

Guidelines: Managing client feedback and complaints

Essential Summary

These *Guidelines: Managing Client Feedback and Complaints* (the Guidelines) demonstrates Youth Justice's commitment to protecting young people and upholding their rights in the handling of service feedback complaints made by young people, their family members/carers, representatives and other support people and victims.

The Guidelines and accompanying procedure guides employees to ensure young people's rights are upheld and the resolution of complaints is timely, transparent, and fair.

These Guidelines are required by, and consistent with, the Children's (Detention Centres) Regulations 2015. Youth Justice Employees must comply with these Guidelines and their attendant procedures in dealing with feedback and managing complaints.

The Guidelines address the following Youth Justice NSW Child Safe Policy Framework Goals and Outcomes:

Youth Justice Child Safe Policy Framework	
Goals	Outcomes
<ul style="list-style-type: none"> We are child-centred in our work with children and young people Children and young people trust us Children and young people in contact with us are safe We seek, acknowledge and respect young people's voices 	<ul style="list-style-type: none"> We have processes for collecting, collating, analysing and reporting on young people's ideas and feedback Young people have a say in the decisions we make that affect them Young people, their families & carers, and the community are confident in making complaints to or about us and we support them to do so if they need it Young people, their families, carers and support network, know how to contact independent children's advocacy services and other support organisations including the NSW Ombudsman and Inspector of Custodial Services, Aboriginal Legal Service, Legal Aid and other legal representatives Young people feel empowered to provide ongoing feedback on the services they receive from us and funded service providers and report that we/the service provider 'listen(s)' to them

Table of Contents

1	Scope	4
2	Purpose	4
3	Definitions	4
4	Principles governing the managing of client feedback and complaints	7
4.1	Principles	7
4.2	Rights based approach to complaint handling	7
4.3	YJNSW values feedback and takes complaints seriously	8
5	What is a complaint and who can complain?	8
5.1	What is a complaint?	8
5.2	Minor issues that are not complaints	9
5.3	Service improvement feedback	9
5.4	Managing feedback and complaints in Youth Justice Centres	9
5.5	Who can make a complaint?	9
6	Matters not dealt with under these Guidelines	10
7	Access to complaint process and information	11
8	Supporting a young person during the complaint process	12
8.1	Duty to support young people making complaints	12
8.2	Who is responsible for supporting young people?	12
8.3	Employee suspected of harassing a complainant	13
8.4	Young person's right to a support person	13
8.5	What is the role of a support person?	13
8.6	Assistance to facilitate a support person	15
8.7	Young person's right to a representative	15
8.8	Young person's right to language services	15
9	Managing complaints about Youth Justice	15
9.1	Who can resolve a complaint?	15

9.2	Employee responsibility for complaints	16
9.3	Culturally safe complaint handling	17
9.4	Confidentiality	18
9.5	Overcoming concerns of bias and conflict of interest	18
9.6	Managing complaints about Employees and Employees' behaviour	19
9.7	Managing complaints about young person's property	19
9.8	Managing frivolous or vexatious complaints	20
9.9	Timeframes for managing complaints	20
9.10	Review a decision made about a complaint	20
10	Complaints referred, or made directly, to external bodies	20
11	Managing complaints about other agencies	22
12	Complaints Register	23
12.1	Information to be recorded in the CIMS Complaints Register	23
12.2	Restrictions for recording complaints	24
12.3	Access to complaint information	24
13	Monitoring and reporting	25
14	References	26
15	Document information	27
16	Document history	27

1 Scope

These Guidelines and associated procedure, the Managing Feedback and Complaints procedure, apply to all Youth Justice NSW (YJNSW) Employees, volunteers and contractors. These Guidelines and the procedure constitute the 'complaints guidelines' for the purposes of the Children (Detention Centres) Regulation 2015.

These Guidelines extend to the YJNSW's management of feedback and complaints from YJNSW clients, principally young people, their families, carers and representatives and the handling of complaints. These Guidelines provide the structure for receiving, assessing, recording, responding to, reporting on, and using complaints to improve services to young people.

There are also external complaint handling procedures managed by external oversight bodies. The key external bodies that will consider complaints from or about YJNSW clients are:

- the NSW Ombudsman
- Official Visitors to Youth Justice Centres managed by the Inspector of Custodial Services
- the NSW Independent Commission Against Corruption (ICAC).

YJNSW provides information about, and access to, these external mechanisms to young people and members of the community.

2 Purpose

These Guidelines provide direction for YJNSW Employees in how to uphold the rights of young people and stakeholders, including Official Visitors and victims of crime, to make a complaint if they are not satisfied with the nature of, or way, its services are delivered.

Complaints should be seen in a positive light and, when managed well, can help YJNSW improve the way we provide services and build stronger relationships with our clients.

A version of these Guidelines which details the most important features from a young person's point of view has also been developed in consultation with young people. It is available to all young people in contact with YJNSW.

3 Definitions

Aboriginal cultural advisor (YJNSW Employee) to a particular complaint is the Aboriginal YJNSW Employee who is appointed by the complaint handler and/or Community Office or Youth Justice Centre Management to provide advice in the event that a complainant is Aboriginal or the complaint involves Aboriginal people.

Complainant is the person making the complaint.

Complaint is an expression of dissatisfaction with YJNSW. A 'complaint' from clients of YJNSW, particularly those in Youth Justice Centres, are usually considered in the context of the quality of care a young person is receiving. This is managed differently from requests for information or service improvement feedback.

Complaint Handler is the Employee responsible for resolving a complaint. The Children (Detention Centres) Regulation 2015 refers to this person as the 'referee'.

Director Central Office Directors and Community Directors

Employee(s) of YJNSW, including persons employed on a casual or temporary basis, contractors, volunteers and statutory appointees (Conference Convenors and Official Visitors).

External bodies Organisations (other than YJNSW) to which complaints can be made or referred include:

Administrative Decisions Tribunal	Law Enforcement Conduct Commission
Advocate for Children and Young People	Legal Aid Commission of NSW
Anti-Discrimination Board	Legal Services Commissioner
Barrister or solicitor	Member of Parliament
Chaplain	National Crime Authority
Commonwealth Ombudsman	New South Wales Crime Commission
Health Care Complaints Commission	New South Wales Ombudsman
Human Rights and Equal Opportunity Commission	Official Visitor
Independent Commission Against Corruption	Police officer
Judicial Commission	Privacy Commissioner

Fee for Service Payment of providers for individual services rendered, as opposed to salaries.

Formal complaints All details of the complaint are recorded, and a formal process is followed to reach a resolution, which is recorded in the complaints file.

Frivolous or vexatious complaints A frivolous complaint is one that is not made in good faith. A vexatious complaint is a frivolous complaint that is made to be annoying. Further detail appears below under **vexatious complainant**.

Incident As defined in the Incident Management Policy, an incident or event that may affect the normal functioning of a centre. Includes alleged criminal activity, assault, attempted escape, contraband, death, escape, fire, media/public interest, medical/hospital treatment, natural disaster, property damage/loss, security breach, injury/accident, self-harm, Employee professional conduct, or threat to worker.

Informal complaints are not registered or recorded. These 'complaints' may be service improvement feedback or requests for information and are questions that YJNSW staff can answer and address their concerns or give them information without needing to take any formal steps. In Youth Justice Centres there is a process that supports young people to determine whether the issue they raise should be handled as a formal complaint or is better managed as feedback or a request for information.

Minister means the Minister for Families, Communities and Disability Services.

NSW Ombudsman is an independent and impartial watchdog who ensures that agencies fulfil their functions properly and improve their delivery of services to the public.

Official Visitor is appointed by, and reports to, the Minister. Official Visitors are able to enter and inspect Youth Justice Centres at any reasonable time and speak privately with young people and Employees.

Representative is someone making a complaint on behalf of a young person including:

- an eligible support person (as defined below)
- a specialist disability worker or mental health support worker – refer to www.pwd.org.au for disability advocacy services in NSW
- a barrister or solicitor (or solicitor's clerk)
- a doctor
- an Official Visitor
- a field officer of the Aboriginal Legal Service, or similar approved organisation
- a person conducting an inspection of a Youth Justice Centre.

Support person is someone providing communication and/or emotional support/assistance to the complainant. In a Youth Justice Centre, a **support person** for a detainee is defined by Cl. 47 of the Children (Detention Centres) Regulation 2015 to mean:

- (a) a person who is authorised to visit the detainee under Division 1 of Part 4 of the Regulation, or
- (b) another detainee at the detention centre, or
- (c) a staff member of the detention centre,

being a person who the detainee wishes to have as a support person, and who agrees to be the detainee's support person.

These Guidelines are consistent with the Children (Detention Centres) Regulation 2015.

Vexatious complainant is a complainant (and/or anyone acting on their behalf) who may be deemed to be habitual or vexatious where previous or current contact demonstrates that they have engaged in some of the following conduct:

- Made complaints maliciously to damage a person's career or reputation
- Threatened or took violent action against themselves, Employees or property
- Made complaints without evidence and to cause annoyance
- Persistently and unreasonably changed the substance of a complaint or continually raised new issues or tried to prolong contact by continually raising further concerns or questions
- Been repeatedly unwilling to accept documented evidence given as being factual or deny receipt of an adequate response in spite of correspondence specifically answering their questions, or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.

Young person is a young person either currently under the supervision of YJNSW, or who has previously been under the supervision of YJNSW. A young person is also someone who has been referred to a Youth Justice Conference or is involved in the Youth Justice Conference process.

Youth Justice Centre (YJC) *Detention centre* as defined in the *Children (Detention Centres) Act 1987*, or *premises the subject of an order in force* under section 5 (1) of the *Children (Detention Centres) Act 1987*

Youth Justice Community Offices (YJCO) provide young people with a variety of services, including youth justice conferencing, court-directed supervision of young offenders, and counselling.

Youth Justice Conference A diversionary process which brings together young offenders, the victim/s of their offences and all of their support people, to allow all participants to talk freely to each other about what happened at the time of the offence, who was harmed and how, and what needs to be done to make up for the harm caused.

Youth Justice Funded Service is an external agency that has a Funding Deed of Agreement with YJNSW to provide a range of services to young people, their families or carers to provide supports to young people in relation to areas of risk and need.

4 Principles governing the managing of client feedback and complaints

4.1 Principles

When managing complaints, YJNSW Employees must recognise the inherent dignity of the person who has made the complaint and treat them with courtesy and respect. Complainants should be given clear and comprehensive information about the process that will be followed to manage their complaint, as well as the possible outcome – including options to have the matter reviewed and how they are treated.

It is now well recognised that people are likely to care as much about *how* their complaint is dealt with as they do about the issue that triggered the complaint. These Guidelines and procedure detail the process for managing feedback and complaints. They are designed such that when followed the process should be seen to be fair, treating complainants in ways they think are reasonable (including with respect), and providing adequate information at appropriate times.

In responding to complaints, YJNSW:

- protects the rights and wellbeing of any young people involved in the complaint
- takes appropriate action to support young people to make a complaint
- establishes clear procedures for dealing with complaints
- makes information about the complaints process accessible to all Employees, young people, their families and carers, and any other interested parties
- affords procedural fairness to all parties
- resolves complaints as quickly as possible
- keeps the parties informed of progress and outcomes
- maintains appropriate confidentiality of all parties
- protects complainants from any subsequent victimisation and reprisal
- keeps proper records of decisions made and the reasons for the decisions
- makes use of the complaints system as feedback to improve the quality of services.

4.2 Rights based approach to complaint handling

These Guidelines and associated procedure protect the rights of young people, with a particular focus on those who are in custody. These rights, among others, are drawn from the UN Rules for the Protection of Juveniles Deprived of their Liberty: the 'Havana Rules' (1990); the UN Minimum Rules for the Administration of Juvenile Justice: the 'Beijing Rules' (1985), and the Convention on the Rights of the Child (1989).

Part 5 of the Children (Detention Centres) Regulation 2015 sets out certain procedures for complaints concerning the administration or management of a Youth Justice Centre and complaints concerning the treatment of a particular young person at a Youth Justice Centre or under supervision of YJNSW.

Young people have the right to receive services from YJNSW that:

- are based upon their individual needs

- wholly account for and are responsive to their individual cultural, linguistic, religious and other cultural factors
- involve them in decisions made about them and empower them to take control of their lives to the extent possible
- involve their family and significant others in decision making
- are planned through a coordinated case management system
- address their offending behaviour
- assist them to develop and maintain relationships in their community
- are confidential
- are free from abuse.

Young people's rights extend to their right to make a complaint about their treatment to an independent person (such as the NSW Ombudsman or Official Visitor) and to be told what happens with their complaint.

4.3 YJNSW values feedback and takes complaints seriously

The feedback service users, our clients, give us can provide valuable insight and is an integral part of our continual improvement process.

YJNSW takes every complaint seriously and manages each openly, promptly, and fairly. It is good practice and our intention to resolve an issue, including complaints, at first contact where possible, and within a reasonable time frame where it is not.

YJNSW will make every effort to resolve service issues, requests for information and complaints as soon as possible and locally where we can.

The Guidelines and associated procedure seek to ensure that all complaints are treated confidentially and that complainants are never subject to victimisation, harassment, or reprisal.

5 What is a complaint and who can complain?

5.1 What is a complaint?

In a Youth Justice Centre a complaint is narrowly defined by the Children (Detention Centres) Regulation 2015 to include anything concerning 'the administration or management of a detention centre' or the 'treatment of a particular detainee'. These Guidelines reflect this definition and focus on issues concerning safety and the quality of care provided by YJNSW.

Complaints may involve:

- the conduct of Employees and volunteers, including contractors
- anything that causes a complainant to feel unsafe when they are with YJNSW
- the conduct of young people in contact with YJNSW
- the quality of care offered by YJNSW, including services co-delivered by agencies where YJNSW is the lead or funding agency.

5.2 Minor issues that are not complaints

In previous iterations of these Guidelines, complaints were considered either 'informal' or 'formal'. The term 'informal complaint' is no longer used in order to clearly mark whether an issue is, in fact, a complaint. These Guidelines distinguish between 'minor issues' such as service and program feedback or requests for information, and complaints.

Minor issues may be service improvement feedback and/or are questions that YJNSW staff can answer and address young people's concerns or give them information without needing to take any formal steps. In Youth Justice Centres using the Feedback and Complaints Triage system, the process supports young people to determine whether the issue they raise should be handled as a formal complaint or is better managed as feedback. Formal complaints usually concern the quality of care a young person is receiving and/or issues of safety.

Handling an issue informally is useful at a local level and can result in a speedier resolution.

Complaint handlers must ensure that a young person is offered support and not hindered in any way if they want to formalise a complaint.

5.3 Service improvement feedback

YJNSW also values feedback on the quality and availability of its services. Where issues of safety and the quality of care are NOT the issue, YJNSW will consider and record the service improvement suggestions. These may include, but are not limited to:

- the lack of, or difficulty in gaining access to, a service offered by YJNSW
- how a service is provided.

5.4 Managing feedback and complaints in Youth Justice Centres

In Youth Justice Centres young people are encouraged and supported to distinguish between complaints, which are issues regarding their personal safety and the quality of care they are receiving, service feedback, which include ideas for improved programs and other day-to-day running of the Centre, and requests for information. This occurs before a formal complaint is lodged. The Unit Manager is responsible for supporting and/or arranging support for a young person to make a complaint in these instances.

5.5 Who can make a complaint?

A 'complainant' can include:

- a young person who receives, or has received, a service from YJNSW
- the family or carers of a young person who receives, or has received, a YJNSW service
- a victim or victim support person participating in a Youth Justice Conference
- an Official Visitor
- a support person or representative of a young person, who can include:
 - Official Visitors
 - the young person's Department of Communities and Justice (formerly FACS) caseworker
 - a YJNSW Employee, such as a Youth Officer, caseworker or a delegated officer
 - a Mentor or Sessional Supervisor
 - a community support worker (e.g. youth services)
 - the young person's partner, if both are over the age of 16
 - the young person's barrister, solicitor, solicitor's clerk and/or legal agency
 - a doctor
 - a field officer of the Aboriginal Legal Service, or similar approved organisation.

This is not an exhaustive list. Clause 48(1) of the Children (Detention Centres) Regulation 2015 allows that a complaint concerning the administration or management of a detention centre may be made by any person.

6 Matters not dealt with under these Guidelines

The following matters are not to be treated as feedback or complaints under these Guidelines. You will need to deal with these issues under the appropriate policies indicated. If any of the following matters arise through the complaints process, you must keep detailed records of the referral to other processes.

Allegations of abuse

Allegations of physical, emotional or sexual abuse involving an Employee must be dealt with in accordance with the *Child Safety and Mandatory Reporting Policy* and associated procedures.

Allegations of a criminal offence

Allegations of a criminal offence, such as an alleged assault, will be dealt with in accordance with the *Incident Management Policy: Reporting, Debrief and Review*.

Allegations of fraud or corrupt conduct

Allegations of fraud or corruption, as defined by the *Fraud and Corruption Policy*, must be dealt with immediately in accordance with the *Incident Management Policy: Reporting, Debrief and Review* and for external reporting, where required (which may include the Police and/or the Independent Commission Against Corruption (ICAC)).

Allegations which require mandatory reporting

Any and all allegations of abuse or harm made by a young person must be treated seriously and dealt with as a matter of urgency. **These allegations are not investigated as complaints and are subject to mandatory reporting requirements.** Allegations of abuse or harm are handled in accordance with the mandatory reporting procedures (both internal and external reporting) in the *Child Safety and Mandatory Reporting Policy*.

Appeals against YJNSW decisions

An appeal against a YJNSW decision is not a complaint unless the complainant is complaining about *how* the decision was made or *the process* undertaken to deal with the complaint. In this case, a new complaint should be opened, registered and managed as with any other complaint.

There are separate procedures available for appeals against a YJNSW decision. These include, *Appeals for classification decisions*, *Appeal Guidelines for Representative Supervision* and *Appeals for decisions regarding visitors*. These can be located on the YJNSW Intranet. Complainants can request copies of these Appeals procedures any time.

Appeals against a decision, a court conviction or sentence or a classification

An appeal against a court conviction or sentence is never a complaint.

An appeal against a classification is formally determined by the delegated officer.

Requests for information

A request for information under the *Government Information (Public Access) Act 2009* ('GIPA Act') is not considered a complaint under Part 5 of the *Children (Detention Centres) Regulation 2015*.

Young people may also request information about their legal situation. These requests are referred to a young person's caseworker where appropriate.

Employee grievances

Employee grievances include, but may not be limited to, an Employee complaint over application of a policy, conflict in the workplace or disagreement over a management decision. Employee grievances are handled in accordance with the YJNSW *Dignity and Respect Policy*, which includes guidelines on how to address grievances.

7 Access to complaint process and information

YJNSW aims to provide young people with easy access to these Guidelines and associated procedure. A separate, highly accessible version of these Guidelines is available to young people through various channels, including online and the induction booklet/DVD resource.

Information on how to make a complaint is available in:

- YJNSW Community offices
- Youth Justice Centres' admissions areas
- Community languages (provided upon request)

During admission to a centre, each young person must be supplied with a copy of the resident's induction booklet and DVD, which includes information on how to make a complaint.

Complaints forms and information should be placed in locations that are obvious to young people. This may include reception areas and counselling rooms. If forms are considered a risk to security, there must be a complaints poster/information about where/how to access forms.

During initial contact with a young person in the community, the young person must be informed of these Guidelines and its key features. This includes young people's right to make a complaint. YJNSW Employees are responsible for ensuring young people understand their rights, the complaints Guidelines and how to make a complaint, and their right to support if they require or ask for it.

YJNSW officers working with young people in the community should re-visit the complaints Guidelines, reminding young people of their rights and responsibilities, at regular intervals when they are working with a young person over time.

Under the YJNSW response to the Child Safe Standards and through the *Child Safe Policy Framework* monitoring and evaluation system, young people are regularly surveyed. These surveys help YJNSW monitor young people's understanding of their rights and the complaint process.

All young people must also be informed of other, external, avenues for making complaints, such as the NSW Ombudsman, Official Visitors and the Minister. All YJNSW Employees are responsible for ensuring young people *understand* their right to make a complaint.

8 Supporting a young person during the complaint process

8.1 Duty to support young people making complaints

Clients of YJNSW have the right to make a complaint about our services and the quality of care they receive. Part of that right is that people are kept informed of the 'progress' of their complaint and its resolution. YJNSW Employees have a duty to ensure that that right, along with all other rights of young people, is upheld.

Young people may be reluctant to make a complaint and can experience distress and fear when they do. YJNSW Employees have a duty to support a young person to make a complaint and to ensure that no-one suffers any victimisation, harassment or retribution because they have complained.

Employees who are the subject of a complaint must not, under any circumstances, directly or indirectly, discuss the complaint with the complainant.

8.2 Who is responsible for supporting young people?

The following YJNSW employees are responsible for supporting young people to understand their rights generally and, for the purposes of these Guidelines, their right to make a complaint, as well as *how* to make a complaint and the support they can expect if they require it.

- YJNSW Community Office employees including:
 - YJNSW Caseworker
 - YJNSW Psychologists
 - Assistant Managers
 - Area Managers
- Youth Justice Centre employees including:
 - Unit Managers
 - Youth Officers
 - Caseworkers in custody
 - Psychologists
 - Assistant Managers
 - Centre Managers
 - Admissions employees

Youth Justice Conference administrators (through Conference Conveners)

These Employees are also expected to provide support to a young person in making a complaint if the young person requests help in completing a form or in some other way.

8.3 Employee suspected of harassing a complainant

Any employee who is suspected of harassing a complainant in response to a complaint being made (victimisation) may face disciplinary measures as outlined in the YJNSW Code of Ethics and Conduct and the *Dignity and Respect Policy and Guidelines*.

In accordance with the Code, managers and supervisory employees are responsible for taking action if another employee breaches the Code of Ethics and Conduct. If you witness or suspect wrong-doing you should discuss the matter with your supervisor or Manager. If the alleged wrongdoer is your supervisor, you must discuss the matter with that individual's supervisor or Manager.

You may be required to complete a *Summary of an Allegation or Complaint Against an Employee Form*, which should be discussed with, and provided to, your Manager for referral to the Conduct and Professional Standards Unit.

Proven breaches of the Code which constitute misconduct may result in remedial or disciplinary action. Depending on the circumstances, this can range from a caution through to dismissal.

8.4 Young person's right to a support person

A young person has the right to a support person when making a complaint. Some young people, such as those with disability or mental illness; who are Aboriginal or from culturally or linguistically diverse backgrounds, are more likely to require support when they make a complaint.

Where a young Aboriginal person makes or seeks to make a complaint, YJNSW will ask whether they would like an Aboriginal member of staff to support them in understanding the complaints process and keep them informed of the process for resolving the complaint.

8.5 What is the role of a support person?

A support person is someone providing communication and/or emotional support/assistance to the complainant.

A support person can be:

- an individual of the young person's choice, including another detainee at a Centre but not a co-offender of the complainant
- a young person's authorised visitor
- a family member, carer, partner, community worker, or significant other
- a Chaplain or Official Visitor
- a lawyer
- an employee (such as a YJNSW Caseworker, Youth Officer or delegated officer) who consents to the role.

A support person does not advocate on behalf of, or answer for, the complainant. Their role is to make sure the complainant feels safe and supported, and understands what is happening during the process.

If a complainant wishes to nominate a support person but is unable to do so, the complaint handler must nominate a person who, in the complaint handler's opinion, is appropriate to act as a support person for the detainee (see clause 52(3) of the Children (Detention Centres) Regulation 2015).

Supporting young Aboriginal people (YJNSW Aboriginal support person)

YJNSW can provide culturally sensitive support to young Aboriginal people who have made a complaint. Under these Guidelines, young Aboriginal people are explicitly offered the support of an Aboriginal Employee whose role is to keep the young person informed of the process being followed to resolve their complaint. Young people may choose to take up this offer or not.

A young Aboriginal person may choose to have this Employee support them through the process and also have somebody they choose to provide communication and emotional support if they want it.

This Aboriginal support person (YJNSW Employee) is not a representative for the young person. Their role is to help the young person, their family and support network or an Aboriginal member of the community (i.e. the complainant) to make the complaint as necessary, understand the process, support them to complete forms and, importantly, keep the young person updated as to the progress of their complaint.

These Employees must ensure the strictest privacy and confidentiality in carrying out the support role. The Aboriginal support person (YJNSW Employee), like all parties to the complaint resolution procedure, must act in the best interests of young people within the process.

YJNSW will offer to appoint an Aboriginal YJNSW staff member as an Aboriginal support person for a complainant. This role is *additional* to any support person a young Aboriginal person chooses to assist them with communication and emotional assistance. The YJNSW Aboriginal support person will ensure smooth communication about the complaint handling and investigation process.

Supporting a young person in a Youth Justice Centre

A support person can be an individual of the young person's choice, where that person is:

- an authorised visitor of a young person (such as a family member, carer, partner, community worker, lawyer, but not co-offender of the complainant),
- another young person detained at the Centre but not co-offender of the complainant, or
- an employee (such as a delegated officer, Youth Officer), which for the purposes of these Guidelines includes the Centre Chaplain, who consents to the role

Supporting a complainant who is a young person under community supervision

A support person can be an individual of the young person's choice, where that person is:

- the young person's family member/carer or significant other, or
- an employee (such as YJNSW Caseworker) who consents to the role.

Supporting a complainant who is a victim or offender involved in a Youth Justice Conference

A support person can be another young person currently subject to a Youth Justice intervention but not a co-offender of the complainant.

Supporting a complainant who is a family member/carer

A support person can be an employee (such as delegated officer, Chaplain, Youth Officer) of their choice who consents to the role of being a support person.

8.6 Assistance to facilitate a support person

If the complainant is a young person, it is the Centre or Area Manager's responsibility to decide what type of assistance will be provided to facilitate the involvement of a support person.

For example, assistance may take the form of basic travelling and accommodation costs for support persons during the resolution of a complaint.

This decision should be based on the:

- nature of the complaint, its seriousness and complexity
- client's individual needs, including Aboriginality
- degree of assistance requested
- benefits of having the requested support
- existence of alternative options for support
- availability of resources.

8.7 Young person's right to a representative

A young person has the right to have a representative make a complaint on their behalf. A young person may have both a representative and a support person. An Aboriginal young person may have an Aboriginal staff member providing support, as well as both a support person and representative.

A representative is somebody who makes a complaint to YJNSW on behalf of a young person and speaks on behalf of the complainant. Support persons are there to make sure the complainant feels safe and supported and understands what is happening during the process.

YJNSW will not pay any costs related to a young person having a representative present, except for telecommunication costs or where there are exceptional circumstances.

Exceptional circumstances can include occasions where a representative may be required for reasons such as mental health and disability issues, or language and cultural differences. These cases must always be referred to a Manager for approval of costs.

8.8 Young person's right to language services

An interpreter will be made available, at YJNSW's cost, to a complainant who has difficulty speaking or understanding English, or who is hearing-impaired or deaf. An interpreter is not a YJNSW Officer but as understood in the *YJNSW Language Services Policy*.

Written information and correspondence relating to the complaint is to be translated into community languages, provided in Braille or transcribed onto audiotape, at YJNSW's cost.

For more information, refer to the *YJNSW Language and Communication Policy*.

9 Managing complaints about Youth Justice

9.1 Who can resolve a complaint?

All Employees (that is, not contractors, Mentors, Sessional Supervisors or Youth Justice Conference Conveners) can resolve a complaint within their area of responsibility. In accordance with the Children's (Detention Centres) Regulations 2015, the complaint 'is to be dealt with by the person to whom it is made or addressed or by such other person as [these Guidelines] may permit or require'.

Complaints about Employees should be resolved by that Employee's supervisor. For instance, an Assistant Manager should resolve a complaint about a YJNSW Caseworker. Where Employees have two supervisors, both are responsible for managing the complaint.

Where there is a reasonable request to have the complaint handled externally from where the complaint originates, (Office, Unit, Centre) the Manager will request that the Community Director, Director, Custodial Operations or another Director in Central Office re-allocate the role of complaint handler.

The Employee assigned responsibility for resolving a complaint is known as the '*complaint handler*'. The complaint handler is responsible for ensuring the complainant is kept fully informed of the process and progress of their complaint.

As soon as practicable after receiving the complaint, the complaint handler must notify the complainant of the following:

- (a) the fact that the complaint handler is dealing with the complaint,
- (b) how the complaint handler may be contacted about the complaint,
- (c) the procedures to be followed by the complaint handler in dealing with the complaint (including whether the complainant will be invited to appear before the complaint handler to make representations in connection with the complaint),
- (d) when the complainant can expect a decision on the complaint.

In the event that the complaint is referred to a different complaint handler, the complainant must be informed of this.

The Unit Manager/Assistant Manager is responsible for ensuring both the complaint handler and the complainant are informed of the progress of the complaint. This communication, transparency and openness is critical to the resolution of complaints and the integrity of the complaints system as a whole.

9.2 Employee responsibility for complaints

These Guidelines and its associated procedure are an integral component of the induction training for all Employees, delivered through the YJNSW self-paced Learning Kit. Organisation Development and Training will ensure that during the induction process, all Employees are familiar with, and know how to implement these Guidelines.

All Employees who receive a formal complaint **must** record the details using the Complaint Form that can be found on the Intranet. The complaint form (when completed) **must** be uploaded to the CIMS Registered Complaints.

Any Employee who is the subject of a complaint is strongly encouraged to participate in its investigation and resolution. Failure to participate in the complaints process will result in the Complaint Handler making a decision based on other information available.

If the young person believes they need to speak to a manager then the Employee must convey that request immediately (or as soon as practicable, having regard for the safety and security of the location and the availability of the person requested).

The young person must be given the opportunity to speak to the manager (or other Employee) that day, or as soon as practicable.

See also Part 5, Clauses 47-57, of the Children (Detention Centres) Regulation 2015.

Managers and their **management team** are responsible for the local operation of the managing client feedback and complaints process. They must ensure that:

- Employees understand their responsibilities under the Guidelines and have access to the Complaint Registration Form.
- documentation is stored securely and uploaded to CIMS Registered Complaints.
- Young people have ready access to paper forms where they spend time when with YJNSW
- Young people get all the support they require (emotional, communicative, cultural, etc.) to formalise a complaint including cultural support and an interpreter if English is not their first language or they have hearing difficulties.
- Employees understand their responsibilities under these Guidelines and have ready access to the forms complainants may require.

All **YJNSW Managers** are responsible for overseeing, recording, monitoring and ensuring that feedback and complaints are acted upon in their areas of responsibility. They are also responsible for supervising confidential access to the complaints.

None of these Managerial responsibilities absolve an employee of their own responsibilities.

All **YJNSW Managers** are responsible for overseeing, recording, monitoring and ensuring that complaints are acted upon in their areas of responsibility. They are also responsible for supervising confidential access to complaints.

Executive Director – Any correspondence marked ‘confidential’ and addressed to the Executive Director must be forwarded, unopened, to the Executive Director. Only the Executive Director, or a person authorised by the Executive Director, may open and read the correspondence. The Executive Director may delegate investigation of the complaint as appropriate and in accordance with these Guidelines and accompanying procedure.

Centre Managers are responsible for handling complaints about any Employees under their supervision.

Area Managers are responsible for handling complaints about any Employees under their supervision and Youth Justice Conference Convenors in their geographical area.

9.3 Culturally safe complaint handling

When a complainant is a young Aboriginal person, the complaint is being made on behalf of a young Aboriginal person or the complaint is about a young Aboriginal person, YJNSW will appoint an Aboriginal staff member to provide cultural advice to the complaint handler and their investigation. This may not be necessary if the complaint handler is Aboriginal themselves.

Complaint handlers must:

- pay particular attention to the cultural needs of the young person, ensuring they feel culturally safe and well supported
- offer the young person support from an Aboriginal staff member for the period of the complaint. The young person may choose not to accept the offer
- seek advice from the appointed cultural advisor regarding the best, most culturally-informed way of managing the complaint
- follow the procedures for managing complaints from young Aboriginal people as outlined in the *Managing Client Feedback and Complaints* procedure.

9.4 Confidentiality

A complaint, and the complainant's identity, must be treated as strictly confidential by those involved in the complaint resolution process. It must not be discussed with, or disclosed to, any other Employees or other persons, unless for the purposes of resolving or monitoring the complaint.

For example, under section 51 of the Children (Detention Centres) Regulation 2015, the complaint handler for a complaint may conduct a hearing into the matters raised by the complainant. For the purposes of any such hearing, the complaint handler:

- may invite any person to make representations in relation to the complaint, and
- if the complaint makes allegations against any other person, must invite the complainant and that other person to make representations in support of, or in reply to, the allegations.

The Employee to whom a complaint is made should reassure the complainant that the information will be treated discreetly and will only be discussed for the purposes of resolving or monitoring the complaint. An Employee who is the subject of the complaint may be asked to respond to the complaint to ensure procedural fairness.

9.5 Overcoming concerns of bias and conflict of interest

Employees responsible for resolving a complaint must act without bias and in the best interests of the children and young people involved. This in no way infers that the interests of Employees the subject of, or party to, a complaint are secondary.

A complaint must be dealt with by a person who has no conflict of interest (potential, actual or perceived).

Examples of possible conflict of interest include:

- if the person's actions are linked to the complaint, including if the person witnessed the alleged incident
- if personal beliefs or attitudes could influence impartiality
- if the person has a personal relationship with Employee/s or complainants, their families or close associates or anyone they are investigating, that go beyond the level of a professional working relationship
- if there is any other conflict of interest.

If a conflict of interest arises with regards to a complaint handler, the complaint handler's manager should reallocate the complaint to an alternative complaint handler.

Bias from management

In some circumstances a complainant may *feel* that management will side with the Employee/s or the service in question.

Managers have a duty to reassure the complainant that their investigation and resolution of the complaint will be free from any bias. However, if a complainant remains in doubt, Employees can inform and assist the complainant to lodge the complaint with a more senior Employee or an external person/organisation. The complainant's matter can be referred to an external organisation, including the NSW Ombudsman.

9.6 Managing complaints about Employees and Employees' behaviour

Complaints about Employee conduct are dealt with under existing policies, guidelines and procedures. These include:

- *Code of Ethics and Conduct*
- *Managing underperformance Guidelines*
- *Dignity and Respect Policy and Guidelines*
- *Public Interest Disclosure Policy and Procedure*
- *Fraud and Corruption Policy*

Those matters dealt with as disciplinary matters are not recorded as complaints.

The rights and responsibilities of Employees the subject of a complaint are detailed in the above policies. Where an Employee is the subject of a complaint, the Employee will, where necessary, be consulted during the complaint process; be provided with an opportunity to respond to a complaint within a reasonable timeframe' and, also, where the outcome of the complaint process could affect that Employee's rights, the Employee will be provided with any preliminary findings of the complaint (prior to a final decision being made) and also be informed of review options.

If in doubt about the appropriate procedure to follow in relation to Employee conduct matters, you should contact the Director, Strategy and Engagement for advice.

If a complaint involves a Director, the complaint **must** be heard by the Executive Director.

If the complaint is about the Executive Director, the usual process is for it to be referred to the Secretary, Department of Communities and Justice before approaching an external body such as the NSW Ombudsman or the responsible Minister.

9.7 Managing complaints about young person's property

Complaint about loss of property

Complaints from young people regarding property stored by YJNSW (at a Youth Justice Centre) which has been lost or damaged should be managed in conjunction with the *Personal Property (Young People)* policy and procedure.

Check whether there was a record of the stored item and start the complaint procedure. Provide support to the young person through the process.

Allegations made by young people in the community regarding stolen property can be referred to the police, if appropriate.

Allegation of theft made by someone else

Someone other than the person who suffered the property loss may tell you about the theft or damage.

In this case, discuss the matter with the young person who has lost the property before contacting the police. Provide the young person the support they need.

9.8 Managing frivolous or vexatious complaints

After an initial investigation, YJNSW may determine that a complaint is 'frivolous or vexatious' and decide not to pursue its further investigation.

This determination and decision must be noted on the Complaint Form.

In dealing with a vexatious complainant, the complaint handler must notify the complainant *in writing* that YJNSW has responded fully to the points raised and has tried to resolve the complaint.

This written notification must be written in such a way that the young person, where they are the complainant, fully understands the decision and the reasoning behind the decision. It may be necessary for the complaint handler to take extra steps (such as meeting with the young person and/or other people who have a trusting relationship with the young person) to ensure understanding.

9.9 Timeframes for managing complaints

All complaints should be closed within 21 days of being registered (on CIMS). If there are complaints that take longer than this to resolve, the complainant, the complaint handler, their manager and the Executive Director must be informed of the reasons for the delay.

Where the complaint can be resolved immediately, ensure that it is closed within 24 hours. As complaint handler, you must inform your supervisor immediately if the complaint is expected to take longer than five working days to be closed.

The complainant, any support people and representatives, must be kept informed of the progress of their complaint including, where appropriate, the reasons for resolving the complaint in a particular way.

Managers are responsible for monitoring all complaints being investigated within their office or centre that **have not been resolved within five days**.

This follow up and the action taken where complaints have not been resolved within that timeframe must be recorded on CIMS.

9.10 Review a decision made about a complaint

A complainant who is not satisfied with the decision on the complaint may apply to the complaint handler's supervisor or to the Secretary for a review of that decision.

An application for a review is to be dealt with as a separate complaint and in accordance with these Guidelines and procedure.

An application for a review of the decision on a complaint must not be dealt with by the person who dealt with the complaint or by any person who is subordinate to the person who dealt with the complaint.

10 Complaints referred, or made directly, to external bodies

People can make complaints about YJNSW directly to the external bodies listed under 'Definitions'. These bodies and their complaints management systems are separate *and additional* to the YJNSW complaints management system. **They do not replace the YJNSW system and**

should not be considered by staff as an alternative to making complaints to YJNSW if that is the most appropriate avenue for resolution.

YJNSW will refer the complaint to the relevant organisation, for example referring a case of theft to the police. **The complaint handler is responsible for making the referral.** The decision to refer to an external agency must be made in conjunction with the complaint handler's Manager.

External oversight bodies

A complainant may approach an external body about their dissatisfaction with the complaints process or outcome of a complaint investigated by YJNSW. These organisations include the NSW Ombudsman and the Inspector Custodial Services (Official Visitors). Complainants may also make complaints directly to these external oversight bodies.

Complaints made to Official Visitors

Employees *must* facilitate young people's access to Official Visitors when they are present at Youth Justice Centres.

Official Visitors will determine how a complaint brought to them should be dealt with by YJNSW.

If the complaint is to be formalised, then the Official Visitors are to complete the **Complaint Form: Representative** and follow the Guidelines' procedures.

Completed forms and associated paperwork should be provided to the Centre Manager to be placed on CIMS.

Complainants do not need to inform YJNSW

A complainant making an initial complaint directly to an external body does not need to disclose the complaint or reveal the intention to complain to YJNSW Employees.

Actions by the external organisation

An external body that directly receives a complaint about YJNSW will usually forward that complaint to the Executive Director, YJNSW for advice and investigation.

Unless special circumstances exist, the Executive Director will refer the complaint to the appropriate area in YJNSW to be dealt with by following the procedures for these Guidelines. The area in YJNSW assigned to deal with the complaint will be required to provide a report on the outcome of the process, together with a draft letter to the referring body and copy for the complainant, which will be prepared for the Executive Director within a designated timeframe.

Complaints made to the NSW Ombudsman

Employees receiving a request from a young person in custody or on community supervision to complain to the NSW Ombudsman **must**:

- do everything necessary to help the young person to make the complaint
- send any correspondence, unopened, directly to the NSW Ombudsman
- (for young people in custody) ensure the young person has access to a representative of the Ombudsman's office, when they are visiting Youth Justice Centres.

Complaints made to the NSW Information and Privacy Commission

If a young person or their representative believes YJNSW has misused their personal information they can either:

1. Lodge an internal review with YJNSW

- The young person or their representative should complete the Privacy Complaint: Internal Review Application Form available on the NSW Information and Privacy Commission website (www.ipc.nsw.gov.au).
- submit the form to the Executive Director, Youth Justice NSW within six months.

Youth Justice will perform the review within sixty days

This is an internal investigation to assess if Youth Justice has complied with its privacy obligations.

- The Executive Director, Youth Justice NSW, or their delegate, will conduct the investigation
- The outcome of the investigation will be shared in writing with the complainant and the NSW Privacy Commissioner.

2. Complain directly to the NSW Privacy Commissioner.

- The complaint can be in writing or made verbally. The Privacy Commissioner may require a verbal complaint be put in writing.

Email | ipcinfo@ipc.nsw.gov.au

Phone | 1800 472 679

Fax | 02 6446 9518

Address | Level 17, 201 Elizabeth Street Sydney 2000

Postal | GPO Box 7011, Sydney NSW 2001

11 Managing complaints about other agencies

Role of YJNSW in supporting the complainant

YJNSW Employees will support a young person to have a matter heard and resolved by another agency.

It is up to the Centre/Area Manager to determine the extent of this support (e.g. phone calls, letter writing, and emotional support).

While young people are to be kept informed of YJNSW's actions, Employees do not deal with the complaint under the Guidelines' procedures because the complaint is not being managed by YJNSW. Employees should record that the complaint was made to another agency. Use the complaints field in the complainant's CIMS record.

See also *Supporting a young person during the complaint process*.

Receiving a complaint about another agency

All complaints involving another agency or its employees (e.g. Justice Health, the Department of Education or the NSW Police Force), should be referred to the Centre or Area Manager for assessment as to whether the complaint can be dealt with locally or needs to be referred to the Director, Custodial Operations or Community Director for handling at a more senior level.

The Centre or Area Manager must refer any reportable or criminal conduct to the Director, Custodial Operations, Community Director and the Director, Strategy and Engagement as well as following the procedures outlined in the procedure accompanying these Guidelines.

Complaints and allegations regarding agencies funded or contracted by YJNSW are to be forwarded to the Director, Strategy and Engagement, relevant Community Director or Director, Custodial Operations for resolution.

Managers are responsible for facilitating appropriate support for young people and, if necessary, assisting the young person to document their complaint.

Complaints about abuse, criminal offences or the NSW Police Force

If the complaint is about physical abuse, physical or sexual assault, or neglect **the matter must be reported to the Police**. This is in accordance with the *Child Safety and Mandatory Reporting Policy*.

If the complaint is about an alleged criminal offence, **notify the NSW Police immediately**.

If the complaint is about the NSW Police Force, act in accordance with the *Child Safety and Mandatory Reporting Policy* and/or refer the complainant to the NSW Ombudsman.

In any of these cases, YJNSW Employees must ensure that the complainant is afforded emotional and other support as necessary.

12 Complaints Register

All formal complaints are to be registered in the Client Information Management System (CIMS) Complaints Section. This is to be regularly reviewed by:

- the Executive Director (regarding complaints made to the Executive Director or to officers of the agency, other than Employees of a Youth Justice Centre or YJNSW Community Office)
- the Centre Manager of a Youth Justice Centre
- the Manager of Court Logistics, Classification and Placement
- Area Managers
- Community Directors
- Director, Custodial Operations
- Manager, Strategic Projects Unit (complaints summaries)

The CIMS Complaints Register is to be made available for inspection by the NSW Ombudsman, Inspector Custodial Services and the Official Visitor assigned to that centre, for quality assurance purposes.

12.1 Information to be recorded in the CIMS Complaints Register

An accurate record must be kept of each formal complaint, detailing the history of a complaint from registration to resolution plus any attachments.

In Centres, this complaints process may be preceded by a separate process encouraging young people to determine whether the issue they would like addressed is a request for information, feedback for service improvement or a complaint regarding safety or the quality of care.

The outcomes of this separate process are also recorded on CIMS.

Where it is an information request, the resolution of the issue is recorded in case notes attached to the young person's permanent record. Where it is day-to-day service improvement ideas in Youth Justice Centres these will (usually) be dealt with during Detainee Representative Committee meetings.

The following information must be included in the complaints register:

- the date on which the complaint was made
- the name of the complainant
- the substance of the complaint
- the name of the person who has had the complaint referred to them for resolution (complaint handler)
- the name of the YJNSW staff member supporting a young Aboriginal person making a complaint
- brief particulars of the procedures followed by the complaint handler in dealing with the complaint
 - this must include any attempts to resolve a complaint through the Youth Justice Centres' service feedback processes and decisions made in that process
- the decision made regarding the complaint
- whether the complaint was resolved to the complainant's satisfaction
- whether the complaint has been referred to another office, unit, centre or external persons/organisations
- the date on which the complainant was informed of the complaint handler's decision about the complaint
- if the complaint was not resolved within 21 days of being made, the reason it was not resolved within that timeframe
- if a review of the decision was lodged, and if so, with whom
- outcome of the review
- other information relevant to the complaint

Each formal complaint requires a dedicated CIMS identification.

12.2 Restrictions for recording complaints

No record is kept of a young person's complaint on their file but a completed, signed Complaint Registration Form should be placed in a sealed envelope and given directly to the young person and/or stored in the young person's property.

While no record of a complaint is kept on an Employee's personnel file, YJNSW Employees who manage a complaint are required to file a confidential form for each complaint.

12.3 Access to complaint information

Managers responsible for complaints files

Managers must only access all the CIMS Registered Complaints within their area of responsibility.

They must also supervise access to the CIMS Registered Complaints to ensure they remain secure and confidential.

The Manager may nominate a person to be responsible for supervising access to the CIMS Registered Complaints in the Manager's absence.

Access by the supervisor who registered the complaint

The supervisor who filed the complaint in the CIMS Registered Complaints should only view the individual record relating to that specific complaint.

Access by the complainant and the subject of the complaint

No access to the CIMS Registered Complaint is provided to the complainant or the individual subject of the complaint.

The Complaint Handler will keep the complainant (and any YJNSW staff member providing support to the young person) and the subject of the complaint informed of the complaint's progress and resolution, in a manner that is understood.

Security of the file during the resolution process

The complaint handler is responsible for the secure and confidential storage of the Complaint Registration Form and any attachments while they are in their possession. The complaint handler must ensure that the paperwork is uploaded to the CIMS Registered Complaints.

Access to the CIMS Registered Complaints of Central Office

Access to the Central Office's CIMS Registered Complaints file is limited to:

- the Executive Director
- the Director, Custodial Operations; and
- the Director, Strategy and Engagement.

If the Executive Director, the Director, Custodial Operations, or the Director, Strategy and Engagement is the subject of a complaint, their access to the CIMS Registered Complaints is suspended until the satisfactory resolution of the complaint.

Access to the registered complaints file of a region

Access to a Region's CIMS Registered Complaints file is limited to:

- the Executive Director
- the Director, Custodial Operations
- Community Directors; and
- the Director, Strategy and Engagement.

13 Monitoring and reporting

Community Directors are responsible for overseeing complaints management within their directorate, keeping up-to-date records of complaints and their status, and resolving complaints that cannot be resolved at a local level.

Community Directors are also responsible for using the complaints process to determine possible service improvement.

The Director, Custodial Operations is responsible for overseeing complaints management in Youth Justice Centres. They are authorised to keep a register of complaints made to the YJNSW Executive Director or to officers of the Department.

The Strategic Projects Unit is responsible for monitoring the types of complaints and providing information and advice to Employees about the complaints Guidelines and process. The Strategic Projects Unit is responsible for maintaining a file of complaints summaries. This Unit is responsible for collating complaints information for inclusion in the Department's Annual Report, which reports the number of complaints received and timeframes for their resolution.

The Aboriginal Strategic Coordination Unit (ASCU) can provide cultural and other advice to complaint handlers and/or Aboriginal complainant support staff. A complainant's and other parties' identity should not be shared with the ASCU. In the event that this is not practical the complaint handler should seek advice from the Manager, Strategic Projects Unit.

14 References

Legislation

- Children (Detentions Centre) Act 1997
- Children (Detention Centres) Regulation 2015

Policy

- Incident Management Policy: Reporting, Debrief and Review
- Code of Ethics and Conduct
- Child Safety and Mandatory Reporting Policy
- Dignity and Respect Policy & Guidelines
- Public Interest Disclosure Policy and Procedure

Procedure

- Managing client feedback and complaints

Forms

- Complaint Form/Complaint Registration Form
- Representative Complaint Form

15 Document information

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16 Document history

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1.1	Oct 2020	Reviewed and updated previous Complaint Handling policy
