

Parliamentary Complaint Handling Procedures

8. Actioning your decision: Not investigating and complaint transfers

Updated: 16 September 2019

Review at: 16 September 2020

OVERVIEW	3
8.1 ASSUMPTIONS	3
8.2 NOT INVESTIGATING A PARLIAMENTARY COMPLAINT	3
8.3 COMPLAINT TRANSFER TO THE AGENCY COMPLAINED OF – BY AGENCY ARRANGEMENT	5
8.4 COMPLAINT TRANSFER TO THE AGENCY COMPLAINED OF – LEGISLATIVE TRANSFERS	7

Overview

Procedure 7 covered when you might decide not to investigate a complaint, including to transfer it to another agency. This Procedure explains how to implement your decision not to investigate a complaint, including when you decide to transfer a complaint to another agency. This Procedure assumes you have read Procedure 7.

This Procedure does not address decisions to conduct a preliminary inquiry or decisions to investigate. Procedures 9 and 10 explain the process for those decisions.

Purpose	To explain how to implement a decision not to investigate a complaint
Workflow	<p><i>Previous Step/s:</i> Procedure 4 - Jurisdiction Procedure 8 – Determining a course of action</p> <p><i>Next step:</i> Procedure 14 – Finalising complaints</p>
Scope	Only addresses the process to decide not to investigate a complaint or transfer a complaint to another agency. Does not cover when or why to make that decision.

8.1 Assumptions

Prior to commencing these processes, you are required to:

- ✓ have read Procedure 7 and assessed your complaint
- ✓ have documented your assessment
- ✓ made a decision to not investigate or to transfer the complaint to another agency
- ✓ be aware of your timeliness expectations (we commit to make 90% of decisions not to investigate within 30 days and 85% of transfers to take place within 14 days).

These processes also apply if you have conducted a preliminary inquiry and decided investigation is not warranted.

8.2 Not investigating a parliamentary complaint

1	Ensure your decision has been clearly recorded	See Procedure 7.
2	Quality check your decision	<p>If required, undertake quality checking. The recommended way for this to occur is to refer the open <i>Assessment</i> or <i>Decision</i> action to the colleague for review. Once the action is reviewed, the action is referred back to you to consider.</p> <p>Subject to the input of your supervisor or peer, revise your proposed decision. Once finalised, close the action.</p>
3	Notify the complainant of your decision	For all decisions, open <i>s (6) Discretion – Commonwealth</i> or <i>s (6) Discretion ACT</i> action. You can notify the complainant by telephone or in writing. Generally, contacting by telephone is the most efficient method and provides the complainant the immediate opportunity to respond or seek more information.

4		s 47G
		<p>Otherwise, if you intend to notify by telephone, or in the body of an email, you should click <i>cancel</i>. Resolve will not generate a template.</p> <p>You should follow the principles of Procedure 2 regarding appropriate communication.</p> <p>When you communicate your decision, you must:</p> <ul style="list-style-type: none"> • explain the role of the Office • state the decision • explain the reasons for the decision • advise the complaint has been closed • invite the complainant to contact you regarding the decision (you do not need to provide a timeframe for them to do this by).
	If you notify the complainant by telephone	<p>If you contact by phone, ensure you accurately record the conversation in a <i>Telephone conversation with caller</i> action (see Table 2.5 in Procedure 2).</p> <p>You should ensure you offer the complainant the opportunity to ask questions or express dissatisfaction.</p> <p>If the complainant asks for a written record of the telephone conversation, this should be provided. This can be a brief summary of the core issues and decision made.</p> <p>If they are unhappy with the decision after you have responded to their questions or concerns, refer to Procedure 14 regarding providing advice about internal review options.</p>
	If you notify the complainant in writing	<p>Draft your email or letter to include key information. Refer to Procedure 2.5 for advice on written communication. The Standard words document may provide useful words or paragraphs to include in your decision.</p>
	Seek quality checking or peer review of your email/letter	<p>Whether you are required to undertake quality checking of your decision will depend on arrangements with your supervisor. If quality checking is required, send your draft letter or email to your supervisor or colleague to check.</p>
Finalise the complaint	<p>Procedure 12 – Finalising complaints sets out the process for finalising complaints</p>	

Complaint transfers

8.3 Complaint transfer to the agency complained of – by agency arrangement

1	Ensure your decision has been clearly recorded.	See Procedure 7.
2	Consent to transfer	<p>Complainants are asked whether they consent to our Office transferring their complaint during their initial complaint contact. s 47G</p> <p>If your complainant has consented, you can move to step 4 of this process. If no consent has been given, we cannot transfer the complaint (however if there is sensitivities or vulnerabilities a preliminary inquiry or investigation may be warranted).</p> <p>If the complainant was not asked to consent, did not consent or their response is unclear, you should contact them (preferably by phone) to clarify their concerns about the transfer and explain why you consider a transfer is the best way to resolve their complaint. If you decide the only alternative course of action is to not investigate the complaint, you should advise the complainant of this and follow the process set out at 9.2.</p>
3	If you need to contact the complainant by phone to obtain consent.	<p>If the complainant consents to the transfer to the agency, you can use this phone call to finalise the complaint with them. You must advise and obtain from them:</p> <ul style="list-style-type: none"> • That you have decided to transfer the complaint and the current complaint will be closed. • The issues and information you are transferring and any actions you will suggest the agency consider taking. • Their preferred contact details and availability (noting these may not be able to be met). • The timeframe that the agency will contact them by and method of contact (including if it may be a private number). • The complainant’s ability to contact this Office again if the transfer does not resolve the issue or no response is received. <p>Ensure you accurately record the contact using a <i>Telephone conversation with caller action</i> as per table 2.5 in Procedure 2.</p>
4	Consider any transfer arrangement/ protocols between our Office and the agency	
5	Draft transfer correspondence to agency	<p>All complaint transfers should be actioned by email. If our Office has a transfer arrangement in place with an agency, the transfer protocol for that arrangement may include a template for complaint transfers.</p> <p>In the absence of a template, a transfer email should include the following information:</p>

		<ul style="list-style-type: none"> • the complainant’s details. Generally name, telephone number/s and applicable reference number. Date of birth and address may also be used • a brief summary of the complaint • advice that we have decided not to investigate the complaint • a request that the agency contact the complainant, including a timeframe for that contact to occur by. The timeframe for contact will depend on our Office’s transfer arrangements with the agency • any suggestions about issues to discuss or possible solutions to the complaint • advice that the complainant has been informed that they can return to the Ombudsman if unhappy with the response or if the agency did not respond • any relevant documents. This generally doesn’t mean providing all documents provided to us (unless the complainant specifically consented or requested it). • any contact arrangements the complainant has asked for (e.g. they’re unavailable on Friday mornings) • your contact details.
	<p>For example:</p> <p>Our reference: 2019-123123</p> <p>Dear [agency]</p> <p>We have received a complaint from [complainant] (agency reference number). [Complainant] told our Office:</p> <ul style="list-style-type: none"> - [insert brief details of complaint] - ... <p>I have decided not to investigate [complainant]’s complaint. I am writing to bring this matter to your attention as it seems that it may be appropriately addressed through your usual complaint handling process. [Complainant] has agreed to the transfer of this complaint.</p> <p>Subject to your views, it appears this complaint may be addressed by [agency] contacting [complainant] to discuss this matter and provide him/her with relevant information or clarification. This may include:</p> <ul style="list-style-type: none"> - (for example) Confirming receipt of his/her complaint and providing a timeframe for the finalisation of the complaint. <p>We have advised [complainant] that [agency] will contact him/her by [generally 5 working days]. I have invited [complainant] to contact this Office again if the matter is not resolve or no contact from [agency] is received.</p> <p>[Complainant]’s contact details are:</p> <p>Phone:</p> <p>Address:</p> <p>Their preferred contact is [add any relevant contact preferences].</p> <p>Please do not hesitate to contact me if you have any questions about this transfer.</p> <p>Yours sincerely</p>	
6	Seek quality checking of your decision	Whether you are required to undertake quality checking of your decision will depend on arrangements with your supervisor. If quality checking is required, send your draft email to your supervisor or colleague to check.
7	Send transfer correspondence to agency.	Once the transfer correspondence is complete, you should email the transfer to appropriate agency contact. The email address for transfers should be advised on the relevant agencies intranet page.

8		<p>Open a <i>s(6) Discretion – Commonwealth</i> or <i>s(6) Discretion ACT</i> action and include that a transfer was sent to a particular agency, the date it was sent. Close the action.</p> <p style="text-align: center; color: red;">s 47G</p>
	Notify the complainant	<p>If you have the complainant’s consent and have not previously advised the complainant of your decision you must do so now.</p> <p>If you do so by phone, provide the information outlined in Step 3.</p> <p>If you do so by email, the below is a standard template to use in advising of the transfer decision. When you have drafted your transfer decision, you may seek quality checking through peer review.</p> <p style="text-align: center; color: red;">s 47G</p> <p style="text-align: center; color: red;">s 47G</p>
	For example:	<p>Our reference: 2019-123123 Dear [Complainant]</p> <p>I refer to your complaint about [agency]. I have decided that, in the first instance, the best means of resolving your complaint is for our Office to transfer it to [agency].</p> <p>I have outlined your complaint to [agency] and asked that you are contacted by [date]. Please note, [agency] may attempt to call you on a private (blocked) number.</p> <p>If you do not hear from [agency] within [agreed timeframe] or you remain dissatisfied with its response, you are welcome to contact our Office again on 1300 372 072 or via our online form and we will consider further action at the time. I have closed this complaint file.</p> <p>Yours sincerely</p>
9	Finalise the complaint	Procedure 12 – Finalising complaints sets out the process for finalising complaints.

8.4 Complaint transfer to the agency complained of – legislative transfers

This process applies to when we transfer complaints to other bodies under *Ombudsman Act 1976* (Cth) and *Ombudsman Act 1989* (ACT) (as opposed to when we transfer complaints through an administrative arrangement agreed with the agency). The relevant transfer provisions are covered at Procedure 7.

1	Ensure the complaint refers to a complaint that requires transfer	<p>Tax Administration Action (and not yet considered by the Inspector-General of Taxation ('IGT')).</p> <p>Freedom of Information (FOI) outcome or processing (and not yet considered by the Office of the Australian Information Commissioner ('OAIC')).</p> <p><i>Note: Complaints can be partially about the above and would still require a partial transfer.</i></p>
---	---	---

2	Ensure you have the appropriate delegation	Check the appropriate delegations on the Intranet .																				
3	Draft transfer correspondence to agency	<p>All complaint transfers should be actioned by email.</p> <p>A transfer email should include the following information:</p> <ul style="list-style-type: none"> • The complainant’s details. Generally name, telephone number/s and applicable reference number. Date of birth and address may also be used. • The Office’s reference number. • Any relevant documents. Including all information provided in lodging the complaint. • Your contact details. 																				
	<p>Transfers to OAIC:</p> <p>Dear OAIC</p> <p>Transfer of complaint to the Office of the Australian Information Commissioner under s 6C of the Ombudsman Act 1976</p> <p>I wish to transfer a complaint about a request made under the <i>Freedom of Information Act 1982</i> (Cth). I have attached our records concerning this complaint.</p> <p>I am transferring this complaint to the Office of the Australian Information Commissioner under s 6C of the <i>Ombudsman Act 1976</i>.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 25%;">Resolve number</th> <th style="width: 30%;">Name of complainant</th> <th style="width: 25%;">Contact details</th> <th style="width: 20%;">Agency</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">XXXX</td> <td style="text-align: center;">XXXX</td> <td style="text-align: center;">XXXX: XXXX</td> <td style="text-align: center;">XXXX</td> </tr> </tbody> </table> <p>We have contacted XXXX on XXXX to advise that this complaint is being transferred to the OAIC. If you wish to discuss this transfer with me, you may contact me using the contact information below.</p> <p>Yours sincerely</p> <p>Transfers to IGT:</p> <p>Dear Inspector-General of Taxation</p> <p>Transfer of complaint about tax administration action</p> <p>The Commonwealth Ombudsman has received a complaint which we consider is wholly/partially about tax administration action. In accordance with section 6D(3)(a)/(b) of the <i>Ombudsman Act 1976</i> (Cth), we are transferring the complaint to the Inspector-General of Taxation.</p> <table style="width: 100%;"> <tr> <td style="width: 30%;">Our reference</td> <td style="text-align: center;">XXXX</td> </tr> <tr> <td>Complainant</td> <td style="text-align: center;">XXXX</td> </tr> <tr> <td>Address</td> <td style="text-align: center;">XXXX</td> </tr> <tr> <td>How received</td> <td style="text-align: center;">XXXX</td> </tr> <tr> <td>Complaint about</td> <td style="text-align: center;">Australian Taxation Office</td> </tr> <tr> <td>Received date</td> <td style="text-align: center;">XXXX</td> </tr> </table> <p>Documents provided by the complainant are attached.</p> <p>We informed the complainant of the transfer on XXXX.</p> <p>Please contact me should you have any questions.</p> <p>Yours sincerely</p>		Resolve number	Name of complainant	Contact details	Agency	XXXX	XXXX	XXXX: XXXX	XXXX	Our reference	XXXX	Complainant	XXXX	Address	XXXX	How received	XXXX	Complaint about	Australian Taxation Office	Received date	XXXX
Resolve number	Name of complainant	Contact details	Agency																			
XXXX	XXXX	XXXX: XXXX	XXXX																			
Our reference	XXXX																					
Complainant	XXXX																					
Address	XXXX																					
How received	XXXX																					
Complaint about	Australian Taxation Office																					
Received date	XXXX																					
4	Seek quality checking of your decision	Whether you are required to undertake quality checking of your decision will depend on arrangements with your supervisor. If quality checking is required, send your draft email to your EL1 Assistant Director.																				

<p style="text-align: center; font-size: 24pt; font-weight: bold;">5</p>	<p>Send transfer correspondence to agency.</p>	<p>Once the transfer correspondence is complete, you should email the transfer to appropriate agency contact. The email address for transfers are as follows:</p> <ul style="list-style-type: none"> Complaints about Tax Administration Actions should be sent to: service@igt.gov.au Complaints about FOI outcome/processes should be sent to: enquiries@oaic.gov.au <p>If IGT: <div style="background-color: black; color: red; padding: 2px;">s 47G</div> </p> <p>If OAIC: <div style="background-color: black; color: red; padding: 2px;">s 47G</div> </p>
<p style="text-align: center; font-size: 24pt; font-weight: bold;">6</p>	<p>Inform the complainant of the transfer</p>	<p>If you do so by email, the below is a standard template to use in advising of the transfer decision. When you have drafted your transfer decision, you may seek quality checking through peer review.</p> <p>If IGT: <div style="background-color: black; color: red; padding: 2px;">s 47G</div> </p> <p>If OAIC: <div style="background-color: black; color: red; padding: 2px;">s 47G</div> </p>
<p>OAIC transfers:</p> <p>Our Ref: XXXXX Dear XXXX</p> <p>I refer to your email dated XXXX about the XXXX regarding your Freedom of Information (FOI) request. I am writing to inform you that we have transferred your complaint about XXXX's handling of your FOI request to the Office of the Australian Information Commissioner (OAIC). The OAIC incorporates the functions of the Privacy Commissioner and the Freedom of Information Commissioner. It is the role of OAIC to investigate complaints about the processing of Freedom of Information requests. You should direct all future correspondence about your FOI request to the OAIC. The contact details can be found here.</p> <p>For this reason your complaint with our Office will be closed.</p> <p><i>Unless you are responding to a request for information made by the Office, within the timeframe specified, please do not reply to this email. If your complaint is closed and you have new information to provide, you can submit a new complaint using the online complaint form. If you would like information about how the Office assesses complaints, head to the website for more information.</i></p> <p>Yours sincerely,</p>		

9	<p>IGT transfers: Our ref: XXXX Dear XXXX Thank you for your correspondence received on XXXX in which you complain about the actions of Australian Taxation Office (ATO). In relation to your complaint about the ATO the Commonwealth Ombudsman is unable to assist you with your complaint. From 1 May 2015, most complaints about the Australian Taxation Office (ATO) and the Tax Practitioners Board (TPB) must be directed to the Inspector-General of Taxation (IGT). For more information about the role of the Commonwealth Ombudsman please see www.ombudsman.gov.au. The Ombudsman Act 1976 requires the Ombudsman to transfer to the IGT complaints relating to tax administration. We have transferred your complaint to the IGT. The IGT will contact you directly in due course. If you need to contact the IGT in the meantime, you may do so on 1300 448 829 or by following the links on the IGT’s website: www.igt.gov.au For the reasons outlined above, your complaint file will be closed. <i>Unless you are responding to a request for information made by the Office, within the timeframe specified, please do not reply to this email. If your complaint is closed and you have new information to provide, you can submit a new complaint using the online complaint form. If you would like information about how the Office assesses complaints, head to the website for more information.</i> Yours sincerely [Signature Block]</p>	
	Record issue strings	Use the issue strings set out below. Make sure you change the cause as applicable.
10	<p>IGT transfers: <div style="background-color: black; color: red; text-align: center; padding: 20px; font-size: 2em; font-weight: bold;">s 47G</div></p>	
	<p>OAIC transfers: <div style="background-color: black; color: red; text-align: center; padding: 20px; font-size: 2em; font-weight: bold;">s 47G</div></p>	
Close the complaint	Procedure sets out the process for closing complaints.	

Approval Date	16 September 2019				
Date of Review	16 September 2020				
Contact Team	Education, Coordination and Review				
Document ID	A1761647				
Version Control					
Version	Amended by	Review Date	Brief Description of Change	Approved by	Date