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Dealing with complaints without merit

Statement of Policy Intent

Parties have a statutory right to complain to the Small Business Commissioner (**Commissioner**) about matters that impact upon the commercial activities of small business.

The Commissioner is committed to providing an efficient and effective service that:

1. Investigates and attempts to resolve valid complaints;
2. Minimises the instances of vexatious or non-valid complaints by ensuring parties making these complaints receive no benefit; and
3. Minimise potential harm caused to parties against which a vexatious or non-valid complaint is made.

Guiding Principles

1. All complainants and potential respondents will be treated with respect and fairness.
2. All complaints must be properly assessed on their merit when they are received, to determine their validity.
3. Complaints assess as invalid or without merit will not be pursued by the Investigations and Inquiry Unit (IIU).
4. The Commissioner recognises the impact that a vexatious or invalid complaint can have on the party against which it is made.
5. The Commissioner has the discretion to refuse to investigate a complaint if there is a reasonable belief that the complaint has no merit or was made vexatiously.
6. Reference will be made to the Western Australian Ombudsman's 'Unreasonable Complainant Manual' when assessing and dealing with complaints.
7. The IIU will follow procedures in the operational manual¹ to assess complaints.

¹ An operations manual will be maintained by the Director of the Investigations and Inquiry Unit.


Policy Manual – Investigations and Inquiry Unit

8. Complainants will be notified of the outcome of the Commissioner's assessment of their complaint.

Reference Material

- The management of vexatious complaints by public bodies is addressed through policies and guidelines.
- The following organisations address the matter of vexatious complaints:
 - Western Australian and Commonwealth Ombudsmen – 'Unreasonable Complainant Conduct Manual';
 - Local Government (reference the Shire of Goomalling's 'Habitual or Vexatious Complaints Policy');
 - Department of Local Government and Communities – Complaints Management Policy;
 - The Corruption and Crime Commission (e.g. the Reporting Serious Misconduct brochure);
 - Department of Mines, Industry Regulation and Safety – Building and Energy (e.g. Building Complaint Resolution – a guide for consumers); and
 - Australian Financial Complaints Authority (e.g. Operational Guidelines to the Rules).

Governance Details

Responsible Business Unit	Investigations and Inquiry Unit
Responsible Officer	Director, Investigations and Inquiry Unit
Authority name	David Eaton, Small Business Commissioner
Authority signature	
Date	7 AUGUST 2019

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