



Villamanta Disability
Rights Legal Service Inc.

Villamanta Disability Rights Legal Service Inc.

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Making a Complaint

How do I go about making a complaint?

There are some simple points to keep in mind if you want to make a complaint:

- know your rights;
- know what you want;
- act quickly;
- complain to the right person; and
- stick to the facts.

When do I have a right to make a complaint?

You always have a right to complain when you think that you haven't got what you're entitled to from a service or service provider. Some things you are entitled to include:

- the right to be informed - to be given the facts to make an informed choice about what to expect from a service and whether you want it or not;
- the right to choose - to have a say about which service or provider you want;
- the right to be safe - to be free from harm;
- the right to be treated fairly - to not be discriminated against;
- the right to quality services that are responsive to your needs and the needs of other people who use them; and
- the right to redress and a fair settlement of any complaint.

Some of the reasons you might have for complaining could include:

- what happened to you was against the law - it was discriminatory, it breached your privacy or it did not comply with trades practices legislation etc.;
- you were treated badly you were embarrassed, injured or humiliated by something someone said or did;
- you got a poor standard of service;
- you were refused a service;
- you had to wait too long for something;
- you didn't get something that you were promised; or
- you were "ripped off" - you didn't get what you thought you had paid for or were entitled to.

What do I want to achieve by complaining?

Knowing what you want to achieve by complaining is important. Some things you might want include:

- an apology;
- a reduction in fees, refund or a discount;
- compensation;
- to deal with someone different in the organisation- e.g., have a different case manager;
- the service to change its policies or procedures;
- or
- something else the service can do to make up for what has happened.

IMPORTANT NOTE!

Remember - this Information Sheet has been produced only for use in **Victoria, Australia**. Some of the laws mentioned in this Information Sheet will be different in other places.

When should I complain?

When something has gone wrong it's usually important to act quickly. Acting quickly may be able to stop a minor problem from getting worse. Putting up with things in the hope that things will get better may just make you feel worse. A good service provider should always be trying to do his or her job better. A good service provider should welcome a complaint that is based on fair comment. Acting quickly also means the incident will be fresh in everyone's memory and facts are less likely to be disputed.

What is a formal complaint?

A formal complaint is generally a complaint that follows a set procedure. Formal complaints procedures can be internal or external. The organisation or service itself develops an internal complaints procedure. An external complaint procedure means the person you complain to is independent from the person or service you are complaining about. Formal complaints are usually in writing, and are given to a person in authority who has responsibility for receiving complaints.

What is an informal complaint?

An informal complaint is one that is "off the record" and is not governed by any formal procedure.

Is it best to make a formal complaint or to deal with the problem informally?

This will depend on the situation. If your complaint is just about suggesting how things could be better or with someone who has made a simple mistake or error in judgment, you might find that it's easier to make an informal complaint and to talk things over in a relaxed way with the person concerned. In some situations it will be better to make a formal complaint. This includes situations when:

- you have already tried to deal with the problem informally, but have not been happy or satisfied with the response you have got;
- you feel intimidated by the person you want to complain to or about and he or she has significant control or power over things that are important to you;
- the complaint is serious;
- things will probably only change for the better if you make a formal complaint; or
- the problem could be ignored if it's dealt with in an informal way.

If I want to complain about something where there is a formal complaints procedure, do I have to follow this procedure?

You don't have to - but it's probably a good idea. If you don't you may find that your complaint does not get dealt with to your satisfaction. Some external complaints bodies will only respond if you follow the right procedure.

If I use an internal complaints procedure does that stop me complaining to an external body?

No, you are always entitled to complain to an independent, external body, regardless of whether or not you have already followed the steps set out in an internal complaints procedure. You should however, be mindful of any time limits within which you must lodge a formal complaint, that may be set by the external body.

Who should I complain to?

Complaining to the Boss or going to the top is usually a good starting point. But in many cases, there will be a number of people to whom you can complain. This includes people within the organisation where the problem has arisen, as well as people outside and independent to that organisation. Choosing the best person to complain to may depend on a range of factors, such as:

- the seriousness of your complaint;

- who is most likely to listen to your complaint and take it seriously;
- who is most in a position to get something done about it; and
- what other steps you have already taken to get the problem addressed.

Some external complaints bodies will prefer you to have first made an attempt to settle the complaint within the organisation, or to at least have some clear reasons why you don't want to handle it in this way. If you want to make an internal complaint, you could complain to:

- the person who the complaint is about;
- the person in charge of the person who the complaint is about;
- the person in charge of the whole organisation;
- the Committee or Board that manages the organisation; or
- someone employed by the organisation that is responsible for handling complaints.

If you want to make an external complaint, who you complain to, will depend on the circumstances. Some of the major bodies that have been set up to handle complaints include the:

- State or Commonwealth Ombudsman (for complaints about government departments);
- Office of Police Integrity (for complaints about the Victoria Police);
- Banking and Financial Services Ombudsman (for complaints about banks and other financial service providers);
- Office of the Public Advocate (for complaints about services for people with disabilities);
- Victorian Equal Opportunity and Human Rights Commission (for complaints about discrimination and human rights breaches);
- Consumer Affairs Victoria (for complaints about providers of goods and services);
- Health Services Commissioner (for complaints about health services);
- Victorian Civil and Administrative Tribunal (Rental Tenancies List) (for complaints about landlords);
- Legal Services Commissioner (for complaints about lawyers);
- Office of Local Government in the Department of Planning and Community Development (for complaints about your local council or shire);
- Australian Press Council or the Australian Media and Telecommunications Authority (for complaints about members of the media);
- Social Security Appeals Tribunal (for complaints about decisions made by CentreLink);
- Insurance Ombudsman Service or the Life Insurance Complaints Service (for complaints about insurers.);
- Superannuation Complaints Tribunal (for complaints about superannuation funds);
- Professional registration bodies, such as the Medical Practitioners Board of Victoria or the Nurses Board of Victoria (for complaints about professionals);
- Australian Competition and Consumer Commission (for complaints about pricing);
- Telecommunications Industry Ombudsman (for complaints about telephone services or the lack of them); or
- Essential Services Commission (for complaints about utility providers, public transport service providers and statutory insurers, like WorkCover).

For a more extensive list and the addresses of these organisations contact your local community legal centre or Legal Aid office and ask to see a copy of *Right a Wrong* (Second Edition), Victoria Legal Aid, June 2007. The Commonwealth Government also produces an annual Directory of Consumer Dispute Resolution Schemes and Complaint Handling Organisations. Contact the Commonwealth Department of Treasury or your local library for details.

What sort of information should I include in my complaint?

It's important to stick to the facts. Try and be fair and reasonable even though you may be

angry about what happened. Being objective is more likely to get you what you want particularly if you complain to an external body. As a general rule, your complaint should include:

- a description about what you want to complain about - what was said or done or not said or not done that you think was inappropriate;
- when it happened;
- who was responsible;
- where it happened;
- who was affected;
- how they or you were affected;
- what you would like to have done about the problem;
- when you want it done; and
- when you want a response - specify a date.

What other things should I have to support my complaint?

This will depend on the nature of your complaint. If you are complaining that the service did not comply with the law, you should probably get legal advice so you are clear about what legal rights you have. You may be able to use this knowledge to make sure your complaint gets dealt with quickly and to your satisfaction. If you are complaining about the way you have been treated or the quality of the service you received, the facts of your complaint will probably not be in dispute. What might be in dispute will be whether the organisation accepts that what it did was wrong or could have been better. If this is the case you should try and show that the person or organisation has broken its own rules. This means asking for copies of things like the organisation's policies, procedures, code of conduct, or standards. If you can't get hold of these documents from the organisation or if they don't exist, try and get copies of similar documents from other organisations or professional bodies to show what the acceptable standards are. If you think there is likely to be a dispute about the facts of what happened, you should try to have any witnesses, documents or photos that are able to back up your version of events.

Might there be a backlash against me if I complain?

This can sometimes happen, although if it does happen it is really grounds for another complaint. If you are considering making a complaint, you need to give thought to this possibility, and to how you will deal with it if it happens. Having someone support you in making the complaint can help to reduce the risk of backlash. If you think you are being treated badly because you have made a complaint - keep a diary.

Should I get legal help, or some other form of advocacy, when I am making a complaint?

This is up to you. If you are making a formal complaint, it can often be useful to get someone to support you. Another person can help you to clarify the points you are making, as well as boosting your morale. Getting the help of a lawyer can help if your complaint is about legally enforceable rights, particularly if there is a chance that you might take legal action against the other party. If you are complaining in writing, keep a copy. It's also a good idea to show your letter to someone else who you can trust, and who can offer some objective feedback.

A sample checklist for writing a letter of complaint

Have you:

- Stuck to the facts?
- Explained what happened in a simple straight-forward way?
- Said how you felt about what happened?
- Said what you want to happen to fix the problem?
- Said what you want the person to whom you are writing to do?
- Said when you want the person to do this?
- Said when you want a reply?