How do I handle a complaint through early resolution?

Introduction
This factsheet provides you with general information necessary to handle a complaint through early resolution. You will find examples of complaints which would be suitable for early resolution in Attachment A. Attachment B details the NCCIMS early resolution workflow.

What is early resolution?
The aim of early resolution is to quickly resolve a complainant’s concerns with an approved provider.

We aim to resolve early resolution complaints within 30 days of receiving them. Most complaints suitable for early resolution will be resolved during the intake/early resolution phase.

In summary, the Commissioner must do one of three things when a complaint is received. These include:

- Decide to take no further action (NFA) on an issue raised by the complaint;
- Quickly resolve the issue raised in the complaint to the satisfaction of the complainant by giving assistance and advice to the complainant; or
- Undertake a resolution process.

Further information and examples can be found in the Explanatory Statement – Aged Care Quality and Safety Commission Rules 2018.

What types of issues are suitable for early resolution?
We finalise a very large proportion of complaints at early resolution, therefore, all issues are potentially suitable for early resolution unless there is an immediate risk to care recipients. As a guide a complaint may not be suitable for early resolution if:

- the provider has a history of poor complaints management
- the issues in the complaint raise significant concerns about whether a provider is meeting its responsibilities; or
- the issue presents significant risk to the safety, health or wellbeing of a person receiving care and it is likely that the delegate will make a decision under section 14 of the Aged Care Quality and Safety Commission Rules 2018 (the Rules).
You should check NCCIMS for recent and/or related care recipient, complainant and service provider history in the intake phase. It is usually only necessary to consider complaints history for the previous 12 months unless the complaint is related to the care recipient, complainant or the same issues. A CASPER (service provider profile) report can assist in the decision on how to progress the complaint. The report will provide you with information regarding Directions/Notice of Intention to Give Directions (Notice) information. A CASPER report is also important in informing the risk rating.

You should use guidance materials, risk assessment tools and consultation with your manager to determine the most appropriate pathway for resolving complaints and enquiries in a proportionate, timely and appropriate way during and following the first contact. Taking the appropriate actions when initially assessing the information received during the first contact can allow us to resolve a complaint case more efficiently. These actions include discussing the case with your manager. The checklist at Attachment C should be used to ensure you have collected the appropriate information and taken the appropriate steps at intake and for 13(1)(a) and 13(1)(b) decisions.

You will find further information regarding how to access and run CASPER reports on the Commission’s SharePoint site – Factsheet 9 – How do I access and run CASPER reports?

If at any point during the 30 days it becomes clear that early resolution will not be possible, you should escalate the complaint to your manager. Once you have their agreement on a way forward you will then prepare a Risk Assessment and Resolution Plan (RARP) for progressing the case to the resolution phase.

Important! If you receive a complaint from a care recipient, representative or other person about a suspected or actual reportable assault you should, in your discussion with the provider enquire as to if they have considered their responsibilities under the Aged Care Act and reported the suspected or actual incident to both the department and police. Depending on the provider's response a referral to the Quality Monitoring and Assessment group may be appropriate.

Consulting the care recipient or their representative – do they share the concern? It is important to consult with the care recipient or their representative to determine if they share the same concern/s that have been raised. If no significant risk is identified, and the care recipient does not wish to proceed, the delegate may decide to take no further action in relation to an issue raised in a complaint. The complaint will be finalised under section 14(1)(h) of the Rules.

Section 14(1)(h) – an aged care consumer identified in the complaint does not wish the issue to be considered by the Commissioner.
Note: Remember to consider whether the care recipient has a nominated representative, guardian, EPOA etc. for decision making and what role they should play in the management of a complaint.

Recording the decision to proceed with an early resolution process
You will need to speak with your manager about your decision to proceed with an early resolution process. They may have a different view and decide that the case should be closed under NFA or proceed to a resolution process. Once a final decision is reached, it needs to be recorded by the manager in a NCCIMS file note of the complaint. See SharePoint for state specific factsheets.

How do I determine a risk rating in early resolution?
The risk rating in early resolution should be aligned with the RARP risk matrix and escalation timeframe in NCCIMS. The overall risk of the complaint is to be the same as the issue with the highest risk rating. E.g. three issues have been raised, one is deemed as significant, two have been deemed as moderate. The overall risk rating of the complaint is significant.

The overall risk rating is to be recorded in the initial call field on the main tab in NCCIMS.

Risk ratings are dynamic and can be changed at any time as the case progresses. It is your responsibility to update risk ratings in the initial call field in NCCIMS. For example if the person receiving care passes away the risk rating is generally downgraded.

Assessing risk of a complaint:
- If the risk is deemed as significant, you must escalate the complaint immediately and consult with your complaints manager.
- If the risk is deemed as major, you must discuss the complaint with your complaints manager within 24 hours.
- If the risk is deemed as low/moderate, you must discuss the complaint with your complaints manager within 48 hours.

Note: Providers should generally be contacted within 48 hours of receiving a complaint regardless of which complaints process will be followed.

What approaches/tools can be used in early resolution to resolve complaints?
In line with the Commission’s objectives, complaints officers should seek to resolve complaints in a manner that will achieve the timeliest, proportionate and appropriate outcome for the person receiving care.

Often, this can be achieved by supporting complainants to resolve their complaints directly with providers without our ongoing formal involvement.
You and your manager are responsible for determining which approaches/tools will be used for each issue. Your manager is to record the decision regarding the agreed approach in a NCCIMS file note.

**Important!** All complaints officers are to employ the same practice when handling complaints. This means that as soon as it is clear that a 13(1)(b) outcome cannot be achieved the case should be moved to assessment and a RARP is to be created for either a 13(1)(a) or 13(1)(c) process. For example, when there have been further incidents, relationship has broken down or the complainant is not happy with the provider's response.

Below you will find some tools/actions which can be used to aid the early resolution of complaints:

- assisting complainants to clarify the issues in a complaint and what outcome or outcomes they seek
- it is important at the early stages of a complaint that you manage the expectations of the complainant. You need to be clear what the Commission can and cannot achieve with regard to their complaint
- providing routine information to complainants or providers on the rights and responsibilities of providers and care recipients
- 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
- assisting the parties to a complaint to generate ideas for resolving it.

Service Provider-Assisted Early Resolution (SPAER) is a tool which can be used to aid the early resolution of a complaint. This is where we encourage the service provider to find solutions to issues raised by complainants. Further information regarding SPAER can be found on SharePoint, Factsheet 34 – How I handle a complaint through service provider-assisted early resolution.

You might also meet face-face with the provider and/or care recipient. Face-to-face meetings can often aid the quick resolution of a complaint. During a face-to-face meeting it is not uncommon that you will receive/collection information. However, if at any time during your face-to-face meeting you have reason to believe the provider is not meeting their responsibilities under the Aged Care Act 1997 (Aged Care Act), and you believe an investigation needs to take place, you should contact your manager.

Caution needs to be taken when entering a service for a face-to-face meeting during an early resolution process. Unlike a site visit, you are not exercising your authorised officer powers and this should be taken into consideration.

Examples of where a face-to-face meeting might be suitable could include:

- reducing barriers such as;
o accessibility difficulties
o hearing difficulties
o to gather informal information quickly to support the early resolution of a complaint.

Note: It is not the role of an early resolution officer to conduct a quasi-investigation. Our intent is to resolve a case quickly. During an early resolution complaints officers may under 13(2) of the Rules:

- Consider documents;
- Discuss the issue in person or by other means with the complainant, the provider or any on the person; or
- Request information from any person.

If this then requires substantial follow up or analysis of information provided, then you should discuss with your manager if they are satisfied with making a 13(1)(a) decision at early resolution based on the information at hand or whether the issues should be RARPed to resolution a more detailed examination.

**When should I contact the Complaints Resolution Group Clinical Unit during early resolution?**

During the early resolution of complaints where there are clinical issues of concern or you require an explanation of clinical terms you should firstly contact a registered clinician in your office. If the registered clinician in your operations team is unavailable you can go to another registered clinician in a different office or you can contact the Complaints Clinical Unit.

**Important!** See the [Flow chart for clinical advice in early resolution](#) to assist you in determining the requirement of Clinical Unit involvement. If you do not have a registered clinician available in your operations team, you should contact the Complaints Clinical Unit:

- by telephone anytime you want to discuss clinical issues
- when cases with issues around the appropriateness of clinical care
- for clarification of more complex clinical terms
- for interpretation of clinical information
- for cases with multiple clinical issues
- when there is potential for contention
- when there is escalating nature of the complaint

Various resources and templates have been developed to assist you with the Complaints Clinical Unit process; these can be found on the [SharePoint Clinical Unit page](#), or by clicking the links below:

- Clinical Advice Framework - updated Feb 2019
- Flow chart for clinical advice in early resolution
**What should I do if I am unable to contact the complainant?**

Initially three attempts to contact the complainant should be made over three consecutive days (by phone, and/or email at different times of the day). If no return contact is made you should send a letter to the complainant asking them to make contact within 7 calendar days. The letter should detail the attempts made to contact them and outline the process to be followed by the Commission. It should state that if no contact is made, you will make a decision without their involvement. The letter should encourage the complainant to contact you and a finalisation letter is to be sent when you have finished examining the issue/s of concern.

**Note:** To provide an update you should contact parties to a complaint every five working days, unless other arrangements are discussed and agreed with each party. This should be documented in NCCIMS.

**What happens when early resolution falls outside of 30 days?**

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

The reason for keeping the case within early resolution should be recorded in a NCCIMS file note by your manager at around 30 days. This information should be updated on a fortnightly basis from this point for as long as the case remains in early resolution.

**How do I finalise an early resolution case?**

It is essential that you choose the correct resolution option. For example, for a complainant who withdraws their complaint, the case is finalised under 13(1)(a), 14(1)(f), not 13(1)(b).

Everything that is not closed under 13(1)(b) requires a RARP and a delegated decision.

Finalising under section 13(1)(a):

- requires a RARP
- is a delegated decision
you need to provide sufficient analysis of information and rationale for your recommendation to the delegate
- you must offer a finalisation letter (if you have an email or physical address)
- is reviewable.

Note: This can be difficult if a complainant indicates that they do not want a finalisation letter. If able to, you need to explain that the finalisation letter contains important information about their review rights and we are required to provide the complainant with this information. However, Section 14(3)(c) of the Rules states that we do not need to send a notification letter if the complainant has requested that we do not do so. In circumstances where you are unable to contact the complainant and do not have an email or physical address, then the delegate must still sign a finalisation letter and this is to be kept on NCCIMS and file noted that you were unable to send the letter.

If the complainant comes back to the Commission at some point in the future the letter can be sent then. This means that the timeframe for review rights commences when you advise the complainant of the outcome and send the finalisation letter. Make sure the scanned copy of the finalisation letter signed by the delegate is uploaded to NCCIMS.

Finalising under section 13(1)(b):
- no RARP is required
- is not a delegate decision
- In situations where you have contacted the approved provider and the concerns have been resolved to the satisfaction of the complainant then you are expected to finalise the complaint under section 13(1)(b) and file note the following in NCCIMS:
  - that you are finalising the complaint on the advice from the complainant that they are satisfied with the assistance provided by the Commission, this means the complaint will be closed
  - that the complainant does not have review rights
  - that the complainant is welcome to raise a new complaints with the Commission at anytime
  - that the complainant has been offered (and has accepted or not) a finalisation letter
  - that the provider has been advised, if appropriate.

The file note might include this wording: “Finalised 13(1)(b) advised complainant that the case will be closed, they have no reviews rights finalising under 13(1)(b), however, they can return to the Commission at any time if they have concerns and offered and (accepted or declined) finalisation letter.”

In instances where you have assisted the complainant to clarify the issues so they can raise them directly with the approved provider you should finalise the case under section 13(1)(b).
Important: In this circumstance you should record the case as a complaint not an enquiry.

In this situation though it would not be sensible to advise the complainant of the above four points. Rather, in the file note of the last conversation with the complainant you should include the following wording:

‘Finalised 13(1)(b),

- assisted the complainant to clarify the issues to enable the complainant to raise them directly with the approved provider or service provider; or
- telephone the approved provider or service provider on behalf of the complainant to discuss and resolve the issue raised by the complainant.

Advised complainant that the Commission will take no further action and that the complainant can return to the Commission at any time if they have any concerns.’

Note: If the issue is quickly resolved to the satisfaction of the complainant there will be no formal feedback or opportunity for reconsideration. This is because the issue has been resolved quickly, a positive outcome has been achieved (or the complainant has otherwise agreed that they wish to pursue the matter themselves) and the complainant does not need our further involvement. Essentially it is the decision of the complainant, as communicated to the Commissioner, which stops the process.

If the complainant requests acknowledgement correspondence, you are not required to detail the resolution process which will be followed, or a summary of issues. You should also exercise judgement regarding offering and sending the acknowledgement letter, particularly if you believe that the complaint will be resolved under 13(b)(1) within a couple of days as it would not be appropriate for a finalisation letter to be sent when it is possible that it may arrive before the acknowledgement letter.

Note: A Notice of Collection should be issue to the complainant as soon as reasonably practicable after your first conversation with them.

Moving a case from early resolution to resolution phase under section 13(1)(c):

- requires a RARP, which:
  - explains why a service provider resolution approach should or should not be used; and
  - explains why conciliation is appropriate or not appropriate
- is a delegated decision
- requires you to provide sufficient information and rationale in recommendation to the delegate
- requires a confirmation of issues letter is sent in early resolution advising that the complaint is being moved to the resolution phase.

Related links
Guidelines for the Aged Care Complaints Commissioner (note: chapter 2-5)

Factsheets
- Factsheet 9 – How do I access and run CASPER reports?
- Factsheet 20 – How do I write feedback and the reasoning behind a decision?
- Factsheet 34 – How do I handle a complaint through service provider-assisted early resolution (SPAER)?
- Factsheet 44 – What do I need to know about issues framing?

Legislation
- Aged Care Quality and Safety Commission Act 2018
- Aged Care Quality and Safety Commission Rules 2018
- Explanatory Statement – Aged Care Quality and Safety Commission Rules 2018
- Aged Care Act 1997
- Aged Care Principles
Below you will find examples of complaints that would be suitable for early resolution.

13(1)(b) – quickly resolve the issue to the satisfaction of the complainant.
A complainant contacted you seeking more information about his/her rights under the Aged Care Act and Aged Care Principles, in relation to the actions of an approved provider. You may be able to help the complainant clarify their issues and better understand their rights and responsibilities. As a result of the conversation, the person may feel comfortable raising the complaint directly with the approved provider and attempting to independently arrive at a resolution. In this example, you would not need to be involved in undertaking any further resolution process because you have assisted the complainant to address the issue directly.

13(1)(b) – quickly resolve the issue to the satisfaction of the complainant.
You may be able to arrive at a resolution by making contact with the approved provider and ascertaining exactly what the problem is and how it can be resolved as quickly as possible. An example of this would be if you received a complaint that items of clothing has been damaged in the laundry. You might make a phone call to the approved provider and learn that the staff member had accidently mixed coloured clothes with whites (on the day to which the complaint relates). The approved provider may have already set up a system to avoid damage to laundry in the future and have offered to replace the damaged item. In this instance, if the complainant is satisfied that the complaint has been properly addressed, there would be no need of further involvement of you in the case.

13(1)(b) – quickly resolve the issue to the satisfaction of the complainant.
A care recipient (complainant) calls you and advises that, after being in hospital for a few weeks, the aged care service that previously accommodated the care recipient is refusing to let them return to the service. In this circumstance, you may contact the approved provider and explain the approved provider’s responsibilities under Act in relation to security of tenure. With this renewed understanding, the approved provider might then agree to readmit the care recipient. In this case, the issue has been quickly resolved to the satisfaction of the complainant (care recipient) and it is not necessary for you to undertake any further resolution process.

13(1)(a) 14(1)(d) the issue is better dealt with, or is already being dealt with, under this instrument (other than this Part)
An anonymous complaint is made regarding staffing levels. After conducting an initial enquiry with the service provider, you find no information that raises serious concerns. The delegate decides that due to the fact that there is no named care recipient and the issue is systemic in nature with the potential to affect a large number of care recipients, that the issue is better dealt with, or is already being dealt with, under this instrument (other than this Part) and the information is shared to the Quality Assessment and Monitoring Group.
13(1)(a) 14(1)(k) having regard to all the circumstances, no further action in relation to the issue is required.

A complaint is received which has no named care recipient. When looking at the information received, you see that another complaint has been made very recently with the same issue/s. The previous complaint, with a named care recipient, has dealt with the matter to the complainant (or our) satisfaction and finalised. As the issue has already been dealt with previously and there is no named care recipient in this complaint, a resolution process is not warranted.
Initiate when: on first addition of a service (because it is based upon the service care type) Entity = Scheme File Type = Complaint Service Care Type = other than Home and Community Care.

**Workflow Prefix:** SCHCIN

- **Scheme Complaint Intake**
- **Assess Complaint Issues**
- **Complete Early Resolution**
- **Case Intake Assessment**
- **Manager assessment required**

**Default due date is 14 elapsed days**

**Suitable for early resolution:**

Not all issues resolved – require manager assessment

**Not suitable for early resolution:**

Resolved under NFA

Resolved to the satisfaction of the complainant

Close case

**On close:**
- Set RARP status to draft.
- Set the RARP officer and RARP manager to be the case officer and case manager.

**Resolved under NFA**

On close: the “Assessment Phase Resolution Plan” field on scheme should be populated

**Manager approval of Intake RARP**

**Add intake assessment approaches on RARP**

**Assign to case manager**

**On close:** if “Manager Approval of intake RARP” status = “Approved” then:
- Set RARP status to approved and assign current date/time
- Set date approved field to the date of the action completion
- RARP history is created

Else if status = “Changes Required” set RARP status to draft

**Close case**

**Not all issues resolved – move to assessment**

**Not suitable for early resolution:**

**Commissioner assessment**

**Finalise case at early resolution**

Last updated: August 2019

**Factsheet 56: How I handle a complaint through early resolution?**

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