**Apologies fact sheet**

This fact sheet is included as Appendix C in the Victorian Ombudsman’s *Apologies* report (2017) – [www.ombudsman.vic.gov.au/apologies-guide](http://www.ombudsman.vic.gov.au/apologies-guide).

It provides guidance to organisations on how to apologise.

**Effective apologies**

The Victorian Ombudsman encourages public authorities to consider offering a genuine apology when they identify errors as a result of a complaint, regardless of whether the complainant requests an apology.

**Why apologise?**

Apologising for mistakes is a mark of integrity for public sector organisations. It shows that your organisation is transparent and accountable and treats members of the public with courtesy and respect.

Apologies can also make it easier to resolve complaints and disputes. By acknowledging the mistake and expressing regret, you can help defuse anger about what happened and begin the process of rebuilding trust.

There is no guarantee an apology will resolve every complaint. By apologising, you still show that your organisation acts with integrity.

**What makes an apology effective?**

There is no one size fits all way to apologise. An apology for a short delay in returning a phone call will be very different from an apology to someone who has suffered harm in your organisation’s care.

Effective apologies are genuine and sincere, and tailored to the needs of the person and the situation.

It is helpful to start by considering what the person is seeking. Some people may be looking for vindication. Others may just want to know what happened and reassurance that it will not happen again.

The content of an apology usually consists of the following elements:

* **Recognition** – recognition of the mistake and the harm it caused. The most effective apologies usually describe the mistake and harm in specific terms and avoid ‘template’ phrases.
* **Responsibility** – an admission of responsibility or fault. Many people will not accept an apology as genuine unless it includes this element. This may not be appropriate if there is no clear error on your organisation’s part, or you were acting in accordance with your public obligations. However, be mindful that apologies that say ‘I am sorry for the way you feel’ can sound insincere.
* **Regret** – an expression of regret or sympathy.
* **Reasons** – an explanation of what happened, or what will be done to investigate.
* **Redress** – an explanation of what is being done to fix the mistake or prevent it happening again.
* **Release** – if it is appropriate, a request for forgiveness.

The way you deliver the apology can be just as important as what you say.

An apology is likely to have more impact if it is:

* Given as soon as practicable. This depends on the person and the situation. For example, you may need to delay your apology because the person is still too upset to hear what you have to say, or because your organisation needs to investigate what happened first.
* Delivered by the person who made the mistake or someone with authority to speak on your organisation’s behalf, such as a senior manager.
* Directed to the person who was harmed by the mistake or was affected in some other way, such as a family member.
* Communicated in the most appropriate way. In some cases, it may be better to apologise in person. In others, a formal written apology may be more appropriate. If the mistake damaged the person’s reputation, a public apology may be required.
* Phrased in language that is sincere and direct, not bureaucratic.
* Lastly, your apology is more likely to be seen as genuine if it is backed up with practical action to fix the mistake, or prevent it happening again. In most cases, it will need to be part of a package of remedies that addresses the impact of the mistake.

**Can an apology cause legal and insurance problems?**

Victorian law provides legal protection for apologies in some circumstances.

The laws state that an apology does not constitute an admission of liability in legal proceedings involving:

* death or injury of a person (see [*Wrongs Act 1958*](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubLawToday.nsf/95c43dd4eac71a68ca256dde00056e7b/633ed2c8132774e6ca2582fd00197b45!OpenDocument)(Vic) Part IIC).
* defamation (see [*Defamation Act 2005*](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/f932b66241ecf1b7ca256e92000e23be/883e4cefc95fe34aca2570ad001f1797/$FILE/05-075a.pdf) (Vic) section 20).

The Victorian Ombudsman has recommended that the government consider broadening legislative protections for apologies further.

In the meantime, if you believe that your organisation has made a mistake that could give rise to legal liability, you may wish to consult your organisation’s lawyers or insurers to ensure you are taking appropriate steps.

*Source:* [NSW Ombudsman, Apologies: A Practical Guide](https://www.ombo.nsw.gov.au/news-and-publications/publications/guidelines/state-and-local-government/apologies-2nd-ed) *(2009) (*www.ombo.nsw.gov.au/news-and-publications/publications/guidelines/state-and-local-government/apologies-2nd-ed*)*

*Please note: This document is intended as a guide only. For this reason the information contained herein should not be relied on as legal advice or regarded as a substitute for legal advice in individual cases. To the maximum extent permitted by the law, the Victorian Ombudsman is not liable to you for any loss or damage suffered as a result of reliance on this document. For the most up-to-date versions of cited Acts, please refer to the* [Legislation website](http://www.legislation.vic.gov.au/). (www.legislation.vic.gov.au)