a complaint relates to poor quality of food but after more examination it becomes apparent that there are food safety concerns, this issue might be more appropriately dealt with by the relevant local council or food safety authority.

7.12 Seek feedback from the referral organisation

Complaints officers are not expected to seek feedback on the outcome of the referral organisation’s treatment of the matter.

If, however, there are residual issues being managed by the Complaints Commissioner that depend on the other organisation’s outcomes, the Complaints Commissioner may seek more information from the referral organisation.
7.13 Deciding to end as continuation of the resolution process is not warranted

The Complaints Commissioner may end a resolution process if satisfied that continuation of the resolution process is not warranted where one or more of the following applies:

- despite reasonable enquiry, the circumstances giving rise to the issue cannot be determined
- the information given by the complainant was not given in good faith
- the issue has been, or is, the subject of a legal proceeding
- the issue has been dealt with under the Complaints Principles
- the issue is subject to a coronial inquiry
- the person receiving care named in the complaint does not wish the resolution process to continue, and
- that having regard to all the circumstances (for any other reason than those specified in the Complaints Principles), continuation of the resolution process is not warranted.

The complainant and the provider must be advised of the reasons why the delegate considers ending the process would be appropriate and be given the opportunity to respond.

7.14 Circumstances giving rise to the complaint cannot be determined

In some circumstances, despite reasonable efforts, complaints officers will be unable to obtain sufficient information to determine whether or not a particular event occurred. This could mean that complaints officers are unable to resolve the matter between the parties or be satisfied that the provider is meeting its responsibilities in relation to the issue. In these limited circumstances, delegates have the capacity to end a resolution process on this basis.
7.15 Information not given in good faith

The role of complaints officers is not to judge the motivations for which a person may have provided information to the Complaints Commissioner, but there are some limited circumstances where such information was not given in good faith. Where complaints officers believe this may be the case, they should raise this matter with a complaints manager who will seek advice from the Guidance Team.

See also:
Guidance Portal

7.16 The issue is subject to legal proceedings or coronial inquiry

Where complaints officers are advised, or become aware through their enquiries, that an issue in the complaint is subject to legal proceedings, including a coronial inquiry, complaints officers should immediately advise a complaints manager.

A delegate may decide to end a resolution process on the basis that the actions by the Complaints Commissioner could interfere with the legal process.

For example: where a complaint is linked to a matter that is the subject of a coronial inquiry, such as someone alleging that the failure to administer correct medication caused the death of a family member, the Complaints Commissioner would not look into the matter.

Where there are concerns about care that is not directly related to a coronial inquiry, for example concerns about the continence management of a person receiving care immediately before they died, such issues may still be resolved by the Complaints Commissioner.

Important! Complaints officers should exercise caution and consult a complaints manager when considering whether the Complaints Commissioner should manage issues linked to legal proceedings or a coronial inquiry. Complaints officers should also consult with the Guidance Team.

See also:
Guidance Portal

7.17 The issue has been dealt with previously

Typically, complaints officers will become aware during the intake phase whether an issue has been dealt with previously under the Complaints Principles and may decide it is appropriate to take no further action. However, there can be circumstances where complaints officers do not become aware of this until a resolution process has commenced.

It is important to note that while delegates have the discretion to end a process on the basis that the issue has been previously dealt with, complaints officers and delegates must:

- ensure the complainant has been given the opportunity to provide any information they have which may indicate the process should continue despite the fact that the matter has been previously dealt with
- consider whether there are any risks to the safety, health or wellbeing of people receiving care which indicate that the process should continue, and
- consider whether there are any other relevant considerations which the delegate should take into account when making a decision about whether to end on this basis.

7.18 Person receiving care does not want the process to continue

At any time during a resolution process, people receiving care to whom the concerns relate may decide that they no longer wish for the resolution process to continue.
The wishes of the person receiving care should be respected and the process ended unless there are ongoing concerns for the safety, health or wellbeing of the person receiving care or other people receiving care at the service.

7.19 Having regard to all circumstances continuation not warranted

The Complaints Commissioner may end a resolution process on the basis that continuation is not warranted.

For example: a delegate may decide to end a resolution process because the parties have agreed to undergo mediation and there is no longer a role for the Complaints Commissioner in handling the complaint.

Feedback to complaint parties and referrals

7.20 Feedback which must be provided when a complaint is finalised

As soon as practicable after the conclusion of a resolution process, the Complaints Commissioner must give written feedback, signed by the delegate, to the complainant and the provider in relation to:

- any key findings
- the delegate’s decision to end the process and the reasons for the decision
- how the complainant and the provider may apply for review of the decision, and
- any other appropriate feedback.

Where a complainant withdraws from the resolution process or is anonymous the Complaints Commissioner is not required to give feedback. Feedback should still be provided to the provider.

Important! There are restrictions on releasing protected information, personal information and confidential information to other parties and organisations, including when making a referral (refer to Topic 7.26 Restrictions on providing feedback about referrals).

Important! Where the feedback is in relation to compliance action being taken, this must only be provided after the information in relation to the compliance action is published on the department’s website.

See also:
Factsheet 20. How do I write feedback and the reasoning behind a decision?

7.21 The importance of providing informal feedback throughout the resolution process

As a matter of good practice and maintaining effective relationships, complaints officers should provide timely feedback to the complainant, the provider and any other relevant party (including the person receiving care) throughout the resolution process. This informal feedback can include:

- advising the parties of the progress of the complaint
- identifying to the provider issues of concern or potential areas for improvement that may have been identified during the course of the process, and
- talking the parties through the final decision of the delegate before they receive the formal feedback in writing.

Note: If a case is complex, complaints officers can consider whether to provide informal written feedback to the complainant and provider to clarify the potential resolution outcome and seek preliminary comments in a specified timeframe. Where comments are received these should be noted in the formal written feedback.
7.22 Information to be included in written feedback to the complainant and the provider

The written feedback provided to the complainant and the provider should logically set out:

- the issues raised by the complainant and any other contextual information relevant to the complaint
- a general description of the resolution process, and
- the resolution outcome, including the reasons for the outcome.

The feedback provided to the complainant and the provider should:

- only include a brief description of the resolution process
- demonstrate that each outcome is rationally based on the information gathered or agreements reached during the resolution process
- lead the reader through the delegate's logical decision making process, detailing the reasons for the outcome along with the information to support reaching the outcome
- contain all the steps of reasoning, linking the facts to the decision, so that the person receiving the feedback can understand how the decision was reached, and
- not venture into areas beyond the Complaints Commissioner's scope.

Important! Complaints officers must consider restrictions on confidential information, personal information or protected information associated with the complaint when providing feedback to the complainant and the provider. This is particularly relevant where the complainant is not the person receiving care or where any aspect of the complaint has been kept confidential from the provider.

See also:

Factsheet 21. How do I disclose protected information?

7.23 Feedback for the complainant and the provider can differ

Although the same feedback would usually be provided to both the complainant and the provider the feedback may differ in the following circumstances:

- where the complainant's or person receiving care's name or information relating to the complaint is confidential; this will limit the feedback that can be given to the provider
- where the complainant is not the person receiving care; feedback to the complainant may be limited to protect the personal information of the person receiving care, and
- when a direction has been issued; where only the provider should be provided the direction.

However, the actions required and the timeframes set by the Complaints Commissioner can be summarised in the feedback to the complainant.

Important! If complaints officers are in doubt as to the types of information that should not be disclosed, this should be discussed with a complaints manager.

See also:

Factsheet 7. How do I know what a legally appointed representative is?
Factsheet 21. How do I disclose protected information?

7.24 Review rights afforded to the complainant and provider

Complaints officers must ensure that all correspondence about decisions to end a resolution process includes information about review rights and details of how the parties may access these review mechanisms.
Under Part 7 of the Complaints Principles, both complainants and providers may seek review by the Complaints Commissioner of a decision made under the Complaints Principles. Anyone may make a complaint about the Complaints Commissioner’s actions for managing complaints made under the Complaints Principles.

Note: The provider and complainant cannot apply for review of a decision to end a resolution process on the basis that compliance action has been initiated.

In addition to the review rights provided for in the Complaints Principles, anyone can also access other informal and formal review mechanisms. This includes review mechanisms that are available for parties to a complaint about a provider under a Comprehensive Grant Agreement.

For more detail about review processes, refer to Chapter 8: Complaints Review Mechanisms and Chapter 9: Complaints Management for Aged Care Programmes under Comprehensive Grant Agreements.

7.25 Feedback can be given to others

The Complaints Commissioner may give feedback about the resolution process to any other person or organisation which has a sufficient interest in the matter.

This could include feedback to:

- the people receiving care to which the complaint relates who wish to receive feedback, and
- persons who were interviewed, provided information or were involved in discussions throughout the resolution process.

In deciding what information, if any, should be provided to other parties, complaints officers must consider:

- the privacy and confidentiality restrictions on the information
- the relationship that the person has to the complainant or the person receiving care
- the circumstances of the complaint, and
- the wishes of the person.

Complaints officers must seek the delegate’s approval of:

- any feedback before it is provided to a person or organisation, and
- where relevant, the release of protected information as defined in Division 86 of the Act.

Important! Delegates must ensure they have the appropriate delegations to release information.

Important! If complaints officers are unsure about releasing information to another person or organisation, the Complaints Commissioner’s legal advisers must be consulted. This is facilitated through the Guidance Team.

See also:

Factsheet 8. How do I obtain legal advice?

Guidance Portal

7.26 Restrictions on providing feedback about referrals

When making referrals, complaints officers must:

- consider carefully whether or not the complainant and the provider should be informed, and
- ensure they meet requirements related to the disclosure of protected information, personal information and confidential information.
Complaints officers should not advise the provider or the complainant of the referral where:

- this could hinder the processes of the organisation to which the information is being referred, including:
  - referrals to the police or a type two or three referral to the Quality Agency; feedback can be provided after the Quality Agency has completed its process, and
  - referrals about compliance action to the department; feedback can be provided once information about the compliance action is published on the department’s website, and
- the information concerns personal information related to the conduct of an individual being referred to AHPRA, the coroner or the police.

Important! Complaints managers must ensure that, where appropriate and possible, reasonable action is taken to advise complainants that their personal information may be released to another organisation. The complainant should also be advised of the possible uses and the circumstances in which the information may be used and disclosed by the Complaints Commissioner.

For more information on releasing protected information, contact the Guidance Team.

See also:

Factsheet 33. How do I make referrals to external organisations?
Guidance Portal

## Finalising the case

### 7.27 When the Complaints Commissioner will not monitor resolution outcomes

Where the outcome is not a direction from the Complaints Commissioner, complaints officers are not required to monitor the implementation of the resolution outcome.

Complainants should be advised through written feedback from the delegate that if they continue to have concerns with the care and services being provided, they may come back to the Complaints Commissioner to have the issue reassessed — refer to Topic 7.22 Information to be included in written feedback to the complainant and the provider.

### 7.28 Monitoring the provider’s response to a direction

Complaints officers must monitor the provider’s response to a direction and determine whether the provider has undertaken the required action to comply with its responsibilities.

The Complaints Commissioner may, where appropriate, undertake visits to the service or contact the complainant, people receiving care and staff of the service to gather information to make a judgment about whether the requirements of the direction have been met.

### 7.29 Action if the provider fails to meet a direction

If, after the timeframe stipulated in the direction, the delegate is not satisfied that the requirements of the direction have been met, complaints officers must, in consultation with a complaints manager and promptly provide the delegate with sufficient information to decide:

- whether allowing the provider additional time to meet the direction is appropriate and would be the best way to achieve a good outcome to the complaint, or
- whether the failure to meet the direction should be referred for consideration of compliance action under Part 4.4 of the Act or the Comprehensive Grant Agreement.

Note: Where an extension of time is given to the provider to meet the direction, the provider (and where appropriate the complainant) will be advised of this extension in writing and the provider monitored against these extended timeframes.
7.30 Finalising the case following a direction

If, after the timeframe stipulated in the direction, the delegate is satisfied that the requirements of the direction have been met, the delegate will promptly finalise the matter and advise the provider. The case must be finalised in the Complaints Commissioner’s official information management system.

7.31 Finalising the case following the provision of feedback

Unless a direction has been given to a provider, the case should be finalised on the Complaints Commissioner’s official information management system once feedback has been sent.

See also:
NCCIMS Resources
Chapter 8 - Complaints Review Mechanisms

This chapter provides information on review mechanisms available during and following a complaints process.

Chapter 8 contents

Overview of complaints review mechanisms .................................................................109
  8.1 Review mechanisms available for parties to a complaint ...........................................109
  8.2 Complaints about the Complaints Commissioner’s service .........................................109
  8.3 The Ombudsman’s external examination role .............................................................109
  8.4 Complaints management principles relevant to a review .............................................110

Review following a resolution process ..........................................................................110
  8.5 Seeking review by the Complaints Commissioner ......................................................110
  8.6 Applying for review ....................................................................................................110
  8.7 Complaints officers who can review a decision ...........................................................110
  8.8 Considerations when deciding whether a new process is necessary ..........................110
  8.9 Deciding to not undertake a new resolution process ..................................................111
  8.10 Undertaking a new resolution process ......................................................................111
  8.11 Complaints officer who reviewed the decision to undertake the new resolution process 111
  8.12 Undertaking the new resolution process ...................................................................111
Overview of complaints review mechanisms

8.1 Review mechanisms available for parties to a complaint
Parties to a complaint have a right of review. The Complaints Principles provide capacity for the formal review of the Complaints Commissioner’s decisions.

There are three potential review mechanisms available to parties to a complaint:
• after a complaint is finalised, complainants and providers can seek review by the Complaints Commissioner about a decision to take no further action or to end a resolution process
• any person involved in a complaint can choose to complain to the Complaints Commissioner about the handling of the complaint or a complaints officer’s conduct, and
• any person involved in the complaint can seek external examination by the Commonwealth Ombudsman if dissatisfied with the Complaints Commissioner’s action in managing a complaint.

Note: The parties are not required to approach the Complaints Commissioner for review before seeking review by the Ombudsman, however, where possible, they should be encouraged to do so.

8.2 Complaints about the Complaints Commissioner’s service
Anyone who is not satisfied with our service can, at any time during complaint handling, raise a concern about the Complaints Commissioner’s process with the Complaints Commissioner.

Important! If complaints officers receive complaints about their own conduct, or the conduct of another complaints officer, this should immediately be raised with a complaints manager.

8.3 The Ombudsman’s external examination role
The Ombudsman investigates complaints from persons who believe they have been treated wrongfully, unfairly or unjustly or discriminated against by an Australian Government department or agency.

The Ombudsman is impartial and independent – not an advocate for complainants or for agencies. The Ombudsman can resolve disputes through consultation, negotiation and formal recommendations to the department. For example, the Ombudsman can recommend that remedial action be taken.

What the Ombudsman can examine in relation to the Complaints Commissioner’s complaint handling
The Ombudsman can only look at the Complaints Commissioner’s actions in managing a complaint. If the Ombudsman finds a deficiency in the Complaints Commissioner’s process, the Ombudsman can make recommendations and findings. The recommendations and findings of the Ombudsman will be considered and acted on by the Complaints Commissioner where appropriate, as part of a broader commitment to continuous quality improvement.

For service delivery complaints information visit the Complaints Commissioner’s website.

See also:
Factsheet 18. How do I respond to a request from the Commonwealth Ombudsman?

8.4 Complaints management principles relevant to a review
All of the principles detailed in Chapter 3: Complaints Management Principles are relevant to the matters that will be considered by the Complaints Commissioner during a review.

Review following a resolution process
8.5 **Seeking review by the Complaints Commissioner**

If a complainant or provider is dissatisfied following resolution of a complaint and provision of feedback on the outcome, they can seek review by the Complaints Commissioner.

Part 7 of the Complaints Principles allows complainants to apply for review of decisions to:

- take no further action under paragraph 7(a), or
- end a resolution process under section 14.

Providers may apply for review of a decision to end a resolution process under section 14. The Complaints Principles restrict a complainant or a provider from seeking a second review where the Complaints Commissioner has already undertaken a new resolution process as a result of a previous review. The provider may, however, seek review of a decision to end a new resolution process because the Complaints Commissioner has issued directions, if the first decision (i.e. the decision under review) was *not* made on the basis of directions being issued.

8.6 **Applying for review**

Any application to the Complaints Commissioner for review must state the reasons (other than dissatisfaction with the decision) why review is sought, and must be made within 42 days of the person being notified in writing of the original decision. Applications can be made orally or in writing.

If a provider seeks a review of a direction by the Complaints Commissioner, the provider must take the specified action required under the direction while awaiting that review.

8.7 **Complaints officers who can review a decision**

A review must be undertaken by a complaints officer and complaints manager who had no involvement in the original decision making process.

8.8 **Considerations when deciding whether a new process is necessary**

Where an application for review has been received, the Complaints Commissioner has 28 days to decide to:

- confirm the decision to take no further action or end the resolution process, or
- undertake a new resolution process.

In considering whether a new process is necessary, complaints officers should:

- discuss matters with the applicant to ensure that they are given the opportunity to explain their concerns and provide any new information
- closely review all existing case documentation, and
- where necessary, obtain any additional relevant information.

Complaints officers should also consider whether:

- the applicant was afforded procedural fairness as part of the original decision making process
- the conclusions are reasonable and based on sufficient information
- there is any information that would suggest the original decision making may have been misinformed, and
- there are any gaps or deficiencies in the original complaint documentation that suggest a new resolution process might be needed.

**Important!** The complaints officer’s rationale and recommendations regarding the outcomes of the review should be recorded in the review report. This is an internal report used for the management of complaints.
Complaints officers need only review issues relevant to the application for review. During a review, the Complaints Commissioner may also decide to confirm the original decision on some issues and undertake a new resolution process in relation to others.

8.9 Deciding to not undertake a new resolution process

If the Complaints Commissioner decides to not undertake a new resolution process (that is, the original decision is confirmed), the applicant must be notified of this decision in writing, including the reasons for the decision.

Complaints officers are not required to advise other parties to the complaint of a decision to not undertake a new resolution process.

8.10 Undertaking a new resolution process

If the Complaints Commissioner decides to undertake a new resolution process, the applicant and parties to the complaint must be notified in writing.

The new process must be completed within 90 days of the date of application for review. Note that this 90 day period includes the 28 days available to decide whether to undertake the new resolution process.

Important! The Complaints Commissioner should not consider any new issue raised by the applicant that has not previously been considered. Where this occurs, this issue must be treated as a new complaint.

8.11 Complaints officer who reviewed the decision to undertake the new resolution process

If a new resolution process is undertaken, it should be undertaken and finalised wherever possible by the same complaints officer and complaints manager who reviewed the original decision.

8.12 Undertaking the new resolution process

A new resolution process must be undertaken in accordance with Parts 3 to 5 of the Complaints Principles and Chapters 5 to 7 of these Guidelines, and will include:

- planning a new resolution process in consultation with the complaints manager and seeking their approval of the proposed approaches to managing the new process. This will include creating the RARP in relation to the issues that are subject to the new resolution process
- advising the provider and complainant (if any) of the decision to undertake a new resolution process
- reviewing all documentation associated with the original resolution process and making an assessment about whether any additional information which has been received needs to be considered and whether any more information needs to be gathered to fill in any gaps or clarify any matters
- talking with the parties to the complaint and seeking any more information they may be able to provide
- providing parties to the complaint with the opportunity to respond to any new information that is provided by another party
- if a direction is proposed, developing a new NIIDR and, where approved by the complaints manager, issuing the NIID to the provider and considering any response received
- documenting the new process and its findings in the DRR
- providing the DRR and other supporting documentation to the complaints manager for consideration of a new outcome decision, and
- advising the parties to the complaint of the outcome of the new resolution process.
Important! The Clinical Advisory Section must be consulted to provide advice on review cases whenever the Complaints Commissioner has been asked to review a clinical issue. The Clinical Advisory Section will only consider issues of a clinical nature.

See also:
- Clinical Unit
- Factsheet 1. When should I seek advice from the Clinical Unit?
Chapter 9 - Complaints Management for Aged Care Programmes under Grant Agreements

This chapter provides information on the regulatory framework and complaints management process for aged care programmes funded under Comprehensive Grant Agreements. The complaints management process includes an initial phase of provider local level management before the intake, detailed assessment, resolution and outcome phases.

Chapter 9 contents

Comprehensive Grant Agreements that are within the Complaints Commissioner’s jurisdiction ........3

9.1 The Commonwealth Home Support Programme .................................................................3
9.2 The National Aboriginal and Torres Strait Islander Flexible Aged Care Programme ..........3
9.3 The regulatory framework for aged care programmes under a Comprehensive Grant Agreement ....3

Provider Comprehensive Grant Agreement requirements and the impact on the Complaints Commissioner 5

9.4 Administrative responsibilities of providers under a Comprehensive Grant Agreement ........5
9.5 The CHSP Programme Manual ..........................................................................................5
9.6 The NATSIFACP Guidelines ...............................................................................................6
9.7 Complaints mechanisms and provider requirements ..........................................................6

Complaints Management Process for aged care services under Comprehensive Grant Agreements ....8

9.8 Comprehensive Grant Agreement complaints management process ..................................8
9.9 Complaints related to providers under Comprehensive Grant Agreements .........................8
9.10 Powers of complaints officers under the Comprehensive Grant Agreement ................................9
9.11 Requirements for a subcontractor to participate in a complaints management process .........9
9.12 Delegates and administrative authority under the Comprehensive Grant Agreement .............9
9.13 Management of confidential and personal information during a complaints handling process ....9

Local level management phase ...........................................................................................................10

9.14 Provider complaint handling – local level management .........................................................10

Intake Phase ........................................................................................................................................11

9.15 Activities in the intake phase ..................................................................................................11
9.16 What is in-scope information relevant to aged care services under a Comprehensive Grant Agreement? .................................................................11
9.17 Out-of-scope information ........................................................................................................12
9.18 Provider management – complaints for local level management ...........................................13
9.19 In-scope complaints ................................................................................................................13
9.20 Provider Notifications .............................................................................................................14
9.21 Own initiative concern ............................................................................................................14
9.22 In-scope enquiries and complaints – essential information to provide ..................................14
9.23 Finalising out-of-scope and in-scope enquiries ......................................................................14
9.24 Escalating complaints to a complaints manager and preliminary assessment of provider history

9.25 Acknowledging receipt of the complaint

9.26 Workflow to the detailed assessment phase

Detailed Assessment Phase

9.27 Activities in the detailed assessment phase

9.28 Collecting and assessing relevant information

9.29 Referrals to other areas or organisations

Resolution Phase

9.30 Resolution approaches and activities in the Resolution Phase

9.31 Investigation

9.32 Undertaking a site visit at the provider’s office or service

9.33 Undertaking a site visit at a private home

9.34 Notice of intention to issue directions and directions

9.35 Circumstances for ending the resolution process

9.36 Decision to end as the Complaints Commissioner has issued a direction

9.37 Referrals to other organisations

9.38 Referrals to the department

9.39 Referrals to the Quality Agency

9.40 Referrals to state or territory government and other aged care programme areas

9.41 Feedback on the decision to end and review rights

9.42 Review mechanisms for parties to a complaint under a Comprehensive Grant Agreement
Comprehensive Grant Agreements that are within the Complaints Commissioner’s jurisdiction

9.1 The Commonwealth Home Support Programme

The Commonwealth Home Support Programme (CHSP) builds on the strengths of home support programmes which came before it and from 1 July 2015 consolidates the following programmes to create a streamlined source of support for frail, older people living in the community and their carers:

- The Commonwealth Home and Community Care (HACC) Program
- The National Respite for Carers Program (NRCP)
- The Day Therapy Centres (DTC) Program, and
- The Assistance with Care and Housing for the Aged (ACHA) Program.

The CHSP delivers an entry-level tier of care and support to a large number of frail, older people to help them to remain living at home.

The Complaints Commissioner manages complaints under the CHSP.

HACC services in Western Australia and Victoria

The CHSP does not apply to HACC services in Western Australia and Victoria. Basic home services continue to be provided to the frail aged under the jointly-funded Western Australian and Victorian HACC Programs. The Complaints Commissioner deals with complaints relating to the quality of Australian Government funded services but cannot consider complaints about HACC services funded by the governments of Victoria or Western Australia.

Note: Older people in Western Australia and Victoria previously supported under the NRCP, DTC and ACHA programmes can access support under the CHSP.

9.2 The National Aboriginal and Torres Strait Islander Flexible Aged Care Programme

The National Aboriginal and Torres Strait Islander Flexible Aged Care Programme (NATSIFACP) is part of the Residential and Flexible Care Programme and is administered outside of the Aged Care Act 1997 (the Act). It funds organisations to provide flexible, culturally appropriate aged care to older Aboriginal and Torres Strait Islander people close to their home or community.

Services funded under the NATSIFACP are mainly located in rural and remote areas and deliver a mix of residential and home care services in accordance with the needs of the older Aboriginal and Torres Strait Islander community.

The Complaints Commissioner manages complaints about the NATSIFACP.

9.3 The regulatory framework for aged care programmes under a Comprehensive Grant Agreement

The complaints and compliance administrative regulatory framework

The complaints and compliance administrative regulatory framework for aged care programmes under a Comprehensive Grant Agreement is similar to the complaints and compliance framework for care and services under the Act – see Topic 1:16 Overview of the regulatory framework for quality aged care services. Providers funded through a Comprehensive Grant Agreement have administrative responsibilities rather than legislative responsibilities so they operate under an administrative regulatory framework. The key differences are:

- providers manage CHSP and NATSIFACP complaints at the local level in the first instance
the complaints resolution approach and outcomes may result in action under the Comprehensive Grant Agreement with the Commonwealth rather than compliance action under the Act, and

CHSP and NATSIFACP complaint review mechanisms involve review by the Complaints Commissioner and external review by the Commonwealth Ombudsman. As these programmes are not delivered under legislation, there is no recourse to the Administrative Appeals Tribunal or under the Administrative Decisions (Judicial Review) Act 1997.

Government areas operating under the administrative regulatory framework for quality aged care services under a Comprehensive Grant Agreement

The following government areas contribute to the regulatory framework that monitors the quality of aged care services:

- the Complaints Commissioner through receipt, assessment and resolution of complaints related to people receiving care receiving CHSP or NATSIFAC services
- the Quality Agency which is responsible for monitoring the quality of CHSP and NATSIFACP services, and
- the department which is responsible for managing grants and undertaking compliance action under the Comprehensive Grant Agreement.

Information can be shared between the Complaints Commissioner, the department and the Quality Agency to assist each area to perform its regulatory functions.

The Quality Agency

The Quality Agency does not consider complaints about individual care issues; rather it ensures there are systems and processes in place that provide quality care delivery to people receiving care. More information about the Quality Agency’s role is in Chapter 1: Governance Framework.

Note: Only those CHSP Sub-Programmes under which direct care is delivered to people receiving care (all Sub-Programmes except the ACHA Sub-Programme and the Service System Development Sub-Programme) are subject to Quality Reporting by the Quality Agency.

The department

The department is responsible for managing:

- providers’ Comprehensive Grant Agreements, and then undertaking action under the agreement
- provider notifications about an issue that may delay, stop or adversely affect care and service delivery (including serious incidents and, for NATSIFACP, reportable assaults), and
- complaints related to funding and access to services.

Provider Comprehensive Grant Agreement requirements and the impact on the Complaints Commissioner

9.4 Administrative responsibilities of providers under a Comprehensive Grant Agreement

The Comprehensive Grant Agreement consists of a number of documents which form the contract between the provider and the Commonwealth. The Comprehensive Grant Agreement outlines the provider’s administrative responsibilities. The provisions in the documents take priority in the following order:

- The Supplementary Conditions (if any) – which are applicable to each provider
- The Terms and Conditions – which are applicable to all providers: providers have agreed to the Terms and Conditions by signing the Schedule, and
• The Schedule – which is specific to each provider. It details the services that the provider is required to deliver, the funding it will receive to deliver these services and any special conditions with which the provider must comply. The Schedule is signed by a representative of the Commonwealth and the provider.

Provider responsibilities are further detailed in various documents that are linked to the Schedule such as:

• Programme Manuals or Guidelines
• Charter of Rights and Responsibilities – Residential Care or Home Care
• Home Care Standards or Quality Framework Standards
• Police Certificate requirements.

9.5 The CHSP Programme Manual

The CHSP Programme Manual 2015 sets out the operational and administrative requirements supporting the delivery and management of CHSP from 1 July 2015. Providers must comply with the manual's requirements regarding the:

• delivery of CHSP services including operational requirements (Part A – The Programme and Appendices), and
• administration of the CHSP, including funding and reporting arrangements (Part B – Administration of the Programme and Appendices).

The manual outlines the service types that are available under the CHSP. These service types are funded under specific Sub-Programmes based on the CHSP ‘target groups’. Details of each Sub-Programme, including eligibility and service types, and examples of special conditions for service delivery to ‘non-target groups’ are also provided in the manual.

Note: The CHSP Programme Manual 2015 does not apply to HACC providers funded by the governments of Western Australia or Victoria.

The scope of CHSP and other service eligibility

People who are assessed as eligible to receive other aged care or disability services may access CHSP funded services and support in certain circumstances. This is to ensure people can access services until more appropriate care is available. The CHSP Schedule and the CHSP Programme Manual 2015 specify where CHSP providers can deliver services to people receiving care with other service eligibility.

For example, people receiving care assessed as eligible but waiting to receive a Home Care Package or people receiving care of previous programmes (Commonwealth HACC, NRCP, DTC and ACHA programmes) who are not eligible for similar CHSP services will be grandfathered until suitable services become available.

Important! Complaints officers need to collect enough information during the intake phase to determine whether a person receiving care is receiving CHSP services and thus whether the information is in-scope for the Complaints Commissioner.

9.6 The NATSIFACP Guidelines

The Residential and Flexible Care Programme – National Aboriginal and Torres Strait Islander Flexible Aged Care Activity Programme Guidelines June 2015, set out the operational and administrative requirements supporting the delivery and management of NATSIFACP. Providers must comply with the manual's requirements regarding the:

• the NATSIFACP activities (Activity Overview and Programme Guidelines), and
• terms and conditions applying to selections, financial and other arrangements and complaints.
The manual outlines the entity types that are eligible to provide NATSIFACP services and the NATSIFACP ‘target groups’.

### 9.7 Complaints mechanisms and provider requirements

Provider requirements for the management of complaints are included through the various Comprehensive Grant Agreement documents. Providers need to provide an effective process for receiving and addressing complaints and should use their complaints management process to achieve the best outcome for people receiving care and to identify options for continuous improvement.

#### Complaints mechanisms

Providers are required to encourage people receiving care and their carers to provide feedback about the services they receive. CHSP and NATSIFACP people receiving care can raise a complaint with the provider directly or with the Complaints Commissioner.

Below is a list of the Comprehensive Grant Agreement documents with a description of the provider responsibilities and references relative to complaint mechanisms.

<table>
<thead>
<tr>
<th>Comprehensive Grant Agreement document</th>
<th>Description of provider responsibilities</th>
<th>References relevant to complaint mechanisms</th>
</tr>
</thead>
</table>
| Comprehensive Grant Agreement – Terms and Conditions | The Terms and Conditions address:  
• definitions and duration  
• what the provider must do  
• about the grant  
• assets  
• material and information  
• disclosure of information  
• working with vulnerable persons  
• dealing with risk  
• terminating the agreement, and  
• other legal matters  
Refer to: [DSS Comprehensive Grant Agreement](#) | Include key requirements regarding:  
• the provider’s documented complaints process, and  
• the external complaints service, through the department and assistance with complaint investigation.  
Other requirements relevant to Complaints Commissioner processes include:  
• access to premises and records, including the provider’s complaints register  
• disclosure of confidential information, and  
• providing a written notice. |
| Schedule – Comprehensive Grant Agreement | The Schedule addresses:  
• programme information  
• activity information (for example complying with listed guides and policies)  
• grant and payment  
• budget, and  
• reports | Item B.1 - Comply with the relevant Programme Guidelines |
| Home Care Standards (refer to Schedule 4 of the Quality of) | Home Care Standards apply to services under the CHSP.  
There are three Standards:  
Effective Management; | Expected outcome 3.3:  
Complaints and Service User Feedback – Complaints and person receiving care feedback |
<table>
<thead>
<tr>
<th>Comprehensive Grant Agreement document</th>
<th>Description of provider responsibilities</th>
<th>References relevant to complaint mechanisms</th>
</tr>
</thead>
<tbody>
<tr>
<td>Care Principles 2014)</td>
<td>Appropriate Access and Service Delivery; and Service User Rights and Responsibilities. There are 18 expected outcomes: eight management outcomes; five service delivery outcomes; and five service user rights outcomes.</td>
<td>are dealt with fairly, promptly, confidentially and without retribution. Also refer to expected outcomes 1.3;1.5, 3.1, 3.2</td>
</tr>
<tr>
<td>NATSIFACP Quality Framework</td>
<td>The standards within the NATSIFACP Quality Framework apply to services under the NATSIFACP. There are two Standards: Care Delivery and Information; and Management and Accountability. There are nine expected outcomes: five care delivery and information outcomes and four management and accountability outcomes.</td>
<td>Expected outcome 2.2 Management Systems – services have an accessible, culturally safe and retribution free complaints and feedback process.</td>
</tr>
<tr>
<td>Charter of rights and responsibilities – residential care or home care (refer to the User Rights Principles 2014)</td>
<td>The charter of care recipient rights and responsibilities – residential care (Schedule 1) and home care (Schedule 2) apply to services under the NATSIFACP. The charter of care recipient rights and responsibilities – home care (Schedule 2) applies to services under the CHSP.</td>
<td>The charters aim to ensure that people receiving care are aware of and confident in exercising their rights and responsibilities and that providers understand their obligations. Residential care – (1)(s) to complain and take action to resolve disputes. Home care – (1)(6) Comments and Complaints.</td>
</tr>
<tr>
<td>Police certificate requirements</td>
<td>The NATSIFACP Police Certificate Guidelines, Appendix C of the NATSIFACP Guidelines apply to services under the NATSIFACP. The CHSP Police Certificate requirements, Appendix E of the CHSP Programme Manual 2015 apply to services under the CHSP.</td>
<td>Providers must ensure that staff involved in service delivery meet police certificate requirements under the relevant programme.</td>
</tr>
</tbody>
</table>

Complaints Management Process for aged care services under Comprehensive Grant Agreements

Issued: May 2016  Chapter 5 - Detailed Assessment Phase
9.8 Comprehensive Grant Agreement complaints management process

The Comprehensive Grant Agreement requires providers to comply with these Guidelines. This specifies the Complaints Commissioner’s processes for managing complaints and provider responsibilities in relation to the Complaints Commissioner’s processes.

Because CHSP and NATSIFAC providers have administrative rather than legislated requirements, some of the Complaints Commissioner’s complaints management process for complaints under the Comprehensive Grant Agreement is different to the process for complaints managed under the Act. The differences are:

- inclusion of a local level management phase, before the intake phase
- directions are provided through a notice under the Comprehensive Grant Agreement, and
- compliance action is taken under the Comprehensive Grant Agreement.

9.9 Complaints related to providers under Comprehensive Grant Agreements

When responding to complaints related to providers under Comprehensive Grant Agreements, complaints officers should have regard to all the complaints management principles set out in Chapter 3: Complaints Management Principles.

In addition, as relevant to CHSP and NATSIFACP complaints, complaints officers will:

- encourage complainants to engage in local level management in the first instance, because in most cases providers are best placed to resolve complaints and alleviate a person receiving care’s concerns
- comply with administrative powers and authority as outlined in the Comprehensive Grant Agreement, and
- comply with information disclosure requirements relevant to administrative arrangements.

9.10 Powers of complaints officers under the Comprehensive Grant Agreement

As complaints related to aged care programmes under a Comprehensive Grant Agreement are managed under an administrative arrangement, Part 6.4A of the Act relating to authorised complaints officers does not apply to the management of these complaints.

Under the Comprehensive Grant Agreement Terms and Conditions, the Commonwealth, including the Complaints Commissioner, has powers to gather information, including inspecting and copying materials relating to a complaint against a provider, contractor or subcontractor. This includes the ability to enter a contractor’s or subcontractor’s premises.

These powers of information gathering do not extend to a person receiving care’s home. Complaints officers must be invited or receive permission to enter a person receiving care’s home.

9.11 Requirements for a subcontractor to participate in a complaints management process

The Comprehensive Grant Agreement states that the provider is entirely responsible for subcontractors and for all work they perform. The provider retains responsibility for liaison with the department and ensuring the subcontractor complies with all reasonable requests, directions and monitoring requirements requested by the department and the Complaints Commissioner. Providers’ agreements with subcontractors are required to include the same provisions as many clauses of the providers’ agreement with the Commonwealth (including access to premises and records and confidentiality).

9.12 Delegates and administrative authority under the Comprehensive Grant Agreement
Certain complaints managers have the administrative authority to make decisions about managing CHSP and NATSIFACP complaints. Responsibilities of delegates that are assigned under the administrative authority are aligned with responsibilities of delegates under legislative authority.

**Important!** Complaints officers must ensure when exercising this administrative authority that their decisions do not extend beyond the provisions of the Comprehensive Grant Agreement.

### 9.13 Management of confidential and personal information during a complaints handling process

Information collected in the management of a complaint will include confidential and personal information about the person receiving care and provider.

Complaints officers must comply with APPs at all times when dealing with personal information about individuals and the Terms and Conditions of the Comprehensive Grant Agreement when dealing with confidential person receiving care or provider information. Personal information is to be handled in accordance with the Complaints Commissioner’s Privacy Policy.

**Important!** Programmes under Comprehensive Grant Agreements are managed under administrative arrangements so the provisions relating to ‘protected information’ under the Act do not apply.

**Handling provider information**

The Terms and Conditions of the Comprehensive Grant Agreement give the department powers to release confidential information relating to a provider to various parliamentary, government and law enforcement bodies.

Confidential provider information can be released when managing a complaint or providing feedback about a complaint made to the Complaints Commissioner.

The provider’s confidential information directly related to a complaint may be shared with the complainant:

- for the purpose of managing a complaint, and
- to provide feedback to a complainant about the results of the resolution process including the action taken to address the issues raised in the complaint.

It is inappropriate to disclose commercially sensitive information about the provider to the complainant or person receiving care. Personal information about the provider’s personnel must not be released.

While the Terms and Conditions allow the Complaints Commissioner to release confidential information about a provider, this should only be done when the information is relevant to the other party and will not unduly affect the provider’s reputation or ability to continue to provide a service.

**Handling complainant or person receiving care information**

All information for a person receiving care, including personal information, is private and confidential and must not be released to a third party without the person receiving care’s consent.

The person receiving care’s permission must be obtained whenever their personal information is to be shared with a provider or another party.

**Referrals**

A complaints manager has administrative authority to release confidential provider information to assist another organisation to perform its regulatory function in accordance with the Terms and Conditions.

### Local level management phase

### 9.14 Provider complaint handling – local level management
The Comprehensive Grant Agreement requires providers to have an effective mechanism in place for receiving and dealing with complaints. The Complaints Commissioner refers to this as local level management by the provider.

The following key principles underpin the resolution of complaints by providers through local level management:

- concerns and complaints about basic maintenance, support and care services for older people delivered through the programme should be made to the provider in the first instance.
- in most cases the provider is best placed to resolve complaints and alleviate the concerns of the person receiving care
- providers should aim to resolve complaints quickly and early using their internal complaints mechanism, and
- resolving complaints at this local level avoids unnecessary complainant frustration and preserves the relationship between the provider and the person receiving care.

Note: Local level management is independent of the Complaints Commissioner.

Provider requirements for managing complaints

Providers’ obligations for complaints management under a Comprehensive Grant Agreement include:

- have a publicly available documented complaints process in place to receive, record and resolve complaints
- actively encourage people receiving care and their carers to provide feedback about the services they receive and assist them through the complaints management process
- encourage people receiving care to raise a complaint directly with the provider
- handle complaints made on behalf of the person receiving care by an advocate or representative
- refer people receiving care to the department's or the Complaints Commissioner’s complaint mechanisms where the complaint has not been resolved by the provider in the first instance
- comply with all reasonable requests, directions and monitoring requirements requested by the department and the Complaints Commissioner, and
- resolve any complaints regarding subcontractors.

Intake Phase

9.15 Activities in the intake phase

The Complaints Commissioner’s intake activities outlined in Chapter 4 apply to handling complaints related to services under a Comprehensive Grant Agreement.

Contacts with the Complaints Commissioner about CHSP and NATSIFACP services may include:

- enquiries and complaints from anyone about services provided by providers, and
- referrals from other organisations to assist the Complaints Commissioner in performing its function.

Where a complaint is raised with the Complaints Commissioner, complaints officers will determine if the complainant has raised their concerns with the provider and make an initial risk assessment of whether to ask the complainant to raise their concerns with the provider for local level management or to handle it as an in-scope complaint.

9.16 What is in-scope information relevant to aged care services under a Comprehensive Grant Agreement?

Complaints officers assess whether the information is in-scope by:
1. Determining that the information relates to the responsibilities of a provider providing services to a person receiving:

- CHSP services and support. A list of CHSP services and support is found in the CHSP Programme Manual 2015, or
- NATSIFACP services.

CHSP Comprehensive Grant Agreements may include special conditions for service delivery to a small number of people in ‘non-target groups’. For example, HACC services for people who are NOT older Australians or HACC services for older Australian people receiving care living in cross border areas of Victoria or Western Australia. To determine that the information relates to CHSP service delivery, complaints officers should collect information about the provider’s name and contact details, the people receiving care age group and whether the person receiving care identifies as an Aboriginal and/or Torres Strait Islander.

Note: Older Australians are defined as people who are 65 years or more of age or people who identify as Aboriginal and/or Torres Strait Islander who are 50 years or more of age.

2. Determining that the information relates to a responsibility of a provider as defined in the Comprehensive Grant Agreement.

Responsibilities of providers include:

- the quality of services provided to people receiving care (as funded through the Programme)
- user rights for people to whom the care is provided (as applied through the Charter of Rights and Responsibilities for Residential care or Home care), and
- accountability for the care that is provided and the basic suitability of their personnel to deliver the funded services.

In-scope information related to providers under a Comprehensive Grant Agreement may be classified as:

- enquiry
- provider management
- complaint, or
- programme referral

9.17 Out-of-scope information

The following are out-of-scope:

- provider notifications about an issue that may delay, stop or adversely affect care and service delivery (including serious incidents and reportable assaults for NATSIFACP)
- HACC services solely funded by state and territory governments, including:
  - HACC services funded by Victoria and Western Australia for people of all age groups. This includes where CHSP people receiving care are in states or territories that share a border with Victoria and Western Australia and receive HACC services from Victoria and Western Australia HACC providers.
  - HACC services funded by New South Wales, Queensland, South Australia, Tasmania, Northern Territory and the Australian Capital Territory governments for people who are NOT older Australians. This includes where these providers are funded to deliver HACC services to a small number of people who are older Australians.
- other community services not funded through aged care programmes. For example, specialist palliative care, acute illness treatment, rehabilitative services.
- services not covered in the person receiving cares existing agreement with the provider and which should be referred back to the provider or to the department. For example, if a person receiving
9.18 Provider management – complaints for local level management

When receiving in-scope information raising a complaint about service delivery, complaints officers should in the first instance ask the complainant to raise their concerns with the provider for local level management. Complaints officers should provide assistance as required to facilitate provider management, including providing the complainant with the provider’s contact details, or contacting the provider on behalf of the complainant and asking that they contact the complainant.

Complainants should be informed that if they are not satisfied with the provider’s response, the management of the complaint or the outcome achieved, or their issue remains unresolved, they can come back to the Complaints Commissioner.

When a complainant chooses to raise their complaint with the provider, the Complaints Commissioner’s involvement with the complaint is finalised. The case should be classified as service provider management and include a file note summarising the issues raised.

**Important!** The Complaints Commissioner will only become involved again if a complaints manager determines that the Complaints Commissioner should remain involved in the resolution of the complaint or the complainant later raises the issue again.

9.19 In-scope complaints

The Complaints Commissioner is responsible for dealing with complaints where:

- the issues relate to the quality of services provided under an existing agreement between the provider and the person receiving care. This includes where CHSP Comprehensive Grant Agreements include special conditions for service delivery to a small number of people in ‘non-target groups’ and the CHSP provider has administrative responsibility for managing complaints about the service
- the complainant is unwilling to raise the issue with the provider for local level management in the first instance and seeks the support of the Complaints Commissioner in managing the issue, or
- the Complaints Commissioner assesses that the risks involved in the complaint warrant action by the Complaints Commissioner in the first instance.

To assess the risks associated with a complaint, complaints officers should consider a range of matters including issues raised in the complaint and provider history (see Topics 4.33 to 4.35)

**Important!** If a complaints officer is unsure whether the complaint warrants action by the Complaints Commissioner in the first instance, they should consult a complaints manager immediately.

**Note:** There can be some confusion about HACC services funded under the CHSP or by state and territory governments. Complainants can greatly assist the Complaints Commissioner to determine if their complaint is in scope by providing their HACC provider’s name and contact details when raising a complaint.

9.20 Provider Notifications

Providers under a Comprehensive Grant Agreement are required to notify the department rather than the Complaints Commissioner of any incidents or issues.

**Serious incident notifications to the department**

Under the Comprehensive Grant Agreement Terms and Conditions, providers are required to notify the department about an issue that may delay, stop or adversely affect care and service delivery. This includes serious incidents and reportable assaults for NATSIFACP.
If a provider under a Comprehensive Grant Agreement contacts the Complaints Commissioner with a notification, complaints officers should refer them to the department.

**Important!** If someone other than a provider gives information about a suspected or alleged assault of a person receiving care this should be classified and managed as a **complaint** as the provider may not have met their responsibilities under the Comprehensive Grant Agreement.

### 9.21 Own initiative concern

The Complaints Commissioner may conduct an own initiative resolution process if sufficient concerns exist about a provider’s responsibilities under a Comprehensive Grant Agreement.

### 9.22 In-scope enquiries and complaints – essential information to provide

During the initial contact with the complainant, complaints officers should ensure sufficient information is provided to enable the complainant to understand the Complaints Commissioner’s processes and make informed decisions as to how to resolve their complaint or enquiry about aged care services under a Comprehensive Grant Agreement.

Complaints officers should provide information about:

- the Complaints and Compliance administrative regulatory framework
- the complainant’s ability to raise the matter with the Complaints Commissioner should they be unsatisfied with the provider’s management of their concerns or with the provider’s response
- the person receiving care’s rights and responsibilities under the Charter of Rights and Responsibilities for Residential care or Home care particularly in relation to complaints, and
- the right of complainants to call on an advocate of their choice to present any complaints they may have and to assist them through the complaints resolution process.

**Important!** When collecting information the complainant should be advised of the possible uses and the circumstances in which their information or the person receiving care’s confidential information may be used and disclosed by the Complaints Commissioner.

### 9.23 Finalising out-of-scope and in-scope enquiries

The department must be notified of matters the Scheme finalises as enquiries so they can be addressed.
9.24 Escalating complaints to a complaints manager and preliminary assessment of provider history

Complaints officers will use the IEM to determine timeframes to escalate complaints to a complaints manager. Where a complaint presents a major risk it will usually warrant involvement by the Complaints Commissioner rather than referral to the provider for local management; complaints officers should immediately notify a complaints manager about such complaints.

The provider’s complaints and contract performance (against the Comprehensive Grant Agreement or previous agreements) history should be examined when determining the risk posed by a complaint.

If a complainant chooses to raise their complaint with the provider for local level management, but a complaints manager determines that the Complaints Commissioner should also manage this complaint, the complainant and provider should be formally advised of this decision as soon as practicable.

9.25 Acknowledging receipt of the complaint

When a complainant chooses to raise their complaint with the provider for local level management, complaints officers do not need to write to the complainant or the provider.

9.26 Workflow to the detailed assessment phase

If a complainant returns to the Complaints Commissioner because their complaint has not been resolved by the provider, or early resolution has been unsuccessful, complaints officers will workflow the complaint to the detailed assessment phase.

Detailed Assessment Phase

9.27 Activities in the detailed assessment phase

The Complaints Commissioner’s detailed assessment activities outlined in Chapter 5 apply to handling complaints related to services under a Comprehensive Grant Agreement.

Early resolution of complaints is the preferred approach. Complaints may be finalised in this phase if deemed appropriate for early resolution or if the Complaints Commissioner believes there are grounds to take no further action.

The following information is additional to that provided in Chapter 5 Detailed Assessment Phase and outlines specific processes relevant to CHSP and NATSIFACP complaints management during the detailed assessment phase.

9.28 Collecting and assessing relevant information

During detailed assessment the provider’s complaints history and a provider profile should be researched using the official information management systems. Information about the provider’s contract performance (against the Comprehensive Grant Agreement or previous agreements) and quality reporting history may also be obtained from the department or Quality Agency.

Note: Complaints officers should confirm that a CHSP complaint relates to CHSP-funded HACC services.
9.29 Referrals to other areas or organisations

A delegate with administrative authority may authorise the disclosure of information to assist another organisation to perform its regulatory function. Refer to Referrals to other organisations Topic 9.37 Referrals to other organisations and Topic 9.38 Referrals to the department.

Resolution Phase

9.30 Resolution approaches and activities in the Resolution Phase

The Complaints Commissioner’s resolution approaches and activities outlined in Chapter 6 apply to handling complaints related to services under a Comprehensive Grant Agreement.

Complaints may progress to this phase if the issues have not been resolved through local level management or early resolution or if the Complaints Commissioner believes more action is required.

The following information is additional to that provided in Chapter 6 Resolution Phase and outlines specific processes relevant to CHSP and NATSIFACP complaints management during the resolution phase.

Complaints officers cannot allow the parties to agree to something that is contrary to a provider’s responsibilities under the Comprehensive Grant Agreement including the Charter of Rights and Responsibilities for Residential Care or Home Care.

9.31 Investigation

The Complaints Commissioner may require access to premises and records and to talk to parties during a resolution process. The Terms and Conditions of the Comprehensive Grant Agreement permit Commonwealth officers, which includes complaints officers, to:

- access a provider’s premises
- inspect and copy materials in the providers or their personnel’s possession, including the service’s complaints register
- communicate with the provider’s personnel, and
- access any assets of the provider.

Under the Terms and Conditions, providers are to provide all reasonable assistance to the complaints officer.

See also:

Factsheet 8. How do I obtain legal advice?
Guidance Portal

9.32 Undertaking a site visit at the provider’s office or service

Officers will follow the site visit processes outlined in Chapter 6 when conducting a site visit of a provider’s office or service.

In commencing a site visit, complaints officers must consider the following differences:

- complaints officers should ask to speak to someone who is ‘specified personnel’ of the provider rather than ‘key personnel’
- complaints officers should advise the representative of the provider that consent for access to the premises can be withdrawn at any time, and
- complaints officers should explain that under the Comprehensive Grant Agreement, the complaints officer may ask the provider’s employees at the premises to answer questions or produce documents or records.
9.33 Undertaking a site visit at a private home
Complaints officers will follow the process for a site visit to a private home outlined in Chapter 6. Officers must be invited to enter a person receiving care’s home and have no right to insist on access.

9.34 Notice of intention to issue directions and directions
When the Complaints Commissioner has reasonable grounds to conclude that a provider is not meeting its obligations under the Comprehensive Grant Agreement, a direction may be issued through a notice under the Comprehensive Grant Agreement. The Complaints Commissioner must issue a NIID to the provider to allow them to address points of concern before deciding whether to issue a direction. The NIIDR must be approved by a complaints officer with administrative authority.

Outcome Phase

9.35 Circumstances for ending the resolution process
The Complaints Commissioner may decide to end a resolution process for complaint issues related to services under a Comprehensive Grant Agreement under the same circumstances contained in Chapter 7.

The decision to end a resolution process must be made by a complaints officer with the appropriate administrative authority. This person is usually a manager.

9.36 Decision to end as the Complaints Commissioner has issued a direction
When the Complaints Commissioner has reasonable grounds to conclude that a provider is not meeting its obligations under the Comprehensive Grant Agreement, a direction may be issued through notice under the Comprehensive Grant Agreement. The Complaints Commissioner must consider the provider’s response, if any, to the NIID to decide whether a direction should be issued.

The direction will be issued through a Notice under the Terms and Conditions of the Comprehensive Grant Agreement. The provider is obliged to comply with any direction issued.

Failure to comply with a direction issued through a Notice is considered an Event of Default under the Comprehensive Grant Agreement. In these circumstances:

- complaints officers will refer the case to the department and cease all involvement in a case, and
- the department may take action against the provider under the agreement. The possible actions taken may include one or more of the following:
  - suspending all or any part of the funding
  - reducing the scope of the funding agreement, and
  - terminating the funding agreement.

9.37 Referrals to other organisations
Referrals can be made at any time throughout the complaints management process. If sufficient information is obtained that may assist another organisation to perform its regulatory function, a delegate may authorise the release of the information in accordance with the Comprehensive Grant Agreement.

Referrals of information or complaint issues can be made to organisations including:

- the department
- the Quality Agency
• state and territory government
• the police
• the Coroner
• the Australian Health Practitioner Regulation Agency
• health care complaints bodies.

Important! Complaints managers must ensure that, where appropriate and possible, reasonable action is taken to advise complainants that their personal information may be released to another organisation. The complainant should also be advised of the possible uses and the circumstances in which the information may be used and disclosed by the Complaints Commissioner.

9.38 Referrals to the department

Referrals to the department promote a consistent and coordinated response to issues that are raised. Issues to be referred are:

• Notifications of incidents and issues – If notifications are provided to the Complaints Commissioner during the intake phase, complaints officers will refer them to the department.
• Complaints about resourcing and access and availability to services – Where complaints involve quality, resourcing or access issues, complaints officers should liaise with the programme area to determine responsibilities for managing the issues.
• Significant risks to a person receiving care, aged care service or programme – Where the Complaints Commissioner identifies that there may be a significant risk, complaints officers should liaise with the programme area to determine responsibilities for managing the issues.
• Failure to comply with a direction, or Event of Default by the provider – Complaints officers will refer the case to the department for action and the Complaints Commissioner will cease all involvement.

9.39 Referrals to the Quality Agency

The Quality Agency ensures there are systems and processes in place that provide quality care delivery to individuals receiving care services under CHSP or NATSIFACP.

Complaints involving a significant risk (as assessed by the RARP) due to a provider not meeting its obligations under the Home Care Standards or the Quality Framework Standards will be referred to the Quality Agency.

Note: A referral to the Quality Agency does not necessarily mean that the Complaints Commissioner should end the complaints resolution process.

See also:
NCCIMS Resources
Template 12b. Type 1 Referral to Quality Agency – Relevant Issues-concern
Template 12c. Type 2 Referral to Quality Agency – Significant Issues-concerns
Template 12d. Type 3 Referral to Quality Agency – Major Issues-concerns

9.40 Referrals to state or territory government and other aged care programme areas

In recognition that many providers deliver multiple services through other Australian Government or state and territory government programmes, the Complaints Commissioner will, from time to time,
share information with other relevant parties to ensure people receiving care continue to receive appropriate services.

**Note:** Complaints officers should obtain advice from their local manager about the arrangements for referrals and information sharing within their state or territory.

### 9.41 Feedback on the decision to end and review rights

The Terms and Conditions allow confidential information to be provided to a complainant about the outcome of the resolution process, including the action taken to address the issues raised.

When disclosing confidential information to complainants, complaints officers will consider:

- the sensitivity of the confidential information
- the information that the provider has already shared with the complainant during the resolution process, and
- any request by the provider that specific information be kept confidential.

Complaints officers will consider whether there is any reason to not advise the provider or the complainant of a referral, including where advising either of the parties could hinder the processes of the organisation being referred to.

### 9.42 Review mechanisms for parties to a complaint under a Comprehensive Grant Agreement

Parties to a complaint related to service provided under a Comprehensive Grant Agreement also have a right of review, however not all the review mechanisms outlined in Chapter 8 Complaint Review Mechanisms are available.

There are three potential review mechanisms available to parties to a complaint related to services provided under a Comprehensive Grant Agreement:

- Following resolution of a complaint, complainants and providers can seek review by the Complaints Commissioner about a decision to end the resolution process. If a provider seeks a review of a direction by the Complaints Commissioner, the provider must take the specified action required under the direction while awaiting that review.
- Any person involved in a complaint can choose to complain about the Complaints Commissioner’s handling of the complaint or a complaints officer’s conduct.
- Any person involved in the complaint can seek external reconsideration by the Commonwealth Ombudsman if dissatisfied with the Complaints Commissioner’s actions in managing the complaint.

Otherwise, the processes outlined in Chapter 8 apply to the review of complaints related to services under a Comprehensive Grant Agreement.