



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## Freedom of Information Publication Coversheet

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

FOI Reference: CMTEDDFOI 2019-098

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	Published
4. Additional information identified	No
5. Fees	N/A
6. Processing time (in working days)	18
7. Decision made by Ombudsman	N/A
8. Additional information identified by Ombudsman	N/A
9. Decision made by ACAT	N/A
10. Additional information identified by ACAT	N/A

To whom it may concern,

FOI Section

Chief Minister,

Treasury and Economic Development Directorate (**CMTEDD**)

My name is [REDACTED]

Under the **Freedom of Information ACT** I am seeking the following items from **CMTEDD**.

1. All documentation, guidelines and policies regarding **Regulatory Complaint Assessment Committee**.
2. All documentation, guidelines and policies regarding the **Regulatory Advisory Committee**.
3. All documentation, guidelines and policies regarding the **Standing Committee of Officials of Consumer Affairs SCOCA**.
  - Please include dates for any meetings held between ORS regulators (1<sup>st</sup> Jan 2016 to 17<sup>th</sup> April 2019)
4. All documents, guidelines, policy and procedures for ORS Regulators in handling complaints.
5. All Compliance and Enforcement activities undertaken by ORS Regulators between 1<sup>st</sup> of January 2016 and 17<sup>th</sup> of April 2019.
6. List of all enabling legislations for ORS ACT Regulators that support the ACL
7. All document and guideline on policy around **1.5.1 Engage, Educate, Enforce** compliance model.

If the scope of this FOI is too large due to the itemised list I am happy to split it into multiple FOI requests, please advice if this is required.

Best,

[REDACTED]




**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Our ref: CMTEDDFOI2019-098



via email: 

Dear 

### **FREEDOM OF INFORMATION REQUEST**

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 21 April 2019, in which you sought access to:

1. All documentation, guidelines and policies regarding Regulatory Complaint Assessment Committee.
2. All documentation, guidelines and policies regarding the Regulatory Advisory Committee.
3. All documentation, guidelines and policies regarding the Standing Committee of Officials of Consumer Affairs SCOCA.
  - Please include dates for any meetings held between ORS regulators (1<sup>st</sup> Jan 2016 to 17<sup>th</sup> April 2019).
4. All documents, guidelines, policy and procedures for ORS Regulators in handling complaints.
5. All Compliance and Enforcement activities undertaken by ORS Regulators between 1<sup>st</sup> of January 2016 and 17<sup>th</sup> of April 2019.
6. List of all enabling legislations for ORS ACT Regulators that support the ACL
7. All document and guideline on policy around 1.5.1 Engage, Educate, Enforce compliance model.

On 8 May 2019 you refined the scope of your request to exclude points 5 and 6 of your request.

#### **Authority**

I am an Information Officer appointed by the Director-General under section 18 of the Act to deal with access applications made under Part 5 of the Act.

#### **Timeframes**

In accordance with section 40 of the Act, CMTEDD is required to provide a decision on your access application by 22 May 2019.

## Decision on access

Searches were completed for relevant documents and three documents were identified that fall within the scope of your request. Points 3 and 7 of your request is publicly available information which I have outlined below:

*Question 3 - "All documentation, guidelines and policies regarding the Standing Committee of Officials of Consumer Affairs SCOCA. Please include dates for any meetings held between ORS regulators (1<sup>st</sup> Jan 2016 to 17<sup>th</sup> April 2019)"*

SCOCA has been replaced by Consumer Affairs Australia and New Zealand (CAANZ) – which is a cross jurisdiction COAG committee that reports to Consumer Affairs Ministers – all public communiques' / meeting structures are available on the [www.consumerlaw.gov.au](http://www.consumerlaw.gov.au) website.

*Question 7 – "All document and guideline on policy around 1.5.1 Engage, Educate, Enforce compliance model".*

The Access Canberra Accountability Commitment and compliance frameworks provide advice on this model – these are available on the Access Canberra website and can be found [here](#).

All other information is being released to you in full. However, I note that the Regulatory Complaint & Investigation Management Policy is a draft policy document and is provided for information only. The information contained herein is subject to change and should not be relied upon.

I have included as **Attachment A** to this decision the schedule of relevant documents. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

I have decided to grant full access to all relevant documents. The documents released to you are provided as **Attachment B** to this letter.

## Charges

Pursuant to *Freedom of Information (Fees) Determination 2017 (No 2)* processing charges are not applicable for this request because the total number of pages to be released to you is below the charging threshold of 50 pages.

## Online publishing – Disclosure Log

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a disclosure log. Your original access application, my decision and documents released to you in response to your access application will be published in the CMTEDD disclosure log after 23 May 2019. Your personal contact details will not be published. You may view CMTEDD disclosure log at:

<https://www.cmtedd.act.gov.au/functions/foi/disclosure-log>.

### **Ombudsman Review**

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek a review by the Ombudsman of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in the CMTEDD disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman

GPO Box 442

CANBERRA ACT 2601

Via email: [actfoi@ombudsman.gov.au](mailto:actfoi@ombudsman.gov.au)

### **ACT Civil and Administrative Tribunal (ACAT) Review**

Under section 84 of the Act, if a decision is made by the Ombudsman under section 82(1), you may apply to the ACAT for a review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal

Level 4, 1 Moore St

GPO Box 370

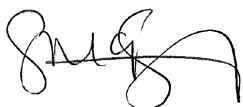
Canberra City ACT 2601

Telephone: (02) 6207 1740

<http://www.acat.act.gov.au/>

Should you have any queries in relation to your request please contact me by telephone on 6207 7754 or by email at [CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au).

Yours sincerely,



Sarah McBurney

Information Officer

Information Access Team

Chief Minister, Treasury and Economic Development Directorate

20 May 2019



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## FREEDOM OF INFORMATION REQUEST SCHEDULE

NAME	WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
	<ol style="list-style-type: none"> <li>1. All documentation, guidelines and policies regarding Regulatory Complaint Assessment Committee.</li> <li>2. All documentation, guidelines and policies regarding the Regulatory Advisory Committee.</li> <li>3. All documentation, guidelines and policies regarding the Standing Committee of Officials of Consumer Affairs SCOCA.               <ul style="list-style-type: none"> <li>➢ Please include dates for any meetings held between ORS regulators (1st Jan 2016 to 17th April 2019)</li> </ul> </li> <li>4. All documents, guidelines, policy and procedures for ORS Regulators in handling complaints.</li> <li>5. Removed by applicant</li> <li>6. Removed by applicant</li> <li>7. All document and guideline on policy around 1.5.1 Engage, Educate, Enforce compliance model.</li> </ol>	CMTEDDFOI2019-098

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-11	Access Canberra RAC Procedures	Nov 2017	Full release	N/A	Yes
2	12-14	Access Canberra RAC template	undated	Full release	N/A	Yes
3	15-37	DRAFT - Guidelines, policy and procedures for ORS Regulators in handling complaints	May 2019	Full release	N/A	Yes
<b>Total No of Docs</b>						
3						



**ACT**  
Government

**Access**  
**Canberra.**

Standard Operating Procedures for

**Access Canberra**  
**Regulatory Advisory**  
**Committee**

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**Document Properties**

Details	
Document name:	Access Canberra Procedure: Regulatory Advisory Committee
Approval	
Date approved:	November 2017
Date effective:	November 2017
Approved by	Greg Jones – Director Craig Simmons – Director David Snowden – Chief Operating Officer
Review date:	September 2018
Expiry date:	Ongoing
Custodian (name, branch and division):	Access Canberra: Construction, Environment and WorkSafe Protection Division (CEWP) Community, Business and Transport Division (CBT) Licensing and Registration Division Customer Coordination Division
Audience:	Access Canberra
Stakeholders:	All workplaces and businesses in the ACT; and other individuals and entities regulated by legislation administered by Access Canberra.
Document location:	TBA

## Purpose

The Access Canberra (AC) Regulatory Advisory Committee (RAC, the Committee) is made up of Directors and Deputy Directors. The Access Canberra legal team will provide secretariat support. AC Canberra legal will provide advice on referral of matters from the Committee.

RAC is the regulatory governance mechanism for Access Canberra to ensure executive oversight on regulatory matters.

RAC will consider contraventions of legislation that have occurred and have the potential to cause harm or pose significant risk to the community or environment. Applications for a licence or registration which may be refused (when there is a significant question to be determined on that refusal) will be brought to the Committee.

RAC seeks to ensure that appropriate processes are followed and that all relevant considerations are taken into account prior to a recommendation being made. RAC will also provide input at significant stages of an investigation or application process in line with any relevant policies and procedures.

Key regulatory/ investigative actions or updates may also be referred to RAC as a 'mention' prior to the action occurring. The only exception to this will be when a Notice (improvement notice) is about to expire and must be extended.

RAC is not a decision making body. It provides guidance to staff undertaking investigations and advice to Directors/statutory office holders on compliance, licensing, and risk assessment matters. The RAC considers all information available to it, and provides suggestions on the appropriate course of action. This can include: seeking additional information; no further action; issue an infringement; apply demerit points; issue an order (e.g. Environment Protection Order, rectification); seek an Enforceable Undertaking; or pursue civil or criminal penalties.

Whilst RAC makes suggestions or provides advice, the final decision rests with the decision maker, usually the responsible Director/statutory office holder with the legislative authority.

Gambling and Racing Commission (GRC) matters are progressed differently reflecting that the GRC is an independent statutory authority. GRC matters will be referred to RAC for information which may result in a suggestion being referred to the GRC Board for consideration.

## Scope

This procedure is relevant for all inspectors, investigators, authorised officers, licensing, risk assessment staff in Access Canberra.

## Procedures

Procedure Steps		Responsibility
1.	<p><b>1.1</b> There will be one Access Canberra Regulatory Advisory Committee.</p> <p><b>1.2</b> The Regulatory Advisory Committee (RAC) will consist of:</p> <ul style="list-style-type: none"> <li>• Directors</li> <li>• Deputy Directors</li> </ul> <p><b>1.3</b> Representatives from the Legal team will attend to assist the Committee in making its recommendations.</p> <p><b>1.4</b> Relevant staff will also attend RAC as required.</p> <p><b>1.5</b> The minimum quorum for RAC must include a Director and no less than two Deputy Directors. It is expected that at least one Director and Deputy Directors from the branch that is presenting at RAC will attend.</p> <p><b>1.6</b> Generally, RAC will be chaired by the CBTR Regulatory Compliance Director and/or the CEWP Regulatory Compliance Director.</p> <p><b>1.7</b> A meeting time will be scheduled weekly for matters to be heard.</p>	General Information
2.	<p><b>2.1</b> Access Canberra staff are provided with guidance notes outlining the threshold for matters to be taken to the respective Committee. (Attachment A)</p>	Deputy Directors
3.	<p><b>When to refer a matter to the Regulatory Advisory Committee</b></p>	Inspectors/Investigators/ registration, licensing, risk assessment staff

Procedure Steps	Responsibility
<p>3.1 RAC seeks to provide strategic direction and input to investigations, registration and licensing decisions, by making recommendations to statutory office holders and their delegates. This input can and should be requested at significant stages of the investigation or application process.</p> <p>3.2 A matter should be referred to RAC when:</p> <p>3.2.1 Guidance is required on how an investigation should be progressed in order to achieve a desired outcome</p> <p>3.2.2 The relevant manager believes that an application for a licence or registration should be refused, or is unsure of the appropriate approach, when there is a significant issue to be determined on the refusal.</p> <p>3.2.3 Guidance is required on a licensing or registration decision</p> <p>3.2.4 Advice is required to incur an expense or significant additional resources are needed to progress an investigation</p> <p>3.2.5 Advice is required to issue or waive legal notices, apply for a search warrant, close an investigation.</p> <p>3.2.6 A key regulatory action is to occur. RAC provides the appropriate governance and oversight in relation to the action.</p> <p>3.2.7 A previous RAC recommendation has not been implemented as recommended and a variation to the recommendation is sought or an update is considered necessary.</p>	

Procedure Steps		Responsibility
4.	<p><b>4.1</b> The relevant RAC template provided (<b>Attachment B</b>) is to be used to refer a matter to RAC providing a brief summary of the matter, the allegation/s, relevant legislative provisions and details of risks and a recommendation/s.</p> <p><b>4.1.1</b> An 'action' that only requires a mention at RAC (Guidance note at Attachment A) will be referred to RAC via the RAC 'mention' template (<b>Attachment C</b>).</p> <p><b>4.1.2</b> The RAC paper is to be provided by the relevant Deputy Director to the secretariat the Friday prior to the relevant scheduled Committee meeting. A mention paper may be circulated the day before RAC.</p> <p><b>4.1.3</b> RAC is scheduled for each Wednesday at 2.00 pm (but can be rescheduled based on Chair availability).</p> <p><b>4.2</b> If there is to be more than one Committee meeting about a single matter then each consideration is to be documented separately and kept on the same file.</p> <p><b>4.3</b> The Chairs may decide to circulate matters for consideration out of session.</p>	Inspectors/Investigators/Managers/registration and licensing staff/Deputy Directors
5.	<p><b>5.1</b> The relevant Deputy Director should review information provided and clarify any issues prior to approving circulation of the Submission to the Committee.</p>	Deputy Director
6.	<p><b>6.1</b> The relevant Deputy Director will forward the documents to the Committee secretary who will circulate the documents to the members.</p>	Deputy Director /Secretary
7.	<p><b>7.1</b> The relevant Inspector or licensing/ registration manager/ assistant manager and any other relevant</p>	Deputy Director /Secretary will extend the invite to the relevant officer.

Procedure Steps		Responsibility
	<p>personnel will be invited to attend the RAC meeting to present their matter and to clarify issues to the Committee's satisfaction.</p>	
8	<p><b>8.1</b> RAC will make recommendations consistent with the Access Canberra Accountability Commitment and other relevant policies.</p> <p><b>8.2</b> RAC will review the recommendation/s of the presenter of the paper and its consideration may include the following, and subject to the matters relevant for consideration under the applicable legislation:</p> <p><b>8.2.1 Harm and Detriment – In particular, are consumers, traders, licensees, businesses, duty holders, workers, members of the public or the environment likely to suffer the following and to what extent:</b></p> <ul style="list-style-type: none"> <li>• physical harm</li> <li>• environmental harm</li> <li>• financial harm</li> <li>• loss of public amenity</li> <li>• loss of property</li> <li>• impaired choice</li> <li>• unfair competition</li> <li>• if the more vulnerable are targeted by the conduct</li> <li>• if a wide range of consumers, traders or workers are likely to be affected</li> </ul> <p><b>8.2.2 Seriousness – does the conduct fall within one of the following categories?</b></p> <ul style="list-style-type: none"> <li>• deliberate, reckless or careless behaviour</li> <li>• repeat or ongoing behaviour</li> <li>• intentionally deceptive so that it is difficult to detect</li> </ul>	RAC

Procedure Steps		Responsibility
	<ul style="list-style-type: none"> <li>likely to be a contravention of the legislation – that may cause harm or pose a risk to the community.</li> </ul> <p><b>8.2.3 Risk – What is the likely ‘risk ‘created by the behaviour?</b></p> <ul style="list-style-type: none"> <li>Is the ‘risk’ aligned to the strategic intent or objectives of the relevant legislation (i.e. is the identified risk what the legislation seeks to control?)</li> <li>How significant is the risk posed by the conduct?</li> <li>Can the risk be mitigated in anyway?</li> </ul>	
9.	<p><b>9.1</b> The reasons for a recommendation of the RAC will be documented by the Secretary who will file all relevant information in the appropriate Objective file. The Secretary will advise and refer a summary of the recommendations to the relevant Delegates /Statutory office holders.</p> <p><b>9.2</b> It is the responsibility of the inspector/manager who brought the matter before the Committee to implement the recommendation, including referral to the delegate for their consideration and sign-off if necessary.</p>	Deputy Director and Secretary

## Related Material

Name	Location (Document Path)
Access Canberra Accountability Commitment which includes the Access Canberra compliance and enforcement framework.	-
Access Canberra compliance and enforcement sub- frameworks	-
Relevant Investigation Standards and Protocols	-
Guidance for Inspectors on Threshold for Matters to be Taken to Enforcement Committee	-
Procedures Manuals for each area that refers matters to the RAC	-
Standard Operating Procedures for those areas that refer matters to the RAC	-



## Attachment A

### Guidance for staff on the Threshold for Matters to be taken to the Regulatory Advisory Committee

A matter should be brought to the Regulatory Advisory Committee in the following circumstances:

- Prior to a decision to refuse any licence<sup>1</sup> or registration or where it is unclear how to proceed with an application, when there is a significant issue to be determined on the grant or refusal in the case in question. Other factors include whether the decision might have a significant impact on a person's ability to continue in their employment, and the extent to which the person affected by the decision has engaged with the opportunity to be heard on the matter in question.
- When it has reached a significant decision point in the investigation and/or assessment process e.g. where it is necessary to spend significant funds on an expert opinion to progress the matter. The Chief Operating Officer or Director of the relevant area may (of course) commit funds to consulting an expert without RAC's input, as circumstances require.
- When an Inspector/investigator and his or her manager considers that there are significant factors that affect the discretion to prosecute and consideration is required on whether or not to continue investigating or to close the matter without further investigation
- Before a Submission is provided to the DPP or other formal enforcement action being considered, including enforceable undertakings.
- A proposal not to prosecute should be brought to the relevant RAC for consideration, where there may be an expectation that a prosecution could be brought. This might include matters where there has been significant publicity or serious injury.
- Until further notice a decision to issue an infringement<sup>2</sup> notice will come to RAC. RAC may indicate that certain classes of infringement need not be brought formally to RAC after consideration of an example (or examples) and may also direct that infringement matters be dealt with out of session.
- The relevant Deputy Director may decide to bring a dispute or request for waiver of an infringement notice to the RAC for discussion of whether the infringement should be withdrawn, prior to making a recommendation to the relevant delegate.
- Key regulatory/ investigative actions will also be referred to RAC as a 'mention' prior to the action occurring<sup>3</sup>. This includes;
  - i. The extension of an improvement notice
  - ii. The issuing of a rectification order and any action to enforce a rectification order
  - iii. The intent to use coercive powers – e.g. A compel notice. The issuing of demerit points on licence pursuant to the *Construction Occupation Licensing Act*.

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<sup>1</sup> NB this does NOT include the suspension /cancellation of a driver licence

<sup>2</sup> NB this does NOT include parking infringements

<sup>3</sup> The only exception to this will be when a Notice (improvement notice) is about to expire and must be extended before the next scheduled RAC meeting.

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# Access Canberra Regulatory Advisory Committee Submission

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## Executive summary

### Title

#### Reference #

Team unit Unit/s

Project staff Name/s **Date:** DD Month YEAR

Description *High level summary of matter in no more than 3 sentences i.e. what happened?*

Key decisions and dates *Outline the significant milestones in the investigation/decision (maximum 5 points - for additional history refer to chronology section)*

- 1. DD.MM.YEAR - action*
- 2. DD.MM.YEAR - action*
- 3. DD.MM.YEAR - action*
- 4. DD.MM.YEAR - action*
- 5. DD.MM.YEAR - action*

Recommendation and brief rationale *What is your recommendation and why?*

Research/legal advice *Refer to attached/not applicable. Do not quote legal advice in the body of the document. If legal advice has been provided, attached it separately and say legal advice is attached.*

Case Overview

**1. Alleged conduct/licence decision**

*Provide a high level summary of the alleged conduct/licence decision which forms the subject of the investigation/decision.*

1.1 Key areas that may be relevant (not exhaustive):

- who ( this includes relevant duty holder, relevant entity, individuals)
- what
- when
- where
- for a contravention whether the conduct is ongoing or has ceased

1.2 Where appropriate, set out the alleged conduct as a logical sequence of events.

1.3 Include the possible defendants and an analysis of why the defendant has been chosen.

**Chronology**

1	DD.MM.YY	Item
2	DD.MM.YY	Item
3	DD.MM.YY	

**2. Relevant legislation and risk associated with decision**

*List the sections of the relevant Act that are alleged to have been contravened/or should be considered and form the subject of the investigation/decision.*

Section and description	Risk/harm/detriment associated with decision/contravention <ul style="list-style-type: none"> <li>○ Identify the risk or harm cause by the conduct and how the risk/ harm should be treated</li> <li>○ Has the conduct caused detriment to a consumer, a business or the market? If so how?</li> </ul>
s. XX	
s. XX	

**3. Factors that warrant Access Canberra intervention/action/decision**

*To outline why the issue should be progressed, or the reasons for the proposed compliance, enforcement or licensing decision.*

3.1 Key areas that may be relevant (not exhaustive):

- conduct of significant public interest or concern
- conduct resulting in a significant consumer detriment
- conduct demonstrating a blatant disregard for the law
- conduct detrimentally affecting disadvantaged or vulnerable consumer groups
- conduct that is, or is likely to become, industry-wide

## RAC Submission

- whether action is likely to have a worthwhile educative or deterrent effect, and/or
- the person, business or industry has a history of previous contraventions of other relevant legislation
- public interest
- consideration of Access Canberra Accountability Commitment (compliance and enforcement frameworks)
- consideration of DPP prosecution policy and guide.

### 4. Other relevant projects/investigations/licence decisions

*Highlight activities undertaken by Access Canberra or other regulators relevant to the alleged conduct/licence decision and any response/actions.*

4.1

### 5. Attachment/s

*As applicable*

- 

### 6. Recommendation and rationale of the Committee

**Date of recommendation:** DD Month YEAR

**RAC Chair:**

**RAC Members:**

**RAC Attendees:**

**Recorded by:**



**ACT**  
Government

**Access  
Canberra.**

# Regulatory Complaint & Investigation Management Policy



## Document Information

### Complaint and Investigation Management Policy

Acknowledgement is attributed to the following organisations whose policies, procedures and associated documentation assisted in the development of these guidelines:

- ACT Auditor-General's Office
- Adelaide City Council
- Australian Competition & Consumer Commission
- Brisbane City Council
- City of Sydney
- Commonwealth Ombudsman
- Commerce Commission NZ
- Department of Veterans' Affairs
- Fair Trading NSW
- Service NSW

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# 1. Introduction

## 1.1 Overview

Access Canberra is committed to providing excellent service. We value the feedback we receive about our service delivery, and the decisions we make, and will use it to continually improve our service and performance.

Feedback about the conduct of the individuals, businesses or industries that Access Canberra regulates allows us to perform our role more effectively, by using the information we receive to target our resources more accurately and inform our efforts at improving the Canberra community.

## 1.2 Purpose

This policy is intended to ensure that Access Canberra handles complaints fairly, efficiently and effectively, and aims to:

- ensure a person's right to complain is promoted and protected;
- inform the Canberra community of the external and internal procedures Access Canberra will use to manage complaints;
- ensure information received is handled in an appropriate manner, allowing follow-up action to be undertaken, where necessary, and to improve the focus of Access Canberra resources, and
- increase the Canberra community's satisfaction with Access Canberra.

This policy is based around the Access Canberra service design principles:

- User-Centred – we will understand customer and government needs and

create a balanced, seamless, end to end experience;

- Simplified – we will ensure services are streamlined, logical and transparent, reduce administrative burden on users and are easy to understand and easy to use;
- Inclusive – we will make services accessible to all members of our community but use a digital first approach, where appropriate, and involve users in design;
- Connected – we will ensure services are effective and coordinated so customers tell their story once and will collaborate across service providers to achieve this;
- Sustainable – we will continuously improve to innovate, provide value and reduce cost because it will help us provide better services into the future, and
- Supported – we will employ staff who are accountable, responsive and skilled to ensure that the customer's experience with us continues to meet expectations and needs

## 1.3 Scope

All Access Canberra employees use the complaint management procedures in this Policy to manage complaints.

Any person who has contact with Access Canberra, utilises our services or the services of an industry or business we regulate, has the right to make a complaint/provide feedback.

Access Canberra expects employees at all levels to be committed to fair, effective and efficient complaint management – please see [Appendix 1](#) for further details.

## 1.4 Definitions

The following definitions are used in this policy:

Term	Definition
Complaint	Expression of dissatisfaction made to or about us, our services, employees or the management of a complaint where a response or resolution is explicitly or implicitly expected or legally required <sup>1</sup> . A complaint covered by this Policy can be distinguished from: employee grievances; public interest disclosures; code of conduct complaints; reports of problems or wrongdoing merely intended to bring a problem to our notice with no expectation of a response; service requests, or requests for information.
Regulatory complaint	A complaint about the behaviour of a business, industry or member of an industry regulated by Access Canberra.
Complaint Management Process	All policies, procedures, practices, employees, hardware and software used by us in the management of complaints.
Customer	A customer for the purpose of this document is deemed to be either a member of the public, a business or other government agency, a Member of the Legislative Assembly or a Minister.
Dispute	An unresolved complaint.
Employee	Employees, contractors, consultants, government agencies, politicians, volunteers, public officials and anyone who is engaged to undertake business for or with Access Canberra.
Feedback	Broad term for any customer opinions, comments or expression of interest or concern, made directly or indirectly, explicitly or implicitly, to or about us, about our services and products or complaints management where a response is not explicitly or implicitly expected or legally required <sup>2</sup> .
Investigation	An investigation is a process of seeking information relevant to an alleged, apparent or potential breach of the law, involving possible judicial proceedings. The primary purpose of an investigation is to gather admissible evidence for any subsequent action, whether under criminal, civil penalty, civil, disciplinary or administrative sanctions. Investigations can also result in prevention and/or disruption action.
Procedure	A statement or instruction that sets out how our policies will be implemented and by whom.
Service Request	A service request may include routine inquiries about Access Canberra's business, requests for provision of services and assistance, request for explanation of policies, procedures and decisions.

<sup>1</sup> Australian Standard, *Customer satisfaction—Guidelines for complaints handling in organizations*, (ISO 10002:2004, MOD)

<sup>2</sup> As above

## 2. How to lodge a complaint / provide feedback

You can lodge a complaint / provide feedback by:

- using our [online correspondence form](#)
- calling us on 13 22 81
- writing to us at:  
Access Canberra Customer Services  
GPO Box 158  
CANBERRA ACT 2601

### 2.1 Complaints about our service delivery

Access Canberra staff are committed to delivering superior customer service.

If you have a complaint about the service you received, please let us know. If required, your complaint will go to a Manager, or person of appropriate level, for assessment and resolution.

### 2.2 Complaints about the conduct of our staff

Access Canberra staff will act professionally and without bias. If you have a complaint about the professional conduct of an Access Canberra staff member please refer your concerns to us. Your complaint will be treated in confidence and investigated in accordance with this policy and ACT Public Service guidelines. The complaint should be made in a similar manner as other complaints are made although the Complaints Management Team will manage and action the complaint in manner to protect the confidentiality of relevant parties. Please also refer to the [Access Canberra Accountability Commitment](#) .

### 2.3 Regulatory complaints

Given the often complex nature of complaints relating to regulatory functions and statutory requirements, they may take some time to resolve; however, we will keep you informed about the progress of your complaint.

All regulatory complaints are assessed in accordance with the principles outlined in the [Access Canberra Accountability Commitment](#) .

## 3. Guiding principles

### 3.1 Complaint Management Principles

Access Canberra has an Accountability Commitment. It sets out how we deal with the public, how we will assess your complaint based on the risk involved or the harm caused by the alleged conduct and our customer service charter.

This policy outlines how we will manage the regulatory complaints we receive and any investigations we undertakes.

### 3.2 Prioritisation Thresholds

We prioritise complaints based on the level of risk of harm and will action a complaint in an appropriate manner proportionate to risk which may result in matters being resolved in various manners.

### 3.3 Access Canberra Regulatory Complaint Assessment Committee

Complaints that are complex or where it is assessed that the level of risk of harm is high are referred to the Access Canberra Regulatory Complaint Assessment Committee (the RCAC) to determine the appropriate regulatory response which may include an investigation or targeted trader engagement.

The Access Canberra risk-based principles outlined in the Accountability Commitment are the foundation for the decisions made by the RCAC.

## 4. Facilitate complaints

### 4.1 People focus

We are committed to seeking and receiving feedback and complaints about our complaint and investigation management.

People making complaints will be:

- provided with information about our complaint management process;
- provided with multiple and accessible ways to make complaints;
- listened to, treated with respect by employees and actively involved in the complaint process where possible and appropriate; and
- provided with reasons for our decision/s and any options for redress or review at an appropriate point in time.

### 4.2 Anonymous complaints

We accept anonymous complaints and will look into the issues raised where there is sufficient information provided to enable Access Canberra to action any issues arising from the complaint.

Feedback supplied anonymously still provides us with useful information that can help make improvements to our services and focus on areas of compliance and enforcement interest.

### 4.3 Accessibility

We will ensure that information about how and where complaints may be made is well publicised. We will ensure our process to manage complaints is easily understood and accessible to everyone, particularly people who may require assistance.

If a person prefers or needs another person or organisation to assist or represent them in the making and/or resolution of the complaint, we will facilitate this. Anyone may represent a person wishing to make a complaint with their consent (e.g. advocate, family member, legal or community representative, Member of the Legislative Assembly, or another organisation).

## 5. Respond to complaints

### 5.1 Early resolution

Where possible, Access Canberra will attempt to resolve complaints directly with the trader and complainant. Where the complaint is resolved at the first point of contact these will be recorded and stored in accordance with the *Territory Records Act 2002*. This information will add to the pool of data and enable Access Canberra to analyse and identify process issues, more accurately track the management of complaints, and use the information received to continue to improve our service delivery, resource allocation and compliance and enforcement approaches.

### 5.2 Responsiveness

We will acknowledge receipt of complaints within two days. There are exceptions to this rule based on risk and harm priorities.

We will assess and prioritise complaints in accordance with the urgency and/or seriousness of the issues raised. If a matter concerns an immediate risk to safety or security to the community the response will be immediate and will be escalated appropriately.

We will inquire into and conduct every complaint or investigation as efficiently as our resources permit, with the aim of avoiding unnecessary uncertainty and delay and we aim to complete investigations in a timely manner and to make decisions as promptly as possible.

See Section 9 of this policy for more details in relation to timeframes.

We are committed to managing the community's expectations, and will inform them as soon as possible of the following:

- the complaints and investigation process;
- the expected time frames for our actions;
- the progress of the complaint or investigation and reasons for any delay;
- their likely involvement in the process; and
- the possible or likely outcome of their complaint or an investigation.

We will advise people when we are unable to deal with any part of their complaint and provide advice about where such issues and/or complaints may be directed (if known and appropriate).

We will also advise people when we are unable to meet our time frames for responding to their complaint and the reason for our delay, as appropriate.

We aim to be as open and transparent as we can in accordance with legislative requirements. There are limits to our ability to be open and transparent. In general, investigations are not conducted in an overt manner and it may, in some cases, be necessary to investigate confidentially. We may not always be able to comment on a matter that we are investigating.

We make investigated parties aware, as soon as we are reasonably and legally able to do so, of the nature of the complaints or concerns that we have about their conduct, what is likely to be required of them during our investigation, and the timeframes that are likely to apply. In making this decision we are mindful of the requirements of procedural fairness.

We take reasonable steps to provide investigated parties with a chance to respond to any alleged breach during our investigation, including through the provision of a written response or participation in a record of interview.

We take steps to ensure that those who may be the subject of an investigation or complaint also

understand the investigation process and what is likely to be required of them during our investigation.

### 5.3 Objectivity and fairness

We will address each complaint and investigation in accordance with the ACT Public Service Code of Conduct and with integrity and in an equitable, objective and unbiased manner. We exercise our duties, functions, and powers with integrity and professionalism.

We will ensure the person managing a complaint is different from any employee whose conduct or service is being complained about.

We recognise that our investigations can have important consequences for parties who are investigated by us or who are otherwise affected. We consider all information thoroughly, and with open-mindedness as to the outcome.

Our decisions relating to investigations will be made with reference to the considerations expressed in our published enforcement criteria ([Access Canberra Accountability Commitment](#))

Conflicts of interests, whether actual or perceived, will be managed responsibly. In particular, internal reviews of how a complaint was managed will be conducted by a person other than the original decision maker.



## 5.4 Responding flexibly

Our employees are empowered to resolve complaints promptly and with as little formality as possible. We will adopt flexible approaches to service delivery and problem solving to enhance accessibility for people making complaints and/or their representatives.

## 5.5 Confidentiality

We will protect the identity of people making complaints where this is practical, legally permissible and appropriate.

Personal information that identifies the person making a complaint will only be disclosed or used by Access Canberra to enable us to respond to or resolve the complaint as permitted under the relevant privacy laws or in accordance with legislative requirements.

# 6. Manage the parties to a complaint and/or investigation

## 6.1 Complaints or investigations involving multiple agencies

Where a complaint or investigation involves multiple organisations, we will work with the other organisation/s, where possible, to ensure that communication with the person making a complaint and/or their representative is clear and coordinated.

Subject to privacy, legal requirements and confidentiality considerations, communication and information sharing between the parties will also be organised to facilitate a timely response to the complaint.

Where a complaint or investigation involves multiple areas within our organisation, responsibility for communicating with the person making the complaint and/or their representative will also be coordinated.

## 6.2 Complaints or investigations involving multiple parties

When similar complaints are made by related parties we will try to arrange to communicate with a single representative of the group.

## 6.3 Communication with complainants

We will take steps to communicate with a complainant when we commence an investigation and during the investigation, when we are reasonably able to do so. Our communications with complainants will

typically be limited to information about our progress and likely investigation timing.

There are likely to be stages during an investigation when we are able to communicate only quite limited information or provide no update.

## 6.4 Communication with parties during an investigation

Generally, our investigations are not conducted overtly. We need to balance the competing interests of open government with the need to follow due process, the need to be able to conduct the investigation in a manner that does not compromise evidence and avenues of inquiry, ensure fair legal proceedings and the proper administration of justice. We also need to minimise any adverse inferences being drawn against a party being investigated and comply with privacy obligations. We may not always be able to communicate with persons, or publicly, on a matter that we are investigating.

What we are able to communicate and when will vary between investigations, and may depend on the party we are communicating with.

In deciding what to communicate to a particular party we will consider matters like:

- the Access Canberra Accountability Commitment;
- whether the communication will assist or hinder our investigation, including the integrity of the information that may be gathered;
- the investigation status;
- the need to give investigated parties information to enable them to respond to the investigation;

- the interests of complainants, witnesses, or affected persons; and
- whether heightened confidentiality or commercial sensitivity attaches to the investigation.

## 6.5 Communication with the investigated party

As soon as we are reasonably able to do so in the context of an investigation, Access Canberra will contact an investigated party to let them know that we have commenced an investigation, the nature of the complaint or concerns that we are investigating and an indicative timeframe for our investigation.

In some cases we will not be able to communicate this information at an early stage, such as where contacting the investigated party would compromise the investigation, for example by making it harder to gather reliable evidence.

If we have taken an alternative course of action, such as referring a complaint to another agency, we will take reasonable steps to advise an investigated party of that decision.

## 6.6 Empowerment of employees

All employees managing complaints are empowered to implement our complaint management process as relevant to their role and responsibilities and legislative authorisation.

Employees are encouraged to provide feedback on the effectiveness and efficiency of all aspects of our complaint management process.

## 6.7 Managing unreasonable conduct by people making complaints

We are committed to being accessible and responsive to all people who approach us with feedback or complaints. At the same time our success depends on:

- our ability to do our work and perform our functions in the most effective and efficient way possible;
- the health, safety and security of our employees; and
- our ability to allocate our resources fairly across all the complaints we receive.

When people behave unreasonably in their dealings with us, their conduct can significantly affect the progress and efficiency of our work. Abusive, angry, demanding or threatening phone calls will be considered unreasonable conduct. As set out above, unreasonable conduct could significantly affect our ability to handle a complaint and may even result in inquiries being terminated. Access Canberra will take decisive action to manage any conduct that unreasonably affects it and will support its employees to do the same in accordance with this policy.

## 7. Complaint Management Process

### 7.1 Key stages in complaint and investigation management process (Figure 1)

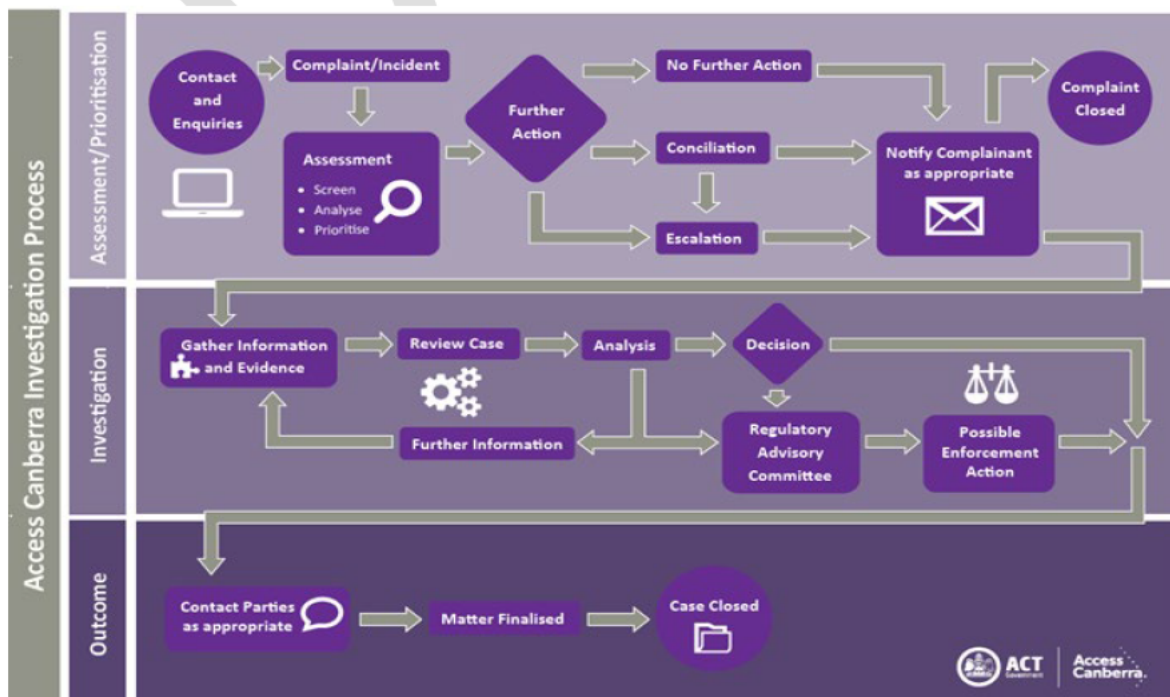
#### Acknowledge

We will acknowledge receipt of each complaint promptly.

Depending on the complaint priority the following details will be provided to the person making the complaint:

- the name of the person responsible for managing the complaint;
- the estimated length of time it may take to resolve your complaint; and
- a timeframe for when you can expect to receive an update from us.

Figure 1



We will use the most appropriate method of communicating with the complainant.

All complaints will be recorded along with supporting information where provided. We will assign a unique identifier to the complaint file, and the record of the complaint will document:

- the contact information of the person making the complaint, where provided;
- issues raised by the person making the complaint and the outcome/s they are requesting;
- any other relevant information; and
- any additional support the person making the complaint requires.

## Assess

After acknowledging receipt of the complaint, we will confirm whether the issue/s raised in the complaint is/are within our control and area of regulation. We will also consider the outcome/s sought by the person making the complaint and, where there is more than one issue raised, determine whether each issue needs to be separately addressed.

When determining how a complaint will be managed, we will consider:

- how serious, complicated or urgent the complaint is;
- whether the complaint raises concerns about people's health and safety or impact on the environment;
- how the person making the complaint is affected;
- the risks involved if resolution of the complaint is delayed; and
- whether a resolution requires the involvement of other organisations.

Not all complaints will require an investigation to be conducted. In some cases, the process may move directly from *Assess* to *Respond*.

## Investigate

After assessing the complaint, some matters will continue to be managed by the Complaints Management Team whereas other matters will move to the **investigation stage**. This decision will be guided by the impact of the alleged conduct.

We will consider how to manage the complaint, which may include:

- gathering information from the product, person, business or area the complaint is about;
- giving the person making the complaint information or an explanation; or
- investigating the claims made in the complaint.

Which actions we decide to take will be tailored to each case and take into account any statutory/regulatory requirements.

The investigation stage may involve gathering and analysing further relevant information/evidence so that we can form a view on:

- what happened;
- whether what happened breaches the laws we enforce; and
- if it does, what is the most appropriate enforcement response.

We are not restricted to looking at breaches or conduct that has already happened. In the most serious cases, we can take urgent action to prevent ongoing or threatened breaches, or conduct that we have good reason to suspect may occur.

To determine whether a breach of the law may have occurred, we commonly gather information from a large variety of sources. Many different parties may hold the information we require, for example the investigated party, the public, experts, or third parties. We also use publicly available information.

We are able to seek and receive information voluntarily from persons or entities who are willing to assist us, or we can under some of the laws we enforce issue compulsory notices requiring interviews or the supply of information to us. This is known as coercive powers.

At any stage during an investigation we may (depending on the investigation subject matter):

- gather more information as a result of new facts or issues that arise, or to corroborate other information that has been provided ;
- revisit and change the scope and focus of the investigation;
- do research or analysis, including legal, marketing, or economic research; and
- seek external expert opinion or assistance such as legal or technical advice.

Following consideration of the complaint and, where required, any investigation into the issues raised, we will contact the person making the complaint and advise them wherever possible:

- the outcome of the complaint and any action we took;
- the reason/s for our decision;
- the remedy or resolution/s that we have proposed or put in place; and
- any options for review that may be available, such as an internal review, external review or appeal to an external agency.

If, in the course of investigation, we make any adverse findings about a particular person, we will consider any applicable privacy obligations and any applicable exemptions in or made pursuant to that act, before sharing our findings with the person making the complaint.

In this communication we are not usually able to discuss specific evidence provided by these parties as to do so would breach Privacy Law.

## 8. Decision making

### 8.1 How we make decisions during an investigation

There are usually multiple decision points during the life of an investigation. Whether to commence, stop, or take enforcement response are all decisions. There are also decisions made along the way as to the scope, focus and best means of conducting an investigation.

### 8.2 Decision-making after an investigation

Once the investigation team has completed its inquiries and evidence gathering and assessed the available evidence, the investigation team presents to the Access Canberra Regulatory Advisory Committee<sup>3</sup> and then the relevant decision-maker:

- the relevant facts and a summary of the evidence and legal issues arising;
- the risk or harm caused by the conduct or likely to be caused by the conduct; and
- an assessment of whether or not there is likely to have been a breach of the law giving consideration to the obtained evidence.

The decision maker will be a party delegated to make the appropriate decision. The making of a decision substantiating or not substantiating an allegation is one aspect of the decision maker's role. The other aspect is determining, after consultation with relevant parties and in some cases the party who has committed the breach, an appropriate sanction where the allegation has been substantiated.

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1. <sup>3</sup> The Regulatory Advisory Committee considers the most appropriate regulatory action at an important stage of, or the conclusion of, an investigation. This may include taking no further action. This Committee

In determining an appropriate sanction further inquiries may occur before a final decision is made. In some circumstances these enquiries may include approaching an investigated party to understand their willingness to change their behaviour or to compensate affected parties.

Details of the available enforcement responses, and the factors that we consider when choosing the most appropriate response, can be found in the *Access Canberra Accountability Commitment*.

### 8.3 Closing an investigation

We will keep comprehensive records about:

- how we managed the complaint and investigation;
- the outcome/s of the complaint/investigation (including whether it or any aspect of it was substantiated);
- any recommendations made to address problems identified and any decisions made on those recommendations; and
- any outstanding actions that need to be followed up.

will also consider complex applications for a licence or registration.

## 9. Timeframes

The timeframe in which action is taken in response to a complaint made to Access Canberra will depend upon the priority assigned to the complaint. Those matters where there is significant harm or risk to the community will be actioned immediately and resources will be deployed to the scene of the reported incident without delay. Examples of conduct that would require this response are a workplace death, or serious injury or a large scale pollution or contamination that poses an actual risk to the environment of the ACT. All other complaints received will be assessed and prioritised based on the risk of harm caused or likely to be caused by the alleged conduct.

The time taken to resolve complaints can vary, however wherever possible in relation to:

### Service Complaints:

- we will strive to resolve a **non-regulatory** complaint within 10 working days from the date the complaint was received; and
- where the matter is complex, we will aim to resolve the matter within 20 working days.

### Regulatory Complaints:

- we will strive to resolve less complex complaints that pose minimal risk or harm within 30 days from the date the complaint is submitted; and
- where the matter is complex and is expected to exceed this timeframe we will keep you up to date with the progress of the complaint resolution.

## Investigations

The exact time that an investigation takes varies considerably case-by-case, and depends on matters such as the complexity of the investigation, the discovery of new lines of enquiry, the number of investigated parties or investigated breaches, and our ability to access evidence and information. As a guide, the greater the complexity or seriousness of an investigation the likely increase in time it will take to conduct.

In all cases, we will aim to keep the person making the affected party up to date on our progress, particularly if there are any delays.

## 10. Accountability and learning

Access Canberra is committed to using complaints data to improve our programs, service delivery and regulatory roles. This data is used to inform our regulatory approaches and proactive compliance engagement activities.

# 11. Information Management

Access Canberra will analyse data collected from the online Access Canberra Complaint Form to assist in its continuous improvements to our service, procedures and responses. The analysis of data will also include complaints lodged by customers who want to remain anonymous and complaints that are identified as low or no risk.

Access Canberra will provide reports and statistics in accordance with legislative requirements; to allow any trends or systemic issues to be identified; to contribute statistical information on matters of national significance. Information regarding the facts, investigations, photos, and outcomes will be de-identified of any personal information.

Access Canberra will take reasonable steps to ensure any personal information it holds is secure. Every reasonable effort is taken to protect personal information from misuse, interference or loss from unauthorised access, use, modification or disclosure in accordance with the Territory Privacy Principles (TTPs) set out in the *Information Privacy Act 2014* and in accordance with the *Territory Records Act 2002*.

Access Canberra uses demographic information collected for the purpose of preparing statistics to enable it to better understand trends e.g. identifying certain demographics that may be vulnerable to certain scams allow us to better target our education and awareness programs.

## 11.1 How we deal with information

We are committed to handling information responsibly and this includes:

- using information only as allowed by law;
- taking steps to ensure that for private, confidential, or commercially sensitive information we provide appropriate protections against disclosure; and
- using information to conduct compliance activities and investigations.

The majority of information that we receive during our investigations (whether provided voluntarily or compulsorily) is information that is not otherwise in the public domain. We are conscious of the need to ensure that parties can have confidence in our use and retention of information, including our commitment to respecting as far as possible any privacy, confidentiality, or commercial sensitivity attaching to the information.

## 11.2 Sharing information within Access Canberra and using information for another investigation

We can and do share within Access Canberra any information that we receive. Information disclosed during one investigation may disclose a new issue of which we were unaware. For example, information received on a building investigation may disclose the existence of a consumer protection or Workplace safety issue, and can be shared between Access Canberra investigation staff. Alternatively, the information may be relevant to another investigation that is already underway.



### 11.3 Protecting complainants – confidential informants policy

In some circumstances a complainant may feel particularly concerned at the possibility that their identity might be disclosed or become obvious through the course of the investigation.

If a party is concerned about the need to protect their identity, they should advise Access Canberra/ CMT team member when they first contact us.

### 11.4 Sharing information with other regulators

Where we gather information that appears to raise concerns under a law that another agency enforces, we may advise that agency, subject to legislative information sharing requirements, of our concern.

### 11.5 Criminal offending

Where we obtain information that suggests serious criminal offending that falls outside our responsibilities, we will provide that information to the ACT Police or other relevant agency.

Where we have obtained such information in confidence, or through use of our compulsory powers, we will advise the ACT Police of this.

### 11.6 Issues of public safety

Where we obtain information that suggests a serious threat to public health or public safety, we will provide that information to any person or agency that has a relevant interest in preventing, or a duty to prevent, that serious threat.

Where we have obtained such information in confidence, or through use of our compulsory powers, we will advise the person or agency of this.

## 12. Monitoring of the complaint management process

We will continually monitor our complaint and investigation management process to:

- ensure its effectiveness in responding to and resolving complaints; and
- identify and correct deficiencies in the operation of the process.

## 13. Continuous improvement

We are committed to improving the effectiveness and efficiency of our complaint and investigation management process, and will:

- support the making and appropriate resolution of complaints;
- implement best practices in complaint management;
- ensure best practice in investigation management;
- recognise and reward exemplary complaint management by employees;
- regularly review the complaints management process and complaint data; and
- implement appropriate changes arising out of our analysis of complaints data and continual monitoring of the process.

## 14. More information

To obtain more information, please:

- visit [www.act.gov.au/accessCBR](http://www.act.gov.au/accessCBR)
- call us on 13 22 81
- visit an Access Canberra Service Centre
- write to us at:

Access Canberra Customer Services  
GPO Box 158  
CANBERRA ACT 2601

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