



FEEDBACK AND COMPLAINTS POLICY

1. Introduction

The Office of the Public Guardian (OPG) is committed to providing fair, equitable and effective support to the Tasmanian community. The OPG welcomes feedback and complaints as a way to ensure we are accountable for providing the best possible service, as well as providing opportunities to review organisational performance and the conduct of people that work within and for it.

2. Purpose

The aim of this policy is to ensure that the OPG has a fair, effective and efficient feedback and complaints handling process.

Our complaints and feedback policy is intended to:

- Learn from practices and processes that have worked well for clients and stakeholders
- Identify issues (individual and systemic) and use this to inform the continuous improvement of our service
- Enable us to respond to complaints in a timely and effective way
- Ensure accountability and confidence in our processes as a public body

3. Scope

This policy applies to all OPG staff who receive, respond to or manage complaints and feedback about our services and staff.

4. Definitions

Feedback

Informal comments and expressions of positive or negative experiences with our staff, service or processes.

Complaint

An expression of dissatisfaction about our services, staff, actions taken or not taken.

Review

A request for a review of a guardian's decision. This may be part of or separate to a complaint.

5. Where to lodge complaints and feedback

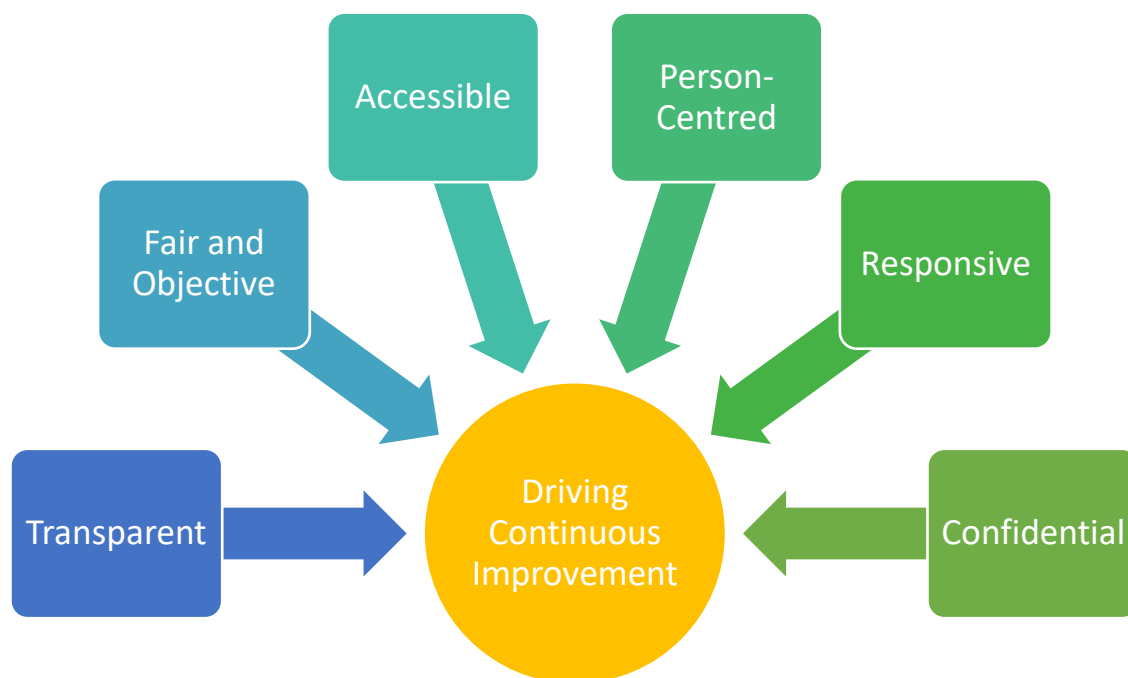
Email: feedback@publicguardian.tas.gov.au

PH: (03) 6165 3444 (state-wide)

Mail: C/- The Public Guardian
GPO Box 825
Hobart
TAS 7000

6. Our Values and Commitments

Complaints management is about resolving individual complaints, seeking solutions at the earliest possible point and identifying opportunities to make improvements. The OPG is committed to ensuring our complaints handling process reflects the following values:



Person-centred

Our staff will treat anyone making a complaint, or supporting someone to make a complaint with courtesy and respect. We will listen to concerns openly and objectively.

Accessible

OPG staff receiving or responding to a complaint will be sensitive to the person's needs and, where appropriate:

- Offer assistance to lodge a complaint, including in an appropriate format
- Provide information or a response in an accessible format
- Facilitate access to an interpreter to understand and participate in the process

Responsive

The OPG will respond to complaints in a timely manner. We will assess and prioritise urgent matters where required. Staff handling a complaint will ensure information is provided to complainants about the expected timeframes for the complaint process.

Confidential

Details about a complaint will be kept confidential and will only be shared with people who need to know about it (for example in order to gather relevant information about the matter or provide an appropriate response).

Fair and objective

The OPG will hear complaints objectively and from both sides (the complainant and the respondent).

Transparent

The complaint process and the possible outcomes of the complaint will be clearly explained and those involved will be kept informed of the progress of the complaint and the reasons for any decisions. We will report on complaints data in our annual report.

Driving Continuous Improvement

The OPG will regularly review themes and issues raised in individual complaints and other feedback to inform continuous improvement.

7. No disadvantage

Anyone raising a concern, complaint or providing feedback will not be disadvantaged or treated differently as a result of that complaint.

Complaints will be managed in a way that:

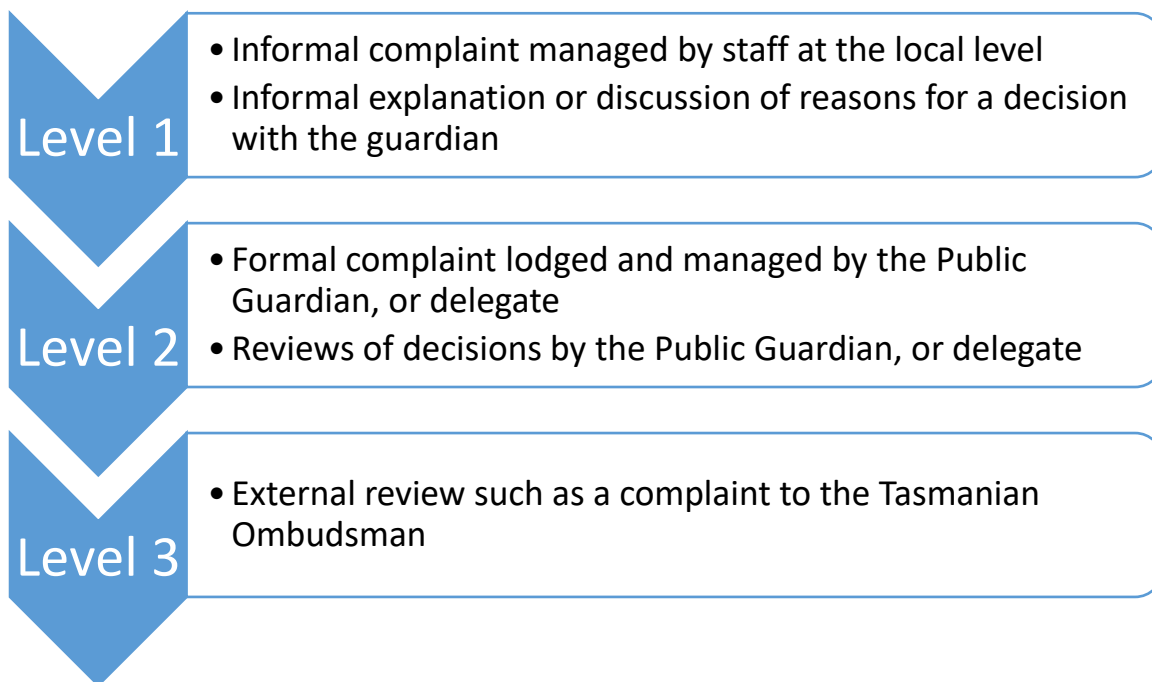
- protects complainants from being victimised because they have made a complaint
- protects employees from vexatious, malicious and/or persistent complaints
- ensures appropriate confidential records are kept about complaints and that this information is stored and managed appropriately

8. Early Resolution

Our complaints and feedback policy aims to resolve complaints at the earliest possible point in the process. Our staff will respond to complaints appropriately, in a timely manner and with a view to seeking a resolution.

9. Three levels of complaints management

The OPG uses a three tiered complaints model. We aim to resolve complaints at the informal level where possible. Where a matter is unable to be resolved at the initial stage, the Public Guardian or another delegate will assess, investigate and review the complaint. Where a matter cannot be resolved via formal complaint handling, a complainant may be referred to an external body such as the Tasmanian Ombudsman.



Staff will not discourage a complaint being escalated when requested or when required to find a resolution to a matter.

10. Resolving concerns and complaints



Source: OPA Victoria – Information for persons wishing to make a complaint (2018)

A written complaint is the preferred format to receive a complaint wherever possible as this helps provide an accurate summary and record of the concerns that require a response.

Receive

All complaints will be appropriately documented within OPG systems. The complaint record will include:

- The details of the person making the complaint
- The issues raised and desired outcome
- The outcome or resolution to the complaint once concluded
- Any other relevant information

Acknowledge

Complaints will be acknowledged as soon as possible or within 3 business days.

When acknowledging a complaint, OPG staff will:

- provide information about the complaint process
- provide information about the expected timeframes
- advise the complainant of potential outcomes or options for assistance where possible

Staff acknowledging a complaint will consider any communication needs of the person making the complaint and the best form of response (e.g. email, mail, phone).

When acknowledging feedback, OPG staff will:

- provide information on how the feedback will be used
- report on any trends in feedback in our annual report

Assess and Investigate

When assessing a formal complaint we will consider:

- the seriousness or urgency of the issue
- how complex the issue or issues are
- whether the complaint involves concerns for the health or safety of any person
- whether the possible resolution requires the involvement of other individuals or organisations
- the risks or consequence if a matter is not dealt with in a particular timeframe

When responding to a complaint we may:

- investigate the concerns raised in the complaint
- ask the complainant to provide relevant documents or details of witnesses that may support the complaint
- give information or advice to the person making the complaint
- gather information from the person who the complaint is about

In the process of assessing a complaint, the OPG may identify we are unable to deal with a complaint or a particular outcome is outside our scope/control. We will maintain open communication to manage expectations of complainants if this is the case.

Provide response or reasons for decision

Following an assessment and investigation of a complaint, the OPG will provide a written response to the complainant and respondent (where relevant) which will include:

- the action we took and outcome of the complaint
- the rationale for the outcome reached

- any options considered to resolve the complaint

Information will also be included about any options to review the outcome, if available. If the complainant is satisfied, the matter will be closed.

Where a formal request for written reasons for a *guardianship decision* is made, we will provide a response within 21 days of the receipt of the request (see part 13 for further detail).

Provide options for redress or closure of complaint

The OPG's response to a complaint will provide information on options for external review such as referring the complainant to the Tasmanian Ombudsman.

11. Impartiality and managing conflicts of interest

The OPG will handle all complaints in an unbiased and professional manner. In order to manage potential conflicts of interest and ensure impartiality in our processes we will:

- ensure that a different staff member handles the complaint to the person whose conduct is being complained about, unless it can be resolved at an informal level
- complaint documentation will be kept in a secure database and managed sensitively
- the details of the complaint will be kept confidential and will only be shared with the people who need to know about it (for example to gather relevant information about the matter or provide an appropriate response)

12. Outcomes or decisions the Public Guardian cannot review

The Public Guardian cannot review or change decisions made by the Tasmanian Civil and Administrative Tribunal (TasCAT) including but not limited to:

- making a guardianship or administration order
- appointing the Public Guardian or Public Trustee or any other party as guardian or administrator
- revoking or changing an order

13. Reviewing a guardian's decision

OPG guardians make decisions in accordance with the *Guardianship & Administration Act 1995*, and the Australian National Standards of Public Guardianship 2016. This means that guardians must take into account certain matters when making decisions. This usually involves balancing a range of competing factors including views, interests and human rights.

If a person does not agree with a guardian's decision, they have a right to:

- Ask the guardian to explain the decision and discuss the concerns with the complainant;
- Request a review of the decision if they feel a decision was made with incorrect or incomplete information

Reasons for Decision

If talking to the guardian doesn't help address the concerns, you can ask us to write down the reasons for the decision.

Written reasons tell you what the guardian considered when they made the decision, like:

- What the person under guardianship told the guardian about their wishes and preferences
- Who the guardian spoke to and their views about the options
- The least restrictive option
- The person under guardianship's rights and interests
- The legal requirements under the *Guardianship and Administration Act 1995*
- How the guardian came to the decision

We will provide written reasons for the decision within 21 days of receiving the request.

For family members and other key parties

Guardians must maintain the privacy and safety of a person under guardianship. Information about decisions can be highly sensitive. It is not always appropriate to provide written reasons for a decision to family members or other key parties. Requests will be considered on a case by case basis. We will explain the reasons why if we are unable to give certain information.

Review Process

Following a request for review, the Public Guardian or a different Senior Guardian will undertake a structured review. This process assesses compliance with the principles of the *Guardianship and Administration Act, 1995* and key objectives of the OPG's Decision Making Framework including the standards for Public Guardianship.

A review of a guardian's decision will consider and assess decision-making against specific principles. These are detailed within Fact Sheet: Review of OPG Decisions. Once the decision has been reviewed, the outcome will be provided in writing.

The outcome may include:

- Confirmation that the decision followed the legislative principles and key decision-making objectives, and is therefore upheld
- Confirmation that the decision had limitations and a new decision will be made

If the complainant remains unhappy following a review of decision, they may be referred to the Tasmanian Ombudsman for concerns about the OPG's administrative processes.

Information may also be provided, where relevant, about the process of applying to TasCAT for the guardianship order to be reviewed.

*** TasCAT cannot review decisions made by the OPG or direct the Public Guardian to make a particular decision.**

14. Dealing with unreasonable conduct

We welcome feedback and complaints and believe everyone has a right to be heard. Most people act responsibly when making complaints, however, a small number of people use the process to cause harm or nuisance, or, to perpetrate abuse.

Where a complainant's conduct is considered unreasonable, vexatious and persistent after reasonable attempts to resolve concerns, the OPG will take steps to limit the impact of this behaviour on the efficient running of the office. This may include declining to engage with unreasonable conduct or complaints.

15. Analysis and Continuous Improvement

The Office of the Public Guardian commits to using the complaints and feedback process as a key component of the continuous improvement process. In addition to immediate remedies identified through individual complaints, we will review complaints data on an annual basis to identify and report on any systemic themes and issues via the OPG Annual Report to the Minister for Justice. We commit to taking steps where possible to improve our services based on this or advocate systemically for such improvements.

Resources

- OPG Guideline – Proactively Managing Relationships and Aggrieved Persons (2022)
- OPG Decision Making Framework (2022)
- Managing unreasonable conduct by a complainant. A manual for frontline staff, supervisors and senior managers. Ombudsman NSW (2021)
- 5 Key Component of Effective Complaints Management Process, www.qualityze.com
- Complaints Management, NDIS Quality and Safeguards Commission
- OPA Victoria – *Information for persons wishing to make a complaint* (2018)