

## Section 4

### General Client Policies

POLICY NAME:	<b>4.5 Practice Complaints Policy and Process</b>
QMS DOCUMENT TYPE	Operational Policy
APPROVED BY:	CEO
DATE FIRST APPROVED:	June 2018
DATE OF LAST REVIEW	
DATE OF NEXT REVIEW	June 2019

#### POLICY

All clients, customers or employees of McCallum and even members of the public have a right to make complaints at any time. Complaints arise when persons see evidence of, or even form a perception that the organisation or any member of it is not meeting their expectations in any way.

Complaints are feedback and, as with compliments, help us to maintain the standards of the organisation. Complaints are an exercise of an individual's right to inform us of their dissatisfaction, for the betterment of all concerned.

Within disability and employment, there are also legal frameworks for complaints to be made outside the organisation. These can include a review of an initial complaint or the integrity of the process by which an issue raised was responded to by McCallum.

A complaint therefore must not only be responded to promptly, but we must be able to demonstrate in an external review, that the response was diligent, without conflict of interest and of the highest probity.

- McCallum will maintain valid internal complaints process for clients or our services and their advocates, for our employees and any stakeholders, including records of complaints.
- Our employees must under the direction of this policy, assist any person with the making of complaints and investigate those in a fair, just equitable and transparent manner.
- If a person is dissatisfied with our internal complaints process, then employees of our organisation must further assist that person to make complaints if they chose to the appropriate external agencies.
- All complaints processes enacted by McCallum are required to be impartial (to the extent appropriate to the issue and the circumstances), be based on factual evidence and with regard to the principles of natural justice and to ensure compliance with our legal privacy obligations towards all persons who might be involved.

#### SCOPE

This policy applies to all McCallum employees and contractors engaged by McCallum, to all persons wishing to make complaints and to any stakeholder. It also has instructions for the referral of complaints to co-service providers or statutory agencies.

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#### APPLICATION

##### **4.5.1 Receiving or facilitating complaints**

McCallum will provide information on how to make complaints or grievances to all persons using our services or undertaking employment with us upon entry, as part of the information packs handed to the persons.

##### **4.5.2 Routine (minor) service standard or work place standard complaints**

Complaints that are of a minor nature, such as low level service or employment issues are to be addressed by the appropriate line manager immediately, transparently and based on the facts. Examples of these may be for a client a menu or activity dissatisfaction or for an employee a payroll query etc. Such complaints are capable of quickly being resolved and the expectation is that managers will establish the facts and then do so as part of their normal internal duties.

Such routine line management work responses must be documented in managers or client notes, within employment or client files in case any further dispute of the matter arises.

Employees are obligated under this policy to seek line management advice as to whether a complaint may fall into a higher category and response need, by co-advising their immediate line manager of any compliant of any type within the same or next business day.

While a minor or routine complaint may be handled by one person the next manager up must be aware that a complaint has been identified and they must be satisfied on the first facts provided that it is being responded to appropriately. Any failure to advise the up line manager of a complaint can be seen as a lack of transparency in the process. If any employee requests an independent investigation then consideration must be given and a final decision shall be made based on the first facts by a manager independent of the area concerned.

##### **4.5.3 Non-routine (formalised) complaints**

For more serious complaints, McCallum will maintain a complaints register for client services and a grievance register for employees. The registers may be combined or stand alone and may be electronic or a hard file, or data and information combinations of both. Such complaints will usually be referred to another manager or delegated person independent of the area concerned, unless there is agreement by all parties that there is no real or perceived conflict of interest.

##### **4.5.4 Personal and sensitive information collected during a complaints process**

By their nature complaints and investigations files will contain **personal information** of the parties involved and of witnesses and will contain **sensitive information** as to the alleged conduct of the entity or individuals. They may also reference **personal or sensitive information** of other clients or employees including behaviours and medical or employment histories etc.

Because these registers and all associated files contain **personal and sensitive information under Privacy laws** they will be sealed as commercial in confidence for privacy. Internal access will be restricted to senior managers and nominated personnel. Employees must note that all associated documents or information transfers at any work station also form part of that sealed file and must be held as confidential and not distributed or left exposed to others.

Information from these files under privacy laws can only be made available to another party by a process of written request and it has to be legally agreed as appropriate for release to the requester. Information may be

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released as part of a lawful legal direction or warrant, with the consent of any person involved or named in the material or by restricted access (with material redacted) showing only information relevant to the specific individual making a lawful information request. (For example a person may request to read the information collected about them but not the information collected about others without the consent of those other persons).

McCallum is not legally entitled to provide a complainant with the personal information of another or with material sensitive to another person without their express consent. Any information request likely to breach this will require further legal advice.

McCallum will ensure that any person who makes a complaint is informed of the factual findings of the complaint made and to the extent appropriate, what further actions are to be taken in response. This may be a redacted investigation report but usually means a summary by letter of the facts born out, the findings in regards to their complaint and recommendations that are relevant to them only.

#### **4.5.5 Internal complaints process at McCallum**

For McCallum to take action in response to any complaint the organisation must be aware of it in the first instance. The first point of access and evaluation of any compliant will normally be a McCallum employee at some level. The form of a complaint may vary. It may be a passing comment of unhappiness with something or more clear communications verbally or in writing that give specific circumstances of dissatisfaction. A complaint can originate from any number of sources, including third parties on behalf of others.

The best way to establish if a complaint is being made is to ask the person concerned if they have a compliant to make. Any person who responds that they do have a complaint must result in that being documented in a case or employment file note, on an incident report or on a complaint form in either written or electronic means. By virtue of this policy all complaints must be recorded whether there is an extensive response or not. The circumstances at the time will determine the most appropriate form of recording and referral and follow up actions. These may range from a supervisor simply talking to a person and addressing their concerns through to referrals for full investigations.

1. The process starts with a report of a compliant and the report must be documented.
2. The next step in a complaint is evaluation as to what response is appropriate. This is done by a simple analysis of the first facts at hand.
3. The first facts determine the response level, unless other further facts subsequently come to light that cause a review of that response level either up or down as appropriate
4. After the response level is determined a level of investigation of the facts is applied that is appropriate for the issue raised. Investigations are disruptive to workplaces and only the level of investigation appropriate to establishing facts, taking remedial actions and preventing recurrences needs to be applied. An investigation may involve a few questions, or it may be exhaustive and take in copious amounts of information.
5. A level of investigation is applied appropriate and proportional to the complaint in order to establish facts, make findings and recommendations including practical measures to remediate the complaint and to prevent recurrences where appropriate.
6. After the internal complaints process is concluded the persons involved must to the extent legally permitted, or prudent, be advised of the outcomes. What information each person is entitled to will vary depending upon who they are and what their involvement has been.
7. A complainant must always be advised of the outcome of their complaint with the following:
  - The factual findings in response to their complaint
  - That remedial actions are being or are not being taken
  - To the extent permissible or generically – what this actions may be and by who and by when

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- That if they are dissatisfied with the internal process they may seek an internal review by the CEO and or a review by external parties and who those external parties are and how they may do that. The external agencies will vary according to the type of complaint etc.
- 8. Other persons or entities involved (such as an employee who's actions are the subject of a compliant or a contractor company) – must also be informed of the outcomes as follows:
  - The factual findings in response to the complaint
  - That remedial actions are being or are not being taken
  - To the extent relevant to them, what those actions may be and by who and by when etc.
  - That if they are dissatisfied with the internal process they may seek an internal review by the McCallum grievance process up to and including the CEO.
  - If an employee who is also a member of a union, then they will be advised by their union that they can seek remedies for workplace disciplinary actions under the relevant industrial instrument and the Fair Work Act.

#### 4.5.6 External review process options

If a person is dissatisfied with the internal client or customer complaints process at McCallum, or an employee grievance process, or any internal McCallum review of such process, then depending on the jurisdiction of what the complaint falls under, they may lodge a further complaint by any of the following mechanisms as to the original issue and / or how the issue was dealt with by McCallum.

Under this policy employees of McCallum are directed to provide external agency complaint options and information to any person requesting that assistance. McCallum will normally have at its disposal some amount of brochures or information on external complaints processes and will provide that to persons on entry for services or employment. If McCallum does not have information or brochures then the employees involved should at least provide access to web sites or information from web sites to the person as to how that information may be obtained or refer them for assistance by their Advocates or any supporting agencies.

McCallum employees will not discourage an external complaints process or fail to take reasonable efforts to provide referral information if a person wishes to make external complaints

In any case of an investigation by any external agency, McCallum and its employees are directed under this policy to co-operate and provide information as legally permitted expeditiously and without prejudice to any party. If information cannot be provided for any legal reason that constraint will be referred back to the agency concerned to seek their appropriate remedy.

#### Disability complaints

Clients or their Advocates, stakeholders or the public may contact any of the following agencies who all have complaint services in regards to the conduct of funded agencies and programs:

- The National Disability Insurance Agency (NDIA) - Commonwealth
- The Department of Health & Human Services (DHSS) Victoria
- The Office of the Disability Services Commissioner (ODSC) Victoria
- The Office of the Public Advocate (OPA) Victoria
- Any allegation or requirement to establish whether criminal conduct has occurred in regards to a client will be reported to or referred to Victoria Police.

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#### Equity complaints

In regards to access or equity complaints (discrimination of any kind) both Australian and Victorian state jurisdictions have empanelled Equal Opportunity and Human Rights Commissions or agencies. Those commissions or agencies also have complaints resolution and remediation powers.

#### Employment complaints

With regard to Employee complaints remedies for workplace safety or compensation complaints are available at the Victorian WorkCover Authority (Worksafe).

For general employment matters in Victoria the jurisdiction is the Fair Work Ombudsman and the Fair Work Commission (Commonwealth)

Both the Victorian WorkCover Authority and the Fair Work Commission have remedial relief and enforcement powers in regards to workplace safety, protected workplace rights and bullying. In some cases bullying may breach the Victorian Crimes Act and complaints may be made to the police.

Employees may also seek advice from unions as to the best remedial methods available to any specific circumstance. Registered union officials have a right of entry to workplaces to check on work conditions and respond to complaints and provide services to their registered members. Such entries should be pre-advised for mutual convenience.

#### Review of Government decisions

Decisions made by government departments concerning disabled persons are also subject to review by the Commonwealth Administrative Appeals tribunal (AAT) – for NDIA and DSS decisions and by the Victorian Administrative Appeals Tribunal (VCAT) for decision by Victorian or local government agencies such as DHSS or local councils.

#### Other options

Persons may also make complaints to State and Commonwealth Ombudsman, corruption Commissions and seek intervention by their elected members of parliament and relevant Ministers.

## REFERENCES

<input type="checkbox"/>	<b>Forms:</b>	
<input checked="" type="checkbox"/>	<b>Reference:</b>	Disability Act 2006 (Vic) NDIS Act 2013 (Comm) Fair Work Act (Comm) Equal Opportunity Acts (Comm & State)
<input checked="" type="checkbox"/>	<b>Relevant policies:</b>	McCallum Quality Policy Stakeholder feedback, complaints compliments and suggestions McCallum Practice Standards Service Provision Practices Active client support planning Direct Care Practices Restrictive Interventions Supported Employment Policy Any other relevant policies where a complain may arise
<input checked="" type="checkbox"/>	<b>Contact person</b>	Relevant Program Manager 5334 1921