VICTORIAN ombudsman

POLICY

Early Resolution of Complaints

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Responsible officer	Principal Policy Officer

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POLICY STATEMENT

One way in which the Victorian Ombudsman (VO) serves the public interest is by ensuring that our response to jurisdictional complaints is timely and proportionate. This means we will, where appropriate, deal with clear and simple complaints at an early stage through prompt and direct negotiation with complainants and agencies, to ensure an expedient and efficient use of public resources.

As an independent statutory authority, we use our legislative discretion with the purpose of adding value to a problem between the public and the state and local government, without aiming to satisfy the demands of either of these. Early resolution is supported by a mandated objective that the Ombudsman provide a timely, efficient, flexible and independent means of resolving complaints about administrative action of authorities. This policy should therefore be read in conjunction with VO's other statutory functions policies.

KEY PRINCIPLES

1. Early resolution describes an approach to assessing complaints which prioritises identifying and treating clear and simple jurisdictional complaints at an early stage. VO has adopted an early resolution assessment practice as it supports us to promptly and effectively deal with relatively straightforward complaints by primarily using our powers of enquiry under section 13A of the *Ombudsman Act 1973* (Vic).

2. The objective of this approach is to deal with a complaint when it is still relatively minor, thereby preventing small issues from becoming unnecessarily complex. If the matter is not amenable to early resolution, if it cannot be handled in a timely manner, or requires formal investigation, for example, then the complaint can be re-assessed and handled by one of VO's investigations teams.

SCOPE

3. When a complaint has been assessed to be within the Ombudsman's jurisdiction, then suitability for early resolution is also considered. Most complaints to VO are managed effectively using the early resolution approach.

4. Generally, we are more likely to seek an early resolution where:
   - the administrative action is clearly identifiable and uncomplicated in nature
   - the parties are unlikely to resolve the matter promptly unless VO intervenes

- an outcome is likely to be reached within a short period of time, whether this means mutually agreeable resolution or the complaint being closed after contact with the agency
- modest intervention is likely to support ongoing improvements in administrative practice being achieved by VO in collaboration with the agency concerned.

5. There are certain matters that are not suitable for early resolution. These include, but are not limited to:
   - public interest disclosures defined by section 9 of the *Public Interest Disclosures Act 2012* (Vic)
   - complaints and referrals where there is a legal obligation for the Ombudsman to conduct an investigation
   - complaints where there appears to be administrative error and where an enquiry/investigation with formal proposals/recommendations would be a more appropriate or effective means of the Ombudsman highlighting the error
   - complaints involving unclear, complex and/or systemic issues and require detailed consideration.

6. Dealing with a complaint through early resolution does not limit the Ombudsman's ability to approach the same issue in other ways. In some instances, VO may resolve a complaint through early resolution, and despite the complainant ceasing to be involved, may continue to examine the administrative issue through other means, such as formal, or own motion investigations.

How Does VO Accomplish Early Resolution?

7. The powers of the Ombudsman Act that enable appropriately skilled and experienced VO staff to handle complaints about state government organisations are delegated by legislative instrument. By using an early resolution approach to assessing complaints, VO encourages delegated frontline staff to respond to complaints in a flexible and creative way to meet the Ombudsman's principal objective of improving public administration.

8. VO staff engaging in the early resolution of complaints use practices established in our policies on 'Complaints and Approaches', 'Enquiries' and 'Referrals and Notifications' in ways that most efficiently address the matters raised. Generally, for suitable complaints, this is likely to be achieved through verbal communication, negotiation and/or explanation with the relevant parties to reach a practical solution.

9. VO officers achieving an early resolution of complaints will generally deal with a complaint from beginning to end. Drawing on a 'one touch' concept of complaints

management, this holistic method recognises the administrative efficiency of avoiding double handling, and the superior service given to a complainant who deals primarily with one officer while the complaint is at VO.

POTENTIAL OUTCOMES OF EARLY RESOLUTION OF COMPLAINTS

10. Critical to VO's role in being an arbiter of fairness in the early resolution of complaints, is our independence from the parties involved. We do not act on behalf of the parties involved in a complaint and will balance the interests of the individual against those of the agency to achieve an outcome that is ultimately for the public good.

11. The outcome of early resolution will depend on the individual circumstances of a case. These may include:
    - a remedy for the complainant (for example, a response from the agency or better explanation of its decision)
    - agreed arrangements between the complainant and agency to progress the matter
    - improvements to the agency's administrative practices
    - identification by VO of recurring themes or issues that may warrant further examination.

12. While early resolution can result in a satisfactory outcome for the complainant and/or the agency, this may not always be the result. In some cases, VO may:
    - decline to deal with the complaint further on discretionary grounds under the Ombudsman Act
    - examine the matter more closely by conducting further enquiries
    - conduct an investigation to form an opinion on whether an agency has made an error under section 23(1) of the Ombudsman Act.

ROLES AND RESPONSIBILITIES

Role	Responsibility
Principal Policy Officer	*Owner* – Accountable for maintaining policy drafting, reviews and authorisation from the Executive.
Principal Legal Adviser	*Legal Compliance* – Responsible for ensuring compatibility with the *Charter of Human Rights and Responsibilities 2006* (Vic) *and* compliance with other legislation under which VO operates.
Executive Committee	*Authorisation* – Authorises policies and significant amendments.
All staff, contractors and third parties	*Implementation* – Responsible for acting in compliance with the policy, standards, procedures and associated documents.

DOCUMENT MANAGEMENT

Compliance

VO maintains a compliance management system. Compliance to this policy, including use of information and systems, is subject to regular monitoring and reporting to the Executive Committee. For further details on compliance checks please refer to the compliance management system.

Document approval

This document was approved by the Senior Leadership Committee on 29 September 2016.

Document review

This document is due for review upon major changes or three years from the date of the last review.

APPENDIX A: Related documents

Title	Location
Public Interest Disclosures Act 2012	Available at http://www.legislation.vic.gov.au/
Ombudsman Act 1973	