

COMMONWEALTH COURTS AND TRIBUNALS

Complaint-handling processes and the Ombudsman's jurisdiction

Questions asked by the Commonwealth Ombudsman

In the initial letter to the agency

1. Are there any express limits on the type of complaints that can be considered?
2. Are there any requirements of complainants (for example, that a complaint must be in writing, or an application fee)?
3. How many complaints did you receive in 2005-2006?
4. How long to complaints take to resolve?

Supplementary

We also asked a subsequent written question querying how the agency advised the public that they are able to complain to the Commonwealth Ombudsman.

In the follow up phone call

1. How do you receive your complaints? (e.g. mainly letter, some phone etc)
2. What happens to a complaint when you receive it? (how is it processed, is there a designated person who deals with them, is there a documented process etc)
3. What sorts of remedy do you provide? (e.g. mainly apology, explanation of detail in plain English etc)
4. What happens when the process fails to bring a resolution? (who do you refer complainants to - and how do you do this?)
5. Does your information include details about contacting the Commonwealth Ombudsman and at what stage this information was provided.
6. Is there training provided to staff about correct complaint handling procedures?

Individual responses

Following is a detailed listing of the responses regarding complaint handling process undertaken by the surveyed Courts and Tribunals.

Superannuation Complaints Tribunal

Written question 1

There are no constraints on type of complaints.

Written question 2

There are no requirements for the format of complaints.

Written question 3

Records are not kept on the numbers of complaints, however anecdotal evidence suggests the number are few.

Written question 4

Most complaints were dealt with in a few days, normally less than 5.

Supplementary

There is no written referral material provided to complainants. Reference is only provided in a verbal manner.

Follow up question 1

No information provided.

Follow up question 2

Complaints are handled by a designated officer.

Follow up question 3

The response from the SCT may be in writing, or may be through discussion with the complainant, and often includes further explanation. Where SCT error is identified, an apology is provided to the complainant, and the source of the error addressed.

Follow up question 4

Where it becomes apparent that the complainant is still dissatisfied with the outcome of an investigation by the SCT, reference to the Commonwealth Ombudsman is provided.

Follow up question 5

Information about the Commonwealth Ombudsman is not formally provided and is only done verbally when required.

Follow up question 6

Staff training in complaint handling is provided during the initial 3-month induction period and is mainly of an on-the-job nature.

Migration Review Tribunal/Refugee Review Tribunal***Written question 1***

There are no limits on the type of complaints received by the MRT or the RRT

Written question 2

There are no requirements placed on submission of complaints to the MRT or the RRT.

Written question 3

In the 2005-06 period, 17 complaints were received by the MRT and 8 by the RRT.

Written question 4

It took between 1–10 working days to resolve the receive complaints with 10% being resolved within 5 working days.

Supplementary

Referral to the Commonwealth Ombudsman is included in the MRT and RRT Service Charter, and is provided in Factsheets M25 and M29.

The text of these references were provided with the MRT-RRT response.

Follow up question 1

Complaints are received by the MRT-RRT mainly in writing, but some are also received by phone.

Follow up question 2

If the subject of the complaint is a Member of the Tribunals, the Principal Member will arrange for an investigation of the complaint to be conducted. If the subject of the complaint is an officer of the Tribunals or a third party (for example an interpreter), the Registrar will arrange for an investigation of the complaint to be conducted.

Follow up question 3

As complete an explanation of the issues is provided to the complainant.

Follow up question 4

Where it is apparent that a complainant is dissatisfied with the outcome of an MRT/RRT investigation – referral is made to the Commonwealth Ombudsman.

Follow up question 5

Information is provided to complainants about the Commonwealth Ombudsman.

Follow up question 6

While there is no specific complaint handling training provided, training is available to staff in conflict resolution, and Client Service training is provided formally to all new staff.

National Native Title Tribunal

Written question 1

There are no limits on the type of complaints considered.

Written question 2

Most complaints come into the NNTT in writing, but there are no specific requirements.

Written question 3

There was only 1 complaint received by NNTT in the period

Written question 4

Historically, complaints have been finalised within 30 days, although the one received in 2005-06 took 42 days to resolve.

Supplementary

Referral to the Commonwealth Ombudsman is made on the NNTT website as a next step. The relevant text was provided in response to this question

Follow up question 1

Most complaints come into the NNTT in writing, either in letter or on the form which is on the back of the Service Charter.

Some oral complaints also received

Follow up question 2

All complaints are referred to the Public Affairs area that investigate the matters and brief the Registrar.

Depending on circumstances, the case may be transferred to a regional office or to the President (where it relates to the conduct of a member).

Follow up question 3

Explanation and mediation are the main remedies provided by NNTT. Plain English is used where possible.

Follow up question 4

An explanation is provided

Follow up question 5

Information provided to complainants and to the public in general includes referral to the Commonwealth Ombudsman.

Follow up question 6

There is no formal complaint-handling training provided to staff, but the members of the Public Affairs team stay abreast of techniques in dealing with the public.

Social Security Appeals Tribunal

Written question 1

There are no limits on the type of complaints heard by the SSAT.

Written question 2

There are no requirements of complainants.

Written question 3

The SSAT received 10 formal complaints and 5 informal complaints in the 2005-06 period.

Written question 4

8 complaints were resolved in 1 day and the remaining 7 took between 6 and 52 days to resolve.

Supplementary

None.

Follow up question 1

Complaints come into the SSAT via letter, fax, email, phone and in person.

Follow up question 2

Received complaints are entered in to a feedback database. Only written complaints receive a formal reply. Complaints then transferred to State Director or the State Business Manager. Business Managers are expected to personally handle complaints by applicants unless the complaint concerns the conduct of a Member, in which case the complaint is handled by the relevant SSAT Director. Complaints about State Directors are referred to the Executive Director.

Follow up question 3

Explanation and/or apology are the only remedies provided.

Follow up question 4

Depending on the subject of the complaint, unresolvable complaints are referred to the AAT, the Privacy Commissioner or the Commonwealth Ombudsman.

Follow up question 5

There is referral information to the Commonwealth Ombudsman in both the Service Charter and the Annual Report.

Follow up question 6

Training is not formal and is done on-the-job.

Veterans Review Board***Written question 1***

Procedural matters or those related to the conduct of a proceeding are accepted. Complaints about a board decision are referred to the AAT.

Written question 2

No requirements, and no fee charged.

Written question 3

Of the 18 complaints received by the VRB, 5 were referred for comment from the Minister, 7 were concerns over a decision or aspects of a decision, 2 were about the conduct of a hearing, and 4 related to VRB procedures.

Written question 4

Complaints usually take a few days to resolve but some may take a few weeks

Supplementary

When a complainant expresses dissatisfaction with a VRB complaint decision, referral is provided to the Commonwealth Ombudsman.

Follow up question 1

Most complaints arrive to the VRB by letter, and a few by telephone.

Follow up question 2

Telephone inquiries have a written record taken of them which is forwarded to the ACT office for processing. Written inquiries are handled locally. Inquiries concerning board members are processed only by the ACT head office.

There is no electronic database storage, hard-copy files only are kept.

Follow up question 3

Apology and explanation are provided in response to complaints, and also possible re-hearing or review undertaken.

Follow up question 4

Referral to the AAT or to the Commonwealth Ombudsman is made where a complainant is dissatisfied with the outcome of a VRB complaint assessment.

Follow up question 5

Reference to the Commonwealth Ombudsman is not made until the VRB process is exhausted without resolution.

Follow up question 6

There is no staff training provided in complaint handling procedures.

Administrative Appeal Tribunal

Written question 1

There are no express limits on the subject matter of complaints. However where a complaint concerns the substantive decision that has been made, the AAT is limited in its ability to respond to the complaint. The Tribunal cannot revisit a decision other than in exceptional circumstances. In these situations, the Tribunal will generally advise complainants of their right to appeal against the decision to the Federal Court.

Written question 2

The AAT Service Charter sets out how a person may complaint to the AAT. This can be in person, in writing or be telephone. Complainants are requested to give as much detail as possible. There is no fee. The AAT states in its Service Charter that it does not process anonymous complaints. The AAT does make an assessment of matters raised in anonymous complaints.

Written question 3

The ATT received 39 complaints in the 2005-06 period. Of these, 2 were about the conduct of conferences, 8 about the conduct of members, 14 about decisions, 5 about timeliness, 5 about the availability of decisions on the internet, and 13 about procedural matters.

Written question 4

Complaints were concluded within 20 days with an average of 10 working days. The longest was 44 days.

Supplementary

The AAT Service Charter, available on the website and at Registries, says that complainants may contact the Ombudsman if not satisfied. This information is also in correspondence to the complainant if considered appropriate. A copy of the standard text was provided with the submitted response.

Follow up question 1

Complaints are received by the AAT through letter, email and telephone

Follow up question 2

The AAT has a complaint-handling policy which identifies who should deal with complaints. Where a complaint cannot be resolved straight away, it is referred to the relevant person on the organisation. The AAT's Service Charter says it will respond to complaints within 20 days.

The AAT makes a written record of all oral complaints and how they were resolved. The Assistant Registrar records all complaints in an electronic database, which is monitored and evaluated by the Assistant Registrar.

Follow up question 3

The AAT may respond to a complaint in a variety of ways depending on the nature of the complaint. The AAT may offer an apology, provide an explanation, provide information on appeal rights, rectify an error, or change policies or procedures.

Follow up question 4

Where relevant, the AAT will advise complainants of their right to appeal a decision to the Federal Court. The AAT also advises complainants that they may write to their Member of Parliament.

Follow up question 5

Information provided to the public includes referral to the Commonwealth Ombudsman

Follow up question 6

There is an element of general training provided to staff on complaint handling, with specific training on dealing with difficult clients.

Federal Magistrates Court

Written question 1

The limits of complaint type considered by the Federal Magistrates Court are set out in their "Complaints Policy document" which is an internal document. The following are referred to the appropriate body:

Legal representation; Legal aid; another Court; judicial decisions; judicial officers; pending matters; child abuse or neglect; misconduct by legal representative; primary dispute resolution/mediation; and legal costs.

Written question 2

Complex complaints are requested to be submitted in writing. Anonymous complaints are requested to be accompanied by sufficient information for an appropriate response.

Written question 3

There were 134 complaints submitted to the Federal Magistrates Court in the 2005-06 period. These comprised 41 about legal process, 28 about the conduct of magistrates and staff, 25 about overdue judgement, 22 about mediation or directions, 5 relating to registry, 2 about outcomes and appeals, and 1 about and 'other' matter.

Written question 4

There was no information provided on this point.

Supplementary

Information regarding the Commonwealth Ombudsman is provided through the Service Charter. The text of this document was provided in the submitted response.

Follow up question 1

Most complaints are received by the Federal Magistrates Court by letter.

Follow up question 2

All complaints received are acknowledged, recorded in an electronic database and filed.

Follow up question 3

Where appropriate, an apology is provided.

Follow up question 4

Referral is made to the Commonwealth Ombudsman where resolution is not achieved with a complaint.

Follow up question 5

Information provided to the public contains reference to the Commonwealth Ombudsman.

Follow up question 6

The basic principles of complaint handling are provided to all new staff.

Federal Court***Written question 1***

The Federal Court will not investigate complaints that a decision by the Court (including a registrar exercising judicial powers) was incorrect or unfair, or that the judge or registrar did not handle a case properly, as these must be dealt with by way of an appeal or application for review. Nor will the Court deal with allegations of criminal conduct by staff, or complaints in relation to issues that are ultimately a matter of government policy (such as the level of filing fees).

Written question 2

The publication "Feedback and Complaints about Registry Services" sets out the requirements of complainants. The Court accepts oral complaints, although it may ask that complex matters be put in writing. The Court does not accept anonymous complaints.

Written question 3

There were 23 complaints received by the Federal Court, of which 7 were by a single complainant.

Written question 4

Most cases were resolved within 21 days.

Supplementary

Information referring complainants is provided in the publication “Feedback and Complaints about Registry Services”. A copy of the text of this document was provided with the submitted response.

Follow up question 1

Complaints are received mainly by letter, but some also by telephone. More complex complaints are requested to be put in writing.

Follow up question 2

In most cases, complaints are handled by the District Registrars.

Follow up question 3

If necessary, an apology is provided where the Federal Court is at fault and the raised issues are remedied. An explanation of processes is provided where appropriate.

Follow up question 4

Referral to the appeals process is provided

Follow up question 5

Information referring to the Commonwealth Ombudsman is provided to the public.

Follow up question 6

Historically, training in complaint handling processes has been ad hoc although this is currently being formalised and a client services training program under development which includes a complaint handling element.

Family Court***Written question 1***

There are no limits on the type of complaints considered by the Family Court

Written question 2

Complainants are encouraged to submit complaints in writing for the sake of clarity, although verbal complaints are also accepted.

Written question 3

The Family Court recorded 272 complaints in the period 2005–06, most of which were about judicial processes. This does not include complaints received about the conduct of Judges or delays in the delivery of judgements.

Written question 4

There is a Client Feedback policy in place in the Family Court that prescribes a period of 20 working days from receipt for investigation and formal response. This is monitored monthly and is formally reported to the Chief Executive Officer.

Supplementary

A client feedback fact sheet or brochure is provided with response letters. A copy of this will be made available to the Commonwealth Ombudsman when the updated version is released.

Follow up question 1

Complaints are encouraged to be submitted in written form, but are also taken verbally and by telephone.

Follow up question 2

A Complaint Policy is in place for the handling of complaints, including record keeping in an electronic database. Complaints are handled by a single person.

Follow up question 3

Where appropriate, an explanation of the issues is provided to complainants, and an apology made if required.

Follow up question 4

A flyer is provided to complainants in the initial acknowledgement letters. They are also referred to during the early stages of conversation with a complainant.

Follow up question 5

The flyer above contains referral information to the Commonwealth Ombudsman

Follow up question 6

Ongoing complaint handling training and information is provided to relevant staff.

High Court***Written question 1***

There are no limits of the type of complaints considered by the High Court.

Written question 2

There are no requirements placed on complaint submission.

Written question 3

Statistics regarding received complaints are not maintained by the High Court due to the low numbers involved.

Written question 4

It can take the High Court between a few days and a month to resolve received complaints.

Supplementary

No information is provided to the public about the Commonwealth Ombudsman. This is because most complaints are of a judicial nature rather than administrative.

Follow up question 1

Written complaints only are received.

Follow up question 2

Complaints are handled by the Principal Registrar, with issues possibly being raised with the Regional Registries.

Follow up question 3

An explanation of issues is provided to complainants

Follow up question 4

In general, no referrals are made.

Follow up question 5

No information is provided referring to the Commonwealth Ombudsman.

Follow up question 6

No training in complaint handling is provided to staff.