



RACING AND WAGERING WESTERN AUSTRALIA

PROCUREMENT COMPLAINTS HANDLING PROCEDURE (INTERNAL)

BACKGROUND AND PURPOSE

1. Racing and Wagering Western Australia (**RWWA**) is established by the Racing and Wagering Western Australia Act 2003 (**RWWA Act**) and has all the powers it needs to perform its functions (s 30(1) of the RWWA Act).
2. In performing its functions, RWWA must act in accordance with prudent commercial principles and endeavour to make a profit (s 29 of the RWWA Act), but must also act in accordance with its strategic development plan and its statement of corporate intent (s 28, s 29(1) of the RWWA Act).
3. As a statutory corporation, RWWA is also subject to additional requirements, including in respect of procurement and complaints.
4. Section 21 of the *Procurement Act 2020 (WA)* (**Procurement Act**) provides that the Department of Finance may issue procurement directions relating to the procurement of goods, services or works binding on State Agencies. RWWA is a body listed in Schedule 1 of the *Financial Management Act 2006* and is therefore a State Agency to which the procurement directions apply (s 5 of the *Procurement Act*, s 3 of the *Financial Management Act 2006*).
5. The Western Australian Procurement Rules (**WAPR**), which came into effect on 1 June 2021, are a procurement direction made under s 21 of the Procurement Act. Under rule F10 of the WAPR State Agencies must ensure that they have appropriate complaint handling procedures in place, including acknowledging receipt of, and providing a timely response to, any complaints received about Procurement or Procurement Activities.
6. RWWA is an exempt agency for the purposes of the *Parliamentary Commissioner Act 1971 (WA)* and accordingly external review by the WA Ombudsman does not apply.
7. An external-facing "Procurement Complaints Policy", to be available on RWWA's website and included in Procurement documentation, is separately prepared.

SCOPE AND DEFINITIONS

8. This procedure applies to all officers of RWWA and staff, contractors and volunteers engaged by RWWA in relation to complaints about **Procurement** and associated Procurement Activities as defined below.
9. For the purposes of this procedure:
 - (a) **Acknowledgement** means the communication referenced in paragraph 14.
 - (b) **Complainant** is a person or organisation making a Complaint.

- (c) **Complaint** is an expression of dissatisfaction made to, or about an RWWA related to its processes, services, staff or the handling of a complaint where a response or resolution is explicitly or implicitly expected or legally required. A Complaint is not Feedback.
- (d) **Complaint Recipient** means the RWWA officer, staff, contractor, or volunteer who receives a Complaint.
- (e) **Complaint Details** means the details set out in in paragraph 13.
- (f) **Feedback** is opinions, comments and expressions of interest or concern, directly or indirectly, explicitly or implicitly.
- (g) **Procurement** means RWWA obtaining goods, services or works by purchase, lease, licence, public private partnerships or other means, or RWWA disposing of goods or works.
- (h) **Procurement Activities** means decisions or other things done by RWWA in the course of, or as a result of, a process to procure goods, services or works.

PROCEDURE FOR COMPLAINTS

Receipt of Complaints

- 10. Procurement department staff, contractors or volunteers are to assess and seek clarification where necessary on whether a communication about RWWA's Procurement or associated Procurement Activities is Feedback or is, or is intended to be, a Complaint.
- 11. A Complaint can be lodged verbally or in writing with procurement department staff, contractors or volunteers, in person, via email, letter or by telephone.

Complaints resolved at first contact

- 12. Wherever the Complaint Recipient has the necessary authority and is able to so, the Complaint Recipient is to seek to manage and resolve the feedback or a Complaint at the first point of contact. Where a Complaint is resolved at the first point of contact, the Complaint Recipient and the Procurement Manager must confer and decide whether details of that Complaint should be sent to the Chief Financial and People Officer for recording in RWWA's General Complaints Register. In reaching their decision the Complaint Recipient and the Procurement Manager must take into account the nature of the Complaint, the nature of the resolution reached, and whether there are issues of relevance to RWWA generally involved in the Complaint or its resolution.

Complaints not resolved at first contact

- 13. If a Complaint is not resolved at the first point of contact, or is not of a minor nature or otherwise appropriate for recording, the Complaint Recipient must record the:
 - (a) the Complainant's name, contact details and any support requirements needed by the Complainant;
 - (b) a summary of the issues raised/Complaint; and
 - (c) any other information required to properly respond to the matter,

14. Where practicable, the Complaint Recipient must also ascertain and record the outcome sought by the Complainant.
15. As soon as practicable after receipt of the Complaint, and in any event within 2 business day of receipt, the Complaint Recipient must write to the Complainant:
 - (a) acknowledging receipt of the Complaint; and
 - (b) stating that Head of Finance will contact the Complainant within 5 business days.
16. The Complaint Recipient must copy the Acknowledgement, and provide the Complaint Details, to the Head of Finance. Where the Complaint Recipient considers that the Head of Finance may have a conflict of interest in dealing with the Complaint, the Complaint Recipient must provide the Acknowledgement and the Complaint Details to the Chief Financial and People Officer for allocation.
17. The Head of Finance is to ensure that there is no conflict of interest when dealing with the Complaint or the Complainant. If the Head of Finance decides that they have a conflict of interest, they must refer the Complaint to Chief Financial and People Officer who will decide who within RWVA will deal with the Complaint and the Complainant in accordance with this procedure. Where the Chief Financial and People Officer personally deals with the Complaint or refers it to another officer or employee of RWVA, references to the Head of Finance are to be read as a reference to Chief Financial and People Officer or the other officer or employee of RWVA dealing with the Complaint.
18. The Head of Finance must ensure that Complaints are dealt with in an equitable, objective and unbiased manner.
19. Within 5 business days of receiving the Acknowledgement and Complaint Details the Head of Finance is to review the Complaint and:
 - (a) undertake a preliminary assessment of the complexity, severity and risk to RWVA associated with the Complaint;
 - (b) determine if it will be processed (the Head of Finance can refuse to accept a Complaint if he or she reasonably determines that it is vexatious or trivial); and
 - (c) determine what action is required, which may include options other than a formal investigation.
20. When considering the Complaint as required by paragraph 19, the Head of Finance should take into account all relevant factors, including, without limitation:
 - (a) whether the Complaint involves a communication problem that can be resolved through explanation or discussion;
 - (b) whether the Complaint is more appropriately dealt with by a means other than this procedure;
 - (c) whether the Complaint can or must be referred or notified to a relevant government agency;
 - (d) the time that has elapsed since the events the subject of the Complaint occurred; and

(e) the significance of the issue for the Complainant and for RWWA.

21. The Head of Finance must also consider whether any investigation is to be evidence-focused or outcome-focused. Evidence-focused inquiries seek to pursue all lines of inquiry in a way that will meet all legal and procedural requirements. Outcome-focused inquiries are primarily directed at quickly identifying and remedying problems, and so seek to obtain sufficient information for a fair and informed judgement about the issues in question.

Further guidance is available from the WA Ombudsman website and in particular:

<https://www.ombudsman.wa.gov.au/Publications/Documents/guidelines/Effective-handling-of-complaints-made-to-your-organisation.pdf>

<https://www.ombudsman.wa.gov.au/Publications/Documents/guidelines/Investigation-of-Complaints.pdf>

<https://www.ombudsman.wa.gov.au/Publications/Documents/guidelines/Complaint-handling-systems-Checklist.pdf>

<https://www.ombudsman.wa.gov.au/Publications/Documents/guidelines/Guidance-for-Complaint-Handling-Officers.pdf>

<https://www.ombudsman.wa.gov.au/Publications/Documents/guidelines/Conducting-administrative-investigations-guidelines.pdf>

Note: that depending on the nature of the Complaint there may be other mandatory procedures that apply, for example, allegations of misconduct by public officers involving corrupt or criminal activities which require reporting to the Corruption and Crime Commission.

22. Where the Head of Finance determines that a formal investigation is necessary, he or she must:

- (a) define the subject matter of the Complaint, develop an investigation plan and if it is major or sensitive, consider and obtain adequate resources and any necessary approvals for the terms of reference;
- (b) determine a timeframe for the response. Note: Where the Complaint is not serious or complex, the Head of Finance is to aim to resolve a Complaint within 10 days;
- (c) allocate a sequential reference number to the Complaint; and
- (d) communicate the above details to the Chief Financial and People Officer for recording in RWWA's General Complaints Register.
- (e) within 3 business days of receiving the Complaint Details, contact the Complainant and provide:
 - (i) the sequential reference number for the Complaint; and
 - (ii) if the Complaint has not then been resolved, an estimated timeframe for dealing with the Complaint (**Estimated Timeframe**) and any other information about the process that will be followed which the Head of Finance reasonably considers appropriate to provide.
- (f) The Head of Finance must contemporaneously provide a copy of the communication referred to in paragraph 22(e) to the Chief Financial and People Officer for recording in RWWA's General Complaints Register.

Resolution or Investigation, decision and reporting

23. In handling and investigating a Complaint, the Head of Finance is to have regard to the Guidelines produced by the WA Ombudsman including "Guidance for Complaint Handling Officers (December 2010), Guideline: Conducting Administrative Investigations (May 2009) and "Guidelines: remedies and Redress" (Revised April 2010).
24. If the Complaint is not resolved quickly and through an informal processes as part of the initial assessment process above, the Head of Finance will:
 - (a) contact the Complainant to seek any further information necessary;
 - (b) assess the Complaint and take the necessary action to investigate and facilitate a decision, which may include discussing the matter with other officers or employees of RWWA. In any such discussions, the Head of Finance must keep the identity or other information relating to the Complainant confidential; and
 - (c) prepare a document setting out the Complaint, how any investigation was conducted, relevant facts, conclusions, findings and recommendations.
25. If the Head of Finance determines that they will not be able to arrive at a decision within the Estimated Timeframe, they must so inform the Complainant and advise of a new expected timeframe before the expiry of the Estimated Timeframe.
26. The Head of Finance must:
 - (a) refer any matter that he or she decides warrants disciplinary action, training/upskilling or a review of programs and policies to Chief Financial and People Officer; and
 - (b) advise the Chief Financial and People Officer of any matters affecting RWWA's policies or procedures that have arisen during the course of his or her investigation and take such steps as may be appropriate in relation to those matters before communicating the outcome to the Complainant.
27. Where the Head of Finance decides that the Complaint warrants immediate action of a significant nature, he or she must inform the Chief Financial and People Officer of that fact before taking any action.
28. When determining the outcome of a Complaint, the Head of Finance must also consider whether RWWA can and should offer any remedies provided to the Complainant to other parties affected by the circumstances out of which the Complaint arose, but who did not make a Complaint.
29. The Head of Finance is to advise the Complainant in writing:
 - (a) of the decision and the reasons for their decision;
 - (b) subject to confidentiality issues, any actions taken (or to be taken) as a result of the Complaint;
 - (c) any proposed remedy;
 - (d) the process for seeking review if the Complainant is not satisfied with the outcome; and

- (e) asking for Feedback, and specifying how to provide Feedback, on this complaints procedure.
30. As soon as possible after the Complaint has been addressed and resolved to the Complainant's satisfaction, the Head of Finance must provide details of the decision to the Chief Financial and People Officer.
31. The Chief Financial and People Officer must record the details of the decision in RWWA's General Complaint Register. Where the Complainant provides Feedback as set out in paragraph 29(e), the Chief Financial and People Officer must also record that Feedback in RWWA's General Complaint Register.

Internal Review

32. A Complainant who is not satisfied with the decision on a Complaint can request a review in writing to the Head of Finance's Line Manager within 10 days of receipt of the decision (or such further period as the Line Manager considers appropriate in the circumstances).
33. The Line Manager may decline to undertake a review requested by a Complainant if he or she reasonably considers the seriousness of the Complaint and issues raised by it does not justify a review.
34. Within 3 business days of receiving a request for review, the Line Manager must:
- (a) advise the Complainant whether a review will be undertaken. Where the Line Manager has decided to decline to undertake a review, the Line Manager must provide reasons for that decision;
 - (b) if a review is being undertaken, provide the Complainant of the estimated timeframe for the completion of the review; and
 - (c) communicate the above details to the Chief Financial and People Officer for recording in RWWA's General Complaints Register.
35. If a review is to be undertaken, paragraphs 17 to 18 and 13 to 31 above apply in respect of that review. In a review, the Line Manager is not limited to a consideration of the facts and circumstances considered by the Head of Finance and may confirm or overturn the decision of the Head of Finance and, where appropriate, apply the same or different remedies.

REVIEW OF COMPLAINTS DATA

36. On an annual basis, the Procurement Manager will collate the following data in respect of Complaints:
- (a) the number and nature of Complaints;
 - (b) the outcomes of Complaints and any remedies provided and actions taken;
 - (c) the compliance with timeframes set out in this policy;
 - (d) the timeframes for resolution of Complaints;

- (e) the satisfaction of Complainants with the process; and
- (f) any recurring issues or themes,

and provide that data to the Chief Financial and People Officer.

37. The Chief Financial and People Officer will review the data and discuss with the Procurement Manager, to identify:
- (a) any non-compliance with legislation, policies, procedures or any other compliance issues identified during the complaints process;
 - (b) any deficiencies in the procurement services or processes identified through the complaint process; and
 - (c) any opportunities to improve the complaints management process.
38. The Chief Financial and People Officer will report those findings to the RWWA Board.

RECORDS MANAGEMENT

39. A Complaint Recipient, the Head of Finance and the Line Manager are responsible for keeping appropriate records (keeping file notes and other records of any conversations, interviews, or other proceedings), and securely storing them in an access-restricted file.

OTHER POTENTIALLY RELEVANT RWWA POLICIES

40. RWWA policy and procedure:
- (a) Code of Conduct;
 - (b) Disability Access and Inclusion Plan;
 - (c) Fraud and Corruption Control Framework (under development);
 - (d) Freedom of Information Policy;
 - (e) Work Health and Safety Policy;
 - (f) Public Interest Disclosure Policy; and
 - (g) Record Keeping Plan.
41. Other resources documents:
- (a) AS/NZS 10002:2014 Guidelines for Complaint Management in Organisations; and
 - (b) Ombudsman WA Effective handling of complaints resources.

DOCUMENT CONTROL

Effective Date	Last Amendment Date	Version No.	Notes
1 November 2021	N/A	1.0	This is a new policy that incorporates the requirements of the Procurement Act 2020 and the Procurement Rules 2020