



Australian Government



# Complaints Management and Procedures Guideline

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# 1. Introduction

- 1.1. This guideline comprises the Murray–Darling Basin Authority (the **MDBA**)’s Complaints Management and Procedures Guideline (the **Guideline**) and has been designed to assist both complainants and staff. This guideline mirrors the document available internally to MDBA staff.
- 1.2. The MDBA is committed to consistent, fair and confidential complaint handling and to resolving complaints in a timely way. Complaints will be handled impartially and confidentially.
- 1.3. This Guideline works in conjunction with the MDBA’s [Fraud Control Policy](#). It has been informed by the [Commonwealth Ombudsman's Better Practice Guide to Complaint Handling](#). This Guideline applies to all MDBA staff, including contractors.

## Purpose

- 1.4. This Guideline primarily covers complaints which are **about** the MDBA made **to** a representative of the MDBA, but does contemplate circumstances where complaints are made to the MDBA about other bodies.
- 1.5. Its purpose is to implement an effective complaints management process and in doing so:
  - a. simplify and standardise the process for assessing and handling complaints;
  - b. provide a clear and finite complaints handling process which will ensure complainants and staff are treated equally; and
  - c. recognise the value of complaints in the continuous improvement of business and informing future policies and programs.
- 1.6. Handling complaints well can enhance the MDBA’s reputation and reduce the chance of escalation. It can lead to positive outcomes as members of the public can bring matters to the attention of the MDBA which the agency may not otherwise be aware of. Complaints can also provide the impetus for procedural change which can lead to improvements in our policies and procedures.
- 1.7. Formal processes to handle public interactions should be considered whenever there is a need for a structured approach to stakeholder management. For example, in cases where stakeholder interaction is anticipated to be high, it could be expected that this could result in significant enquiries and complaints. This is discussed in further detail in section 10 below.

## General principles

- 1.8. The MDBA’s complaints management process revolves around the following elements:
  - a. *Fairness* – the MDBA will handle all complaints with impartiality, in accordance with principles of procedural fairness and natural justice, and in a confidential manner;

- b. *Accessibility* – the MDBA will ensure services are easily accessed by all members of the community;
  - c. *Efficiency* – the MDBA will respond to complaints in an efficient and conscientious manner; and
  - d. *Integration* – the MDBA will learn from complaints and use them to improve systems and processes and to inform program and policy development into the future.
- 1.9. The manner in which the MDBA interacts with the public and stakeholders and how enquiries and complaints are handled is important.
- 1.10. Primary responsibility for the administration of complaints generally rests with Communication, Engagement and Strategic Policy staff. However, all MDBA staff are expected to assist in resolving complaints where it is reasonable and appropriate.
- 1.11. All MDBA staff have a responsibility to acknowledge and respond to a complaint when it is received or, where appropriate, to escalate for resolution. Many complaints can be finalised at the point of initial contact, with only a small proportion of complaints requiring further action.
- 1.12. As a guide, complaints should be resolved within 10 working days where they are received by phone or email, and 20 working days where received by letter or fax (see Section 3), noting that this will not always be possible depending on the nature of the complaint.
- 1.13. Complaints must be treated confidentially. In particular:
- a. care must be taken when considering whether to disclose identifying details of a complainant. In particular, the wishes of the complainant, the effect on the complainant of having their identity disclosed and whether the complaint can be resolved without doing so should be considered; and
  - b. all MDBA staff must comply with the *Privacy Act 1988* (Cth) and the MDBA [Privacy Policy](#) when dealing with complaints.
- 1.14. MDBA staff managing initial contact with a complainant should endeavour to collect relevant information in line with these Guidelines. It is not appropriate to admit or apportion fault or blame, or give an opinion as to liability.
- 1.15. MDBA staff must record all complainant interactions consistent with the MDBA Recordkeeping Policy.

## 2. What is a complaint?

- 2.1. A complaint is an expression of dissatisfaction by a person or organisation.
- 2.2. Complaints can be made by, or on behalf of, an individual, group, or member of the public. This guide relates primarily to complaints about the MDBA or a decision made by the MDBA or responsible Minister.

## How complaints are made

- 2.3. Complaints can be made orally or in writing and by the following means:
  - a. in person (including through an interpreter);
  - b. by phone;
  - c. by email;
  - d. by letter; or
  - e. by fax.
- 2.4. The MDBA most commonly receives complaints through the publicly displayed 1800 numbers on the MDBA website, the 'Contact Us' section on the MDBA website, the "Get involved/bang the table" function on the MDBA website, contact with the MDBA Hub or through the work of the Communications, Engagement and Strategic Policy staff and Regional Engagement Officers.

## Complaints vs enquiry or feedback

- 2.5. A complaint is different from an enquiry and can also be differentiated from more general commentary in the form of feedback, noting that there is some overlap between these categories. It is important to distinguish between feedback and a complaint as not all communication with the MDBA by members of the public will trigger the operation of this Guideline
- 2.6. Feedback to the MDBA which is not also a complaint can be used to inform future program development, for example, feedback could be about the conditions of a program or a suggestion for improvements to a publication.
- 2.7. Communication is likely to be feedback as opposed to a complaint if it is:
  - a. less specific;
  - b. does not seek a specific response; and/ or
  - c. not a negative comment about the MDBA.
- 2.8. While a provider of feedback should be acknowledged and thanked for their input, the receipt of feedback does not trigger any of the processes described in this Guideline unless that feedback is a complaint. Note that there are also other avenues for members of the public to make complaints about the MDBA, for example via the [Commonwealth Ombudsman](#), which has an oversight role over the activities of Commonwealth agencies. Certain decisions by the MDBA can also be subject to judicial review, meaning that it is possible for complaints about those decisions to lead to legal action. Both of these scenarios are beyond the scope of this Guideline.
- 2.9. Note also that the MDBA may receive a complaint about other bodies and members of the public with whom we have a relationship or who are active in the water resources space. The MDBA's ability to respond to these complaints depends largely on the specifics of the complaint and is largely outside the scope of this document.

### 3. Complaints response timeframes

3.1. The following timeframes are recommended for complaints management:

Complaints channel	Standard timeline for acknowledgement of complaint	Standard timeline for resolving complaint
Telephone or email	2 working days	10 working days
Writing by letter, fax or courier	5 working days	20 working days

3.2. Where it is necessary to refer a complaint to an external body, the complaint will be taken to be resolved (for administrative purposes) once that complaint is referred externally and the other body acknowledges the referral. This does not apply where a third party is engaged by the MDBA to conduct an investigation on behalf of the agency.

3.3. Note that not all complaints will be able to be resolved within these timeframes. In the case of PIDs or fraud matters in particular, there are legislative timelines which will take precedence over this recommendation.

### 4. Process for managing complaints

4.1. The process for managing a complaint will turn in large part on the nature of the complaint and whether it is subject to any particular legislative framework. Determining this requires that the complaint is analysed initially in line with the flowchart at **Attachment A**.

4.2. This takes account of whether a particular complaint:

- a. is a public interest disclosure;
- b. relates to a breach of privacy;
- c. relates to a breach of the *Water Act 2007* (Cth), *Basin Plan 2012* or an accredited water resource plan;
- d. relates to procurement;
- e. alleges fraud;
- f. relates to staff conduct in an APS context; or
- g. relates to a decision made under statute.

4.3. It is important to note that some complaints may fall into more than one category (for example, a fraud matter may also relate to procurement, or a human resources issue may also constitute a public interest disclosure).

- 4.4. Once the context and characteristics of a complaint are clear, including the identity of the complainant and the subject of the complaint, decisions can be taken about how to move forward, including whether the standard four step complaints handling process outlined below is appropriate.
- 4.5. Please seek advice from the Chief Legal Officer and/or the Chief Risk Officer if you are unsure how to proceed or would like to discuss how to go forward.

## Step 1: Acknowledgement of the complaint

- 4.6. When a staff member (the initial contact officer) receives a complaint, they should acknowledge the complaint as soon as possible to reassure the complainant that the complaint has been received. Acknowledging and responding to a complaint can sometimes be done at the same time if the issue is simple and where the timeframe for response will be short.
- 4.7. The initial contact officer should also:
  - a. outline the MDBA's process for dealing with complaints to the complainant;
  - b. obtain full details of the complainant and the complaint, including any relevant dates and any previous contact with the MDBA on the issue; and
  - c. advise the complainant that all personal information collected by the MDBA is dealt with in accordance with the *Privacy Act 1988* (Cth).
- 4.8. In particular, collection of a complainant's personal information must be undertaken in accordance with Australian Privacy Principle 5, which requires that an entity which collects personal information must take reasonable steps to inform the individuals whose information they are collecting of certain matters, specifically:
  - a. the APP entity's identity and contact details;
  - b. the fact and circumstances of collection;
  - c. whether the collection is required or authorised by law;
  - d. the purposes of collection;
  - e. the consequences if personal information is not collected;
  - f. the entity's usual disclosures of personal information of the kind collected by the entity;
  - g. information about the entity's APP [Privacy Policy](#); and
  - h. whether the entity is likely to disclose personal information to overseas recipients, and if practicable, the countries where they are located.
- 4.9. All documentation relating to a complaint, including file notes and emails, etc., must be filed in a dedicated TRIM container. The documentation must be locked down to persons with a genuine need to know (i.e. those staff directly handling the complaint). A de-identified

summary of the complaint must be entered into the 'Complaints Management Log'. This record will inform the quarterly reporting provided by the General Manager within the Communication, Engagement and Strategic Policy capability to the senior executive group.<sup>1</sup> In the case of allegations of fraud, the entry will be 'allegation of fraud', 'forwarded to the Fraud Control Team on <date>'.

- 4.10. Staff should recognise that different stakeholder groups may wish to engage with the MDBA in ways that are not in written form, e.g. via telephone. When complaints are provided orally, written records must be kept of all conversations with the complainant. While the initial contact officer should encourage complainants to put their case in writing, if the complainant is unable or unwilling to put their complaint in writing, the onus is on MDBA staff to respond according to the principles for effective complaints handling.
- 4.11. Complaints that are beyond the scope of the MDBA, e.g. relating to other portfolios, general government policy or legislation, should be acknowledged and recorded in accordance with usual record management practices. The majority of complaints made to the MDBA about the actions of persons other than MDBA fall into this category.
- 4.12. In general, complaints which are beyond the scope of the MDBA should be referred to another relevant agency. This will typically be one of:
  - a. the agency which has undertaken the conduct being complained of;
  - b. a relevant State water or natural resources regulator; or
  - c. a State or Federal law enforcement agency.
- 4.13. Referral to another agency should be handled by the relevant General Manager within the Communication, Engagement and Strategic Policy capability who will locate a relevant contact within that agency and arrange for them to take carriage of the complaint.
- 4.14. If a complaint is referred to another agency, the initial contact officer must contact the complainant, let them know what has happened, and provide them with a point of contact at the new agency.

## Step 2: Investigation and response to the complaint

- 4.15. The initial contact officer is generally expected to deal directly with a complaint at the time it is received and to finalise the response. Responses should be cleared at Director or General Manager level as required.
- 4.16. If the initial contact officer is unable to resolve the complaint within their section or in consultation with their manager, they should ask the General Manager within the Communication, Engagement and Strategic Policy capability for assistance in coordinating a response from the area relevant to the issue of the complaint.

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<sup>1</sup> An example reporting template is provided at **Attachment B** as a reference/ for information.

- 4.17. If further information or investigation is necessary which is likely to result in the complainant receiving a response outside of the recommended response timeframes (see Section 3), the initial contact officer will, as soon as possible and within five working days, inform the complainant of an estimated response date.
- 4.18. If you are responsible for managing a complaint and require legal, governance or risk based advice, at any stage, please contact the Chief Legal Officer/ Chief Risk Officer.
- 4.19. Complaints should be managed within the recommended timeframes and the complainant should be advised about the progress of their complaint throughout the complaints management process.

## Investigation

- 4.20. The purpose of investigation is, where it is appropriate, to resolve a complaint by reaching a fair and independent view on the issues raised by the complainant. Once a complaint has been acknowledged and assessed, the complaint should be investigated ensuring that the principles of impartiality, confidentiality and transparency are observed.
- 4.21. Each complaint should be approached with an open mind and there should be a full and objective evaluation of the facts or evidence provided in support of a complaint. MDBA staff must remain impartial and disclose any matters that could be seen to affect their handling of the complaint to the Chief Operating Officer.

## Response to the complaint

- 4.22. Once the complaint has been investigated, the complainant should be told of the findings of the investigation and any decision reached. Even if some aspects of the complaint are still being investigated, an interim explanation to the complainant of what has been done, found or decided on is good practice.
- 4.23. The response to the complainant should use easy to understand language and should deal with each of the concerns or grievances raised by the complainant. Whether the response should be given orally or in writing, or both, will depend on the circumstances. If the complaint deals with a serious, complex or disputed matter, a written response would usually be most appropriate.
- 4.24. The response should provide contact details, if appropriate, of someone the complainant can contact about the investigation, and should explain the procedure for seeking a review of how the complaint was handled and resolved.

## Step 3: Reconsideration of the initial MDBA response

- 4.25. If the complainant is not satisfied with the MDBA's findings or decision, they may request a reconsideration of the response in writing.

- 4.26. MDBA's preference is that this request is made within 30 days of the complainant receiving the initial response, but a request for reconsideration which falls outside this 30 day period should still be considered by the MDBA. The request should state what exactly they would like reviewed and why they disagree with the MDBA's response.
- 4.27. Reconsideration of an initial response should be undertaken by a General Manager or Executive Director who was not involved in the original investigation and should assess the basis for the initial response to the complainant, either advising that it stands, or, if satisfied that further action is required, will notify the complainant of this in writing.

## Step 4: Further avenues for complaint

- 4.28. If the complainant is not satisfied with the action taken by the MDBA they may lodge a complaint with the [Commonwealth Ombudsman](#). The primary role of the Ombudsman in this scenario will be to examine how the MDBA handled the initial complaint and make recommendations about how similar complaints could be handled better in future.
- 4.29. Additionally, if the initial complaint relates to something which falls within the Ombudsman's jurisdiction, it is possible that they will re-investigate the original complaint. For example, if the complaint related to an allegation of misconduct by MDBA staff, it is possible for the complainant to make a public interest disclosure (see below) directly to the Ombudsman in relation to that conduct if they are not satisfied with how the MDBA handled the initial complaint. If those circumstances arise, the most likely outcome is that the Ombudsman will contact the MDBA and discuss the response on a case-by-case basis.

## 5. Public Interest Disclosure

- 5.1. As noted earlier in these Guidelines, complaints which trigger the [Public Interest Disclosure Act 2013 \(Cth\)](#) (the **PID Act**) will need to be dealt with in accordance with MDBA's Procedures for internal public interest disclosures.

- 5.2. The most likely scenarios that will trigger the operation of the PID Act are as follows:

- a. A complaint about disclosable conduct is made to an Authorised Officer or to the Agency Head by a current or former public official, or a 'deemed public official'.

'Disclosable conduct' is defined in s 29 of the PID Act. Broadly, it is misconduct or maladministration engaged in by a Commonwealth agency, a Commonwealth public official or a Commonwealth contractor. Specific MDBA staff have been designated as Authorised Officers.

'Public official' is defined in s 69 of the PID Act and arrangements in relation to 'deemed public officials' are dealt with in s 70 of the PID Act.

- b. Alternately, a person within the MDBA may make a complaint to their direct supervisor which alleges disclosable conduct. If this happens, the PID Act requires the supervisor to give the information to an Authorised Officer.

- 5.3. It is important to note that the PID Act places additional confidentiality obligations on persons who are aware of a disclosure over and above the Privacy Act obligations discussed elsewhere. It is therefore important that public interest disclosures are only discussed with the people who are directly involved in handling them.

## 6. Allegations of breach of privacy

- 6.1. Allegations of a breach of privacy require specialist handling in accordance with the [Privacy Policy](#) and Privacy Act. These complaints can be made to the Privacy Officer in the Legal & Parliamentary Services Section.
- 6.2. It is possible that the MDBA may be advised of a privacy breach by an external third party through a complaint mechanism. These should be referred to the Privacy Officer immediately and will be resolved consistent with arrangements relating to notifiable data breaches under [Part IIIC of the Privacy Act](#).

## 7. Allegations of unauthorised water take or other legislative breach

- 7.1. From time to time, the MDBA receives allegations of unauthorised water take by individual water users or, more rarely, other breaches of the Water Act, Basin Plan and associated instruments by individual water users.
- 7.2. Where this occurs, staff should immediately refer the relevant correspondence to the Office of Compliance at [compliance@mdba.gov.au](mailto:compliance@mdba.gov.au).
- 7.3. If staff receive complaints of this nature in person, they are to encourage the complainant to make a complaint to the MDBA either in writing or via the MDBA's [Report a Breach](#) form. This sends a report to the Office of Compliance, who will respond.

## 8. Judicial review of procurement

- 8.1. The [Government Procurement \(Judicial Review\) Act 2018 \(Cth\)](#) establishes a framework relating to the review of government procurement.
- 8.2. If you receive a complaint which purports to be a complaint under this Act, or which relates to matters covered by this Act, it is important that you seek advice from the Legal and Procurement teams as soon as practicable. Not all complaints of this type will trigger operation of the Act, but it is important that anything which does trigger it is dealt with as soon as possible.
- 8.3. This Act provides a mechanism for someone who is or could be a supplier of goods or services to a Commonwealth entity to complain about a suspected or potential breach of the Commonwealth Procurement Rules (available [here](#)) in relation to certain procurements to the accountable authority of an agency, which in the case of the MDBA means the Chief Executive.

Complaints under this legislation must be made in writing and can only be made by suppliers who can show that their interests are affected by the conduct in question.

- 8.4. Once the complaint has been given to the accountable authority, the accountable authority must investigate and prepare a report. This is done according to the MDBA's
- 8.5. internal processes. It is not possible for the accountable authority to delegate this function; in practice, this may mean that a third party is contracted to produce a report which the accountable authority then takes responsibility for.
- 8.6. If a complaint is received, the accountable authority must (subject to the below) suspend the procurement process until such time as the complaint is resolved, either through working with the supplier or through a decision by the courts.
- 8.7. At any time, the accountable authority can issue a Public Interest Certificate if they form the view that suspending the procurement process is not in the public interest. This removes the obligation to suspend a procurement process in response to a complaint, allowing the process to continue normally. This certificate can be issued as the result of an investigation, or separately where the accountable authority forms that view via other means.
- 8.8. Note that the Act allows the courts to grant injunctions and order compensation in situations where there has been an allegation of this type. The existence of a Public Interest Certificate does not prevent the courts from granting injunctions or compensation.
- 8.9. Further information can be found in the Finance Department's guidelines, available [here](#), as well as in our internal guidance.

## 9. Fraud

- 9.1. Some complaints may amount to allegations of fraud. Where this occurs, the [Fraud Control Policy](#) (the **FCP**) will apply.
- 9.2. Fraud is defined as "*dishonestly obtaining a benefit, or causing a loss, by deception or other means.*" This includes, but is not limited to, theft, unlawful use of property, providing false or misleading information to the Commonwealth, and bribery or corruption.
- 9.3. A person who receives an allegation of fraud should immediately report it consistent with the FCP by email to [FraudControlOfficer@mdba.gov.au](mailto:FraudControlOfficer@mdba.gov.au). The Governance, Risk and Audit Team will have the conduct of the matter.
- 9.4. A complaint may trigger both the FCPP and the PID Act (for example, where an MDBA staff member makes an allegation of fraud to their supervisor). Where this happens, both the PID Act and FCPP procedures must be followed, noting that the PID procedures allow for a PID investigation to be closed if another investigation is on foot.

## 10. Managing public interaction

- 10.1. While open access to information will generally support positive engagement outcomes, some policies and programs may still experience a high level of enquiries and complaints, and so consideration should be given, in advance, to managing public interaction and establishing arrangements which will ensure an appropriate level of support.
- 10.2. Consider in particular that when moving into development or implementation of a new policy or program a risk assessment should be undertaken, this should include an assessment (in consultation with Governance, Risk and Audit) of stakeholder engagement and reputational impacts. Effective complaints management arrangements and pre-planning are an important element of this. Further advice can be sought from the Chief Risk Officer.
- 10.3. While it is possible to develop standardized responses for programs which receive a high volume of complaints, it is still important that those complaints are meaningfully assessed. The fact that complaints may be made in a coordinated way, for example, does not absolve the MDBA of the responsibility to handle them in accordance with relevant legislation.

## 11. Roles and responsibilities

- 11.1. Responsibility and accountability for the implementation of these Guidelines rests with all MDBA staff. It is expected that all staff will make every effort to resolve any ongoing issues and use complaints and feedback as constructive input for program and policy development.
- 11.2. Specific roles and responsibilities are outlined below.

### Initial Contact Officer

- 11.3. The initial contact officer is required to confirm receipt of a complaint and then log and report a complaint in accordance with this Guide.
- 11.4. The initial contact officer should move through the processes set out in these Guidelines including those in Section 4 which contemplate that consideration is given to the context and character of a complaint and then the subsequent four step process.

### General Manager, Communications, Engagement and Strategic Policy

- 11.5. The General Manager within the Communications, Engagement and Strategic Policy team will report to the Executive on a quarterly basis. The report will cover statistics, trends and any systemic issues arising from complaints received by Divisions. The report will be informed by the Complaints Management Log and relevant or emerging issues will be raised as appropriate.
- 11.6. They will also be responsible for assisting with the co-ordination of responses where the initial contact officer is unable to resolve.

## Business Services Division

11.7. The Business Services Division, through the Legal & Parliamentary Services Section and Chief Risk Officer, will provide support and guidance on the complaints management process.

11.8. The Legal & Parliamentary Services Section will:

- a. provide assistance to Divisions on reporting and will recommend appropriate complaints handling training; and
- b. provide advice and guidance on investigation processes, independent reviews and the schemes that interact with complaints (noting that, in the case of Fraud investigations, Governance, Risk and Audit fulfils this role).

## Chief Operating Officer

11.9. The Chief Operating Officer will ensure that a record of any conflicts of interest (including those relevant to the handling of complaints) is maintained.

## Executive Directors

11.10. Executive Directors must ensure all staff are aware of their responsibilities for the management of complaints and ensure that appropriate training, skills and processes exist to implement the procedures outlined in this Guide. Executive Directors must ultimately be satisfied that complaints are being dealt with appropriately.

## 12. Commonwealth Ombudsman

12.1. Complainants who are not satisfied with the action taken by the MDBA may lodge a complaint at any time with the [Commonwealth Ombudsman](#). The MDBA, through the Chief Operating Officer, will inform the Commonwealth Ombudsman of any emerging complaints patterns and issues.

## 13. Related documents

13.1. [Commonwealth Ombudsman's Better Practice Guide to Complaint Handling](#)

13.2. [Fraud Control Policy](#)

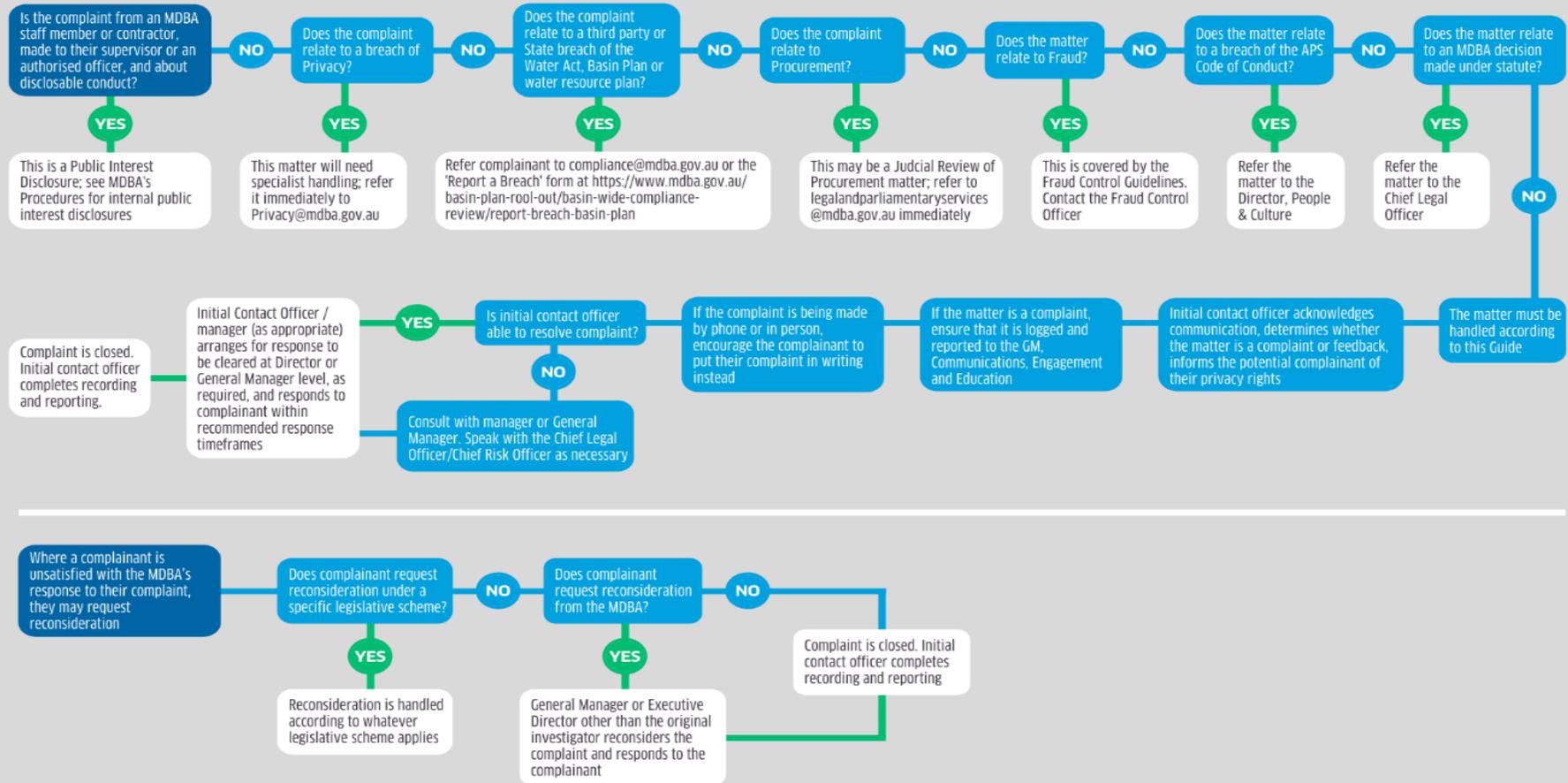
13.3. [Privacy Policy](#)

13.4. [Commonwealth Procurement Rules](#)

13.5. [Handling complaints under the Government Procurement \(Judicial Review\) Act 2018](#)

Attachment A

# Analysing a potential complaint



Attachment B

## COMPLAINTS MANAGEMENT RECORD TEMPLATE

Item	Detail
TRIM container	
Date of call	
Initial contact officer	
Caller's salutation and name	
Caller's contact details	
Details of matter raised (note any urgency)	
Do they wish to make a formal complaint or is the matter raised by way of feedback or to inform a discussion?	<input type="checkbox"/> Information/ discussion <input type="checkbox"/> Feedback <input type="checkbox"/> Formal complaint
Caller's expected outcome	
Staff member handling response	
Next steps	
Date complaint resolved, method of resolution and outcome	
Further action	

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**Office locations**

Adelaide  
Albury-Wodonga  
Canberra  
Goondiwindi  
Griffith  
Mildura  
Murray Bridge  
Toowoomba

 [mdba.gov.au](https://mdba.gov.au)

 1800 230 067

 [engagement@mdba.gov.au](mailto:engagement@mdba.gov.au)