

Effective Complaints Management

10: Remedies

INFORMATION FOR NORTHERN TERRITORY PUBLIC SECTOR AGENCIES:

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This Fact Sheet forms part of a series designed to assist public sector agencies to ensure they have appropriate procedures in place to effectively manage customer complaints.

The Fact Sheet series has been kindly made available by the Queensland Ombudsman. It has been adapted for use in the Northern Territory.

For further information or advice, please contact the Northern Territory Ombudsman's Office on 08 8999 1818.

Steps to take when a customer complaint is justified

When a customer's complaint is considered justified, the next step in the complaints management process is to determine an appropriate remedy. Wherever practicable, complainants should finish their association with your agency in the position they would have been in if things had not gone wrong. By working to rectify the matter, you are making a commitment to meeting the customer's needs, improving internal processes and maintaining the reputation of your agency.

Determining remedies

The complaints handling process needs to have the capacity to determine and implement remedies. In considering a range of options for remedies for complainants, you might take into account the following:

- what is the complainant seeking?
- what is the degree of detriment?
- what options are available?
- what remedies, if any, are provided in the relevant legislation?
- is it necessary or desirable for a third party to negotiate or mediate between your agency and the complainant to obtain an agreed remedy?

Useful tip

Ask the customer, *"What is it you hope my agency can do to help resolve this for you?"*

This will give you a lot of information, including a sense of how important the issue is to the customer.

Principles when developing remedies

It is important for the solution to fit the complaint. Remember, decisions on remedies are reviewable by the Northern Territory Ombudsman, who can recommend actions to rectify, mitigate or alter the effects of administrative action.

The following principles are helpful guidelines when developing remedies:

- **Fair and reasonable** – the remedy should be fair and reasonable for both the complainant and your agency. While there may not be a legal requirement to compensate the customer, there may be a moral obligation to do so.
- **Equal treatment for equal circumstances** – all like cases should be treated alike. In applying this principle, isolate the elements of a complaint in order to identify other complaints of a similar nature.
- **No abuse of power** – you should not take advantage of your position of authority to avoid your obligation to fairly remedy a complaint.
- **Comprehensive resolution of the complaint** – the remedy needs to cover all elements of the complaint to avoid subsequent complaints about the same issues. Provide a remedy to all people affected by the maladministration, not just those who made the complaint.
- **Explanation** – provide reasons for the decisions about the remedies you apply in reasonable detail.
- **Timeliness** – administer the remedy as soon as possible.
- **Mitigation** – in some cases it is not possible to completely satisfy the customer and therefore you should take steps to improve the situation. Consider any practical action that the customer might suggest.

EFFECTIVE COMPLAINTS MANAGEMENT - REMEDIES

A satisfactory outcome

Ms Hogan and her young son lived in a Territory Housing unit. Ms Hogan complained that while she was out of town for one week, Territory Housing repossessed her unit under the belief that Ms Hogan had abandoned it.

Ms Hogan arrived back at the unit to find the locks changed and her rental fridge returned to the hire company. She called Territory Housing, which realised its error and gave her the new keys to allow her to get back into her unit. However Territory Housing subsequently charged Ms Hogan over \$300 for the cost of replacement locks as a result of the temporary repossession.

Our office found that at the time of the repossession, Ms Hogan's rent was not in arrears. The *Residential Tenancies Act* requires that rent be outstanding before the landlord has a legal right to enter and take possession of the property where it is believed to be abandoned. The Ombudsman found that while Territory Housing had acted promptly to rectify its error by handing back possession of the property to Ms Hogan, it had acted unlawfully by levying the charges.

We found that Territory Housing staff had acted in accordance with the policy manual but the manual itself incorrectly explained this aspect of the legislation. We recommended that Territory Housing amend its policy manual and offer an apology to the complainant, along with a refund. The complainant was satisfied with this outcome.

You can benefit from providing remedies to customers

Some people might think offering to remedy situations is an admission of liability. This is incorrect and there are actually benefits to your agency in addressing the concerns of your customers, even if the concerns are unfounded.

Firstly, by investigating customer complaints and offering a remedy when the complaint is found to be justified, you are working to rebuild the customer's confidence in your agency as well as reducing the possibility that he or she will criticise your agency to others. In other words, you are protecting the reputation of your agency.

Secondly, listening to the concerns of your customers – even if unfounded – may highlight areas of maladministration and provide a catalyst to modify policies or procedures, and therefore is an excellent means of improving your service at a systemic level.

Determine the appropriate remedy

Staff who handle complaints should have the authority to decide remedies of certain types and up to an authorised limit, with direct access to the Chief Executive or senior manager for other remedies.

The type of remedy customers may seek obviously depends on the nature of the complaint. For example, in the case of defective administration, many customers want the assurance that systemic policies and procedures will be reviewed to ensure the same problem does not affect other customers. Many customers may want the decision overturned and an acknowledgement of fault.

Your agency should provide complaints handlers with a menu of remedies and clear direction as to what remedies are appropriate for what situations to ensure responses across the organisation are consistent and appropriate.

Examples of remedies that may be suitable for your agency are:

- an apology
- an admission of fault
- a change of decision
- an explanation of how and why the problem occurred and what steps your agency has taken to avoid it recurring
- a change to procedures or practice
- a change to a relevant law
- a correction of misleading or incorrect records
- the return of property inappropriately held
- protection of complainants
- financial compensation
- an 'ex gratia' payment
- a remission of a penalty
- a waiver of a debt.

Determine when it is appropriate to give refunds or financial compensation

There should be an emphasis on redressing the impact of the inappropriate decision or action and righting your agency's procedures and practices.

It is not always possible or appropriate to reimburse or financially compensate customers. However, this may be appropriate when the complainant has suffered some kind of loss due to your agency's actions and there is no other practicable equivalent remedy.

Check your agency's policy on giving refunds but you might take the following into account before awarding this type of remedy:

- the effects of the complainant's own action
- the extent of the complainant's loss
- distress caused to the complainant
- any professional fees that the complainant may have incurred pursuing the complaint
- time and inconvenience to the complainant in pursuing the complaint.

Useful tip: Consider your agency's responsibilities to your customers when employing contractors to undertake services and ensure that service standards and complaints handling procedures are built into the contract. Your agency is accountable for the use of public money and may therefore be accountable for the service.

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