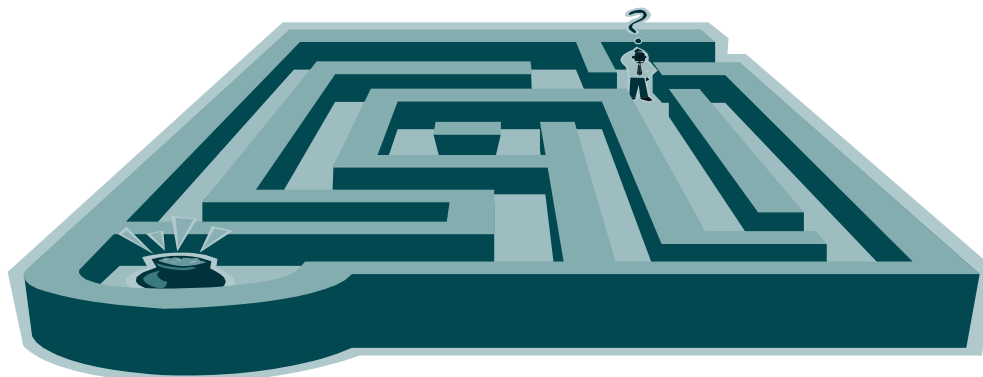




Office of the Citizens' Representative
Province of Newfoundland and Labrador

Navigating Public Complaints



A Better Practice Guide for Public Servants

This Better Practice Guide is produced by the Office of the Citizens' Representative for the benefit of departments, agencies, authorities, boards and commissions of the Newfoundland and Labrador Public Service. It is meant as a guide only. It is designed for reference and information purposes and should not supplant legal or quasi-judicial procedures, legal advice, directives, pre-existing policies or complaint management schemes.

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Forward

Since 2002, the Office of the Citizens' Representative ("OCR") has considered over 7000 complaints from citizens about public bodies. These complaint investigations have ranged from simple telephone inquiries to statutory investigations involving thousands of documents and dozens of witnesses.

With few exceptions, the Public Service has responded positively to our oversight role and has demonstrated a willingness to work with our Office to do what is right and fair for citizens of the Province. In recent years, our Office has become a point of contact for some agencies who seek our opinion on good administrative practice, including how to deal with difficult complainants.

One of our goals under the OCR 2011-2014 Business Plan was to draft and disseminate a complaint handling guide designed to assist public bodies. This guide is not a cure-all, but rather a resource for public servants handling complaints for the first, or five hundredth time. The principles and good administrative practices contained here are of use to all employees of the Public Service of Newfoundland and Labrador, regardless of whether they personally handle complaints.

If you or your department would like additional information or advice on how to manage complaints, please contact us at 709-729-7647 or 1-800-559-0079, or visit our website at www.citizensrep.nl.ca.



Barry Fleming, Q.C.
Citizens' Representative

March 2013

The Value of Complaints

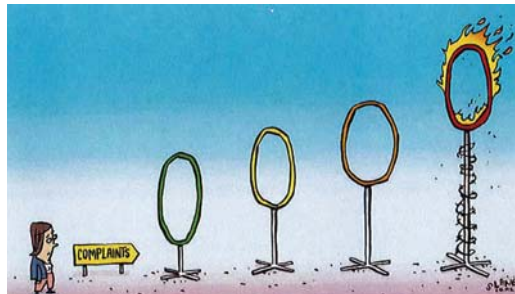
A question commonly asked of OCR employees is “who complains?”, as if there is a standard profile to be attached to a complainant. The answer is simple: all of us.

It is human nature for people to detect imminent harm to their personal interests, and to stand against the perceived harm based on societal norms and personal beliefs. In addition, people are often satisfied to take on representative roles, bringing complaints forward on behalf of others for philosophical or financial reasons.

Have you ever purchased something and didn't get the full value of what you thought you were paying for, or found your purchase to be defective? You probably contacted the vendor or manufacturer to discuss it, resulting in a return, refund, credit or some other adjustment.

Have you ever been dissatisfied with the customer service, or lack thereof, you have received in a restaurant? Chances are you contacted the manager to relay your experience and received a discount, or even a free meal.

Conversely, your contact may have found the vendor, manufacturer or manager resistant, leading you to resolve not to purchase a company's product again. Perhaps you learned the adage “the large print giveth, and the fine print taketh away”, or you were left with a lasting, negative memory of the company or complaints' department in question.



People love to tell others about negative customer service experiences and they commonly recall two things: (1) the circumstances that led to the complaint, and (2) how it was handled.

Complaints are most often lodged against companies; however, government departments and agencies are also frequent targets of complaints, relative to the number of interactions and transactions they perform with the public.

Public employees are paid to apply the law and public policy in their area of assignment, and as a consequence, many public employees have to view the personal circumstances of citizens through the lens of the policy and/or law that governs their work. In a percentage of cases, the citizen does not get what he or she is seeking from the public authority, or experiences human errors, omissions or maladministration that can change

an anticipated outcome to an unanticipated one. In a typical complaint scenario, the person complains and the department works to rectify the situation, or alternatively, “sticks to its guns” in its response. While this is often justified, “sticking to guns” can compound stress for the citizen, but also leads to stress for the public employee charged with dealing with that person.

Most workers view complaints in a negative light: not many of us go to work every day to seek out conflict, and many view dealing with complaints, and complainants, as an unpleasant by-product of their work.

However, there is a value that is commonly lost in the noise of complaints. While they can at times be personal and unpleasant, complaints deliver direct feedback on decision making, operations, program effectiveness and the activities of government’s workforce.

Governments use this information in different ways:

1. to resolve complaints and provide remedies to people when warranted;
2. to enhance program development; avoid making repeat mistakes; close loopholes; provide new and improved services; and,
3. to improve the corporate image of government, and build trust in public institutions and the Public Service.

Prudent, timely handling of complaints by the Public Service improves governance by improving responsiveness. This can de-escalate situations that lead to external actions like litigation, civil disobedience, harassment and the dysfunctional customer behaviours associated with persistent, ingrained complaining.

This Guide describes four components of effective complaint handling:

Philosophy: Departments and agencies should implement an efficient, accessible system of complaint handling which contains principles of responsiveness, fairness, transparency and accountability, and has the unqualified support of the executive.

People: Departments and agencies should employ professional, trained and adequately resourced complaint handlers who operate in a culture that is respectful of complaints and complainants.

Procedure: Departments and agencies should have an accessible, well defined and flexible complaint handling system that follows a flow chart.

Progress: Departments and agencies should strive for organizational improvements through effective analysis of complaints.

Each of these components is integral to the others. A sound commitment to effective complaint handling by a department or agency does little if the organization does not analyze complaint handling outcomes for potential improvements. Likewise, a sound procedure is moot if the person in charge of running it is undermining it with unprofessional, callous behaviour or entrenched procrastination.

Component 1: Philosophy



This cartoon is familiar to all consumers because holding on the phone is an inconvenience, and so prevalent we expect to hear those very words ourselves someday. However, companies often make choices for economic reasons - in this case not having enough workers to handle demand - that end up tarnishing their coveted corporate image and result in consumer exodus to the competition.

However, consumers of public services can't just take their business elsewhere. That is why it is important that the Newfoundland and Labrador Public Service should provide timely, efficient, and professional services to the citizens of the Province; to avoid being painted as an unresponsive, unbending workforce with a slavish addiction to red tape and delay.

Preserving a good public image is linked to how the Public Service resolves complaints. Those that can be fairly and efficiently dealt with through an accessible and responsive complaint handling system are likely to receive a positive public (and even media) response. Those that aren't quickly resolved can potentially impact our most vulnerable populations, while generating significant workload and stress for employees, driving down morale and drawing unwanted media attention or even court action.

Therefore, a commitment to fair and timely complaint resolution is important from the Deputy Minister/CEO down to the front line. Like any successful corporate philosophy, this starts at the top.

Component 2: People

For *Deputy Ministers and CEOs*: attention should not only be paid to making complaint handling a priority, but also to what types of complaints are being received and how complaints are handled internally.

Deputies and CEOs can:

- exhibit a commitment to efficient complaint handling by promoting a positive culture that does not summarily dismiss or minimize citizen complaints;

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- dedicate resources to complaint handling;
 - design, or commission the design of, a complaint flow chart that suits their organization;
 - educate their workforces on principles of good customer service;
 - recruit the right staff to handle complaints;
 - include complaint handling information in business plans, service standards and other departmental publications to demonstrate the organization's commitment;
 - integrate information gleaned from their complaint handlers into program reviews or service delivery improvements;
 - follow up with ADMs, Managers and Directors on the progress of complaints; and
 - stay informed of best practices in complaint handling via research, professional development or other networking opportunities.

For Assistant Deputy Ministers, Managers and Directors: when directed, you should implement and manage a professional and efficient complaint handling system.

ADMs, Managers and Directors should:

- regularly report on systemic or individual issues arising from complaint investigations by complaint handling staff;
- promote a strong network of communication between complaint handlers, management and staff;
- support complaint handling staff with training initiatives and adequate resources;
- provide complaint handlers with enough latitude to resolve straightforward complaints; and,
- be willing to become an unbiased complaint handler if the situation escalates to management level.

For Complaint Handling Staff: the public considers you a person who may be able to fix their problem, resolve their conflict, provide them with redress or “go the extra mile”. You will succeed by cultivating a network of information and referral contacts inside and outside your department, by conducting prudent complaint investigations, and by consistently exhibiting professional behaviour at all times when dealing with complainants.

Complaint handling staff should be:

- approachable and accessible;
- inquisitive;
- objective;
- able to manage complainant expectations;
- alert to conflict of interest;
- honest, patient, and tolerant;
- resilient;
- committed to best practices;
- well informed of all areas of your agency's jurisdiction and business lines;
- well aware of your complaints procedure;
- compliant with applicable access and privacy rules; and,
- compliant with internal policies, directives and the law.

Complaint handlers should never:

- assume;
- be arrogant;
- be complacent;
- flaunt authority;
- make determinations without all of the facts;
- set up false expectations; or,
- accept gifts or incentives.

For All Other Staff: you should be informed of the complaint handling system in your workplace and should assist members of the public with access to the system. As well, you can assist the complaint handler in resolving the problem by taking good notes, disclosing full details of what you know about a complaint scenario, and cooperating fully with a complaint investigation.



Component 3: Procedure

It is important for any citizen entering a complaint process to know what to expect with respect to the process employed by the department or agency. The procedure should be highlighted and made available to the complainant so that they understand clearly how their complaint will be handled.

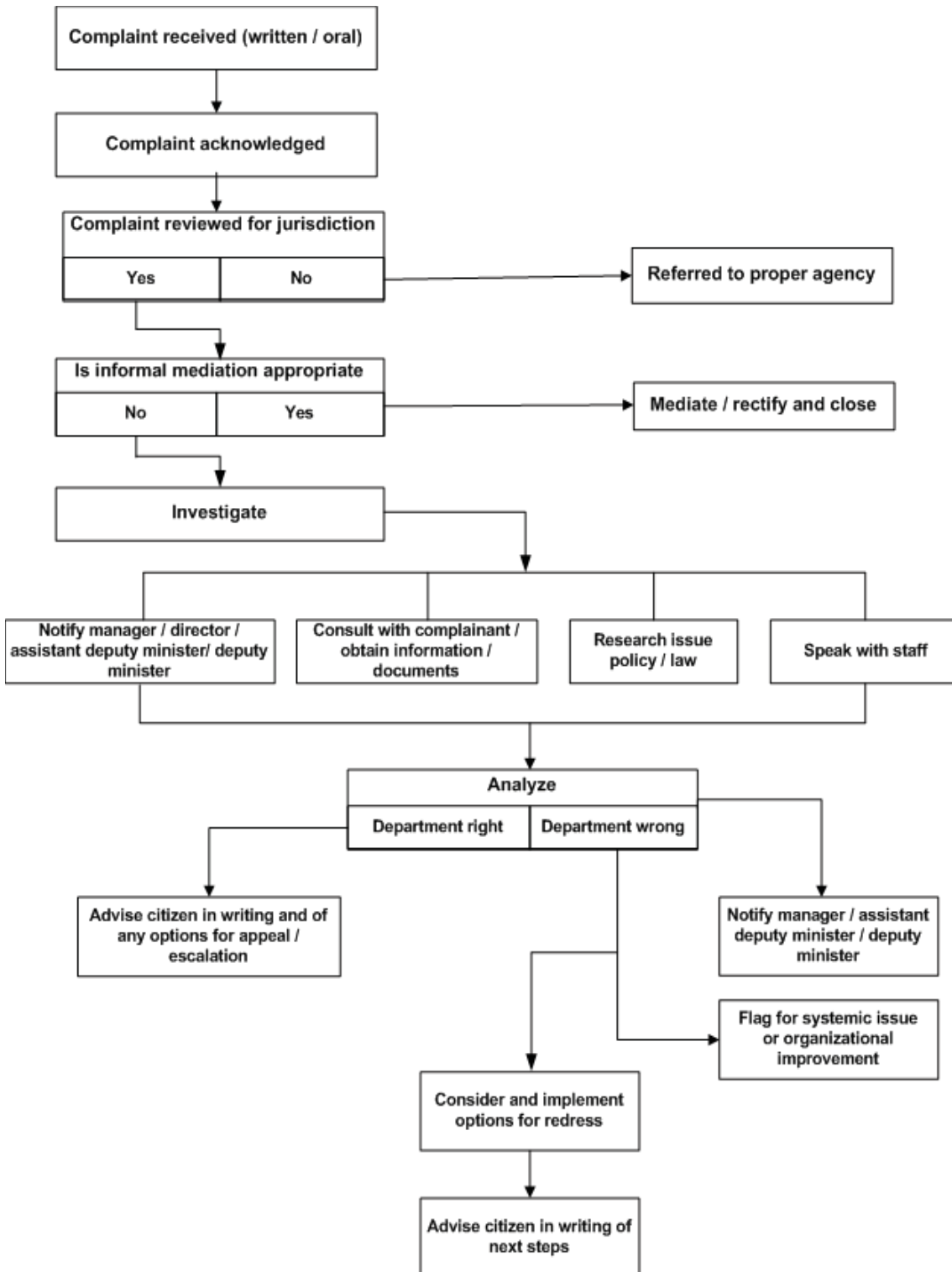
Regardless of the size of the department or agency, the complaint process should be accessible, especially for those who have barriers to access either through disability, geography, cultural beliefs, age, or other socio-economic factors. There should be a range of options to access the process through email, telephone or face-to-face meetings. Organizations should be willing to accept complaints both orally and in writing.

At its core, your complaint handling process should contain:

1. An **acknowledgement** of the complaint in writing that provides a contact name and reference number to be used in future correspondence.
2. A **fair assessment** of the complaint for jurisdiction, timeliness, complainant expectations, or possible referral.
3. A **plan** to deal with the complaint, either through informal mediation or investigation. The plan would include the issue to be dealt with, the remedy sought, a witness list, background information required, an estimate of time and resources needed, and special needs or considerations in the case. Remember investigation plans are fluid and can be adapted as circumstances change.
4. An impartial, transparent and confidential **investigation** stage involving research, the review of pertinent documents and interviews with the complainant, as well as key players involved.
5. A clear, timely, written **response** to the complaint that contains reasons for a decision. The response should be free from jargon and tailored to the audience. If action is going to be taken in the complainant's favour, outline how and when it will take place.
6. An opportunity for **follow-up** with the complainant and/or the senior decision makers in the organization prior to closing the file. The complainant may wish to question aspects of the decision, to speak with a manager, or inquire as to how the matter can be further escalated (ex.) to an outside oversight body.
7. Organizations should **document, track and analyze** outcomes to be on the lookout for systemic issues that may assist in long term planning, organizational review, priority setting, policy reviews, or legislative reform.

The following flow chart may be of assistance:

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Component 4: Progress

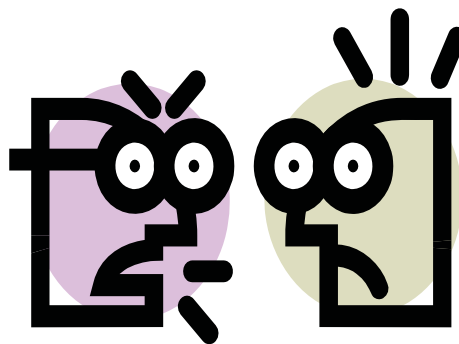
The main function of complaint handling in the government context is to accept feedback regarding programs and services. Complaint handling brings finality to complaints in a non-litigious format: adjusting errors, acts or omissions on individual bases for citizens when necessary.

However, complaint handlers can also serve as the “eyes and ears” of the department by monitoring potential shortfalls in law, regulation, internal policy and frontline service. As stated earlier, this is where programs can be improved, loopholes can be closed and public trust can be earned.

Not only can they trace complaints by topic, but a good complaint handler may also be able to provide valuable information on the origin of complaints based on factors like the gender and age of complainants, or regions where complainants reside.

A persistent rash of complaints on the same topic, from the same population subset, or the same area, are signs of problems that require action by the department or agency. Complaint handlers must therefore be able to spot systemic issues and trends, and be required to report them to supervisors for further analysis and alterations to program funding or design. The re-occurrence of complaints can be prevented when managers and executives consult with their complaint handlers and take complaint trends seriously.

Unreasonable Complainant Behaviour



Aggressive and unreasonable complainant behaviour is arguably the most challenging aspect of complaint handling. Even the most seasoned complaint handlers will list provocation, “button-pushing”, verbal threats, harassment and the potential for violence as the least attractive aspects of working in complaints. And while it represents only a fraction of contact with the public we deal with, these behaviours can have profound effects on our mental and physical wellbeing. Unreasonable behaviour is typically focused on the person delivering the news, the process they work in, and/or the original decision or decision makers in the organization that upset them in the first place.

Treat workplace safety as the primary consideration in cases involving unreasonable complainant behaviour. No public employee is expected to tolerate violent, harassing or abusive behaviour from members of the public. Advise a manager or supervisor immediately or call security or law enforcement immediately if you, or your co-workers feel as if your safety is being compromised.

If you or your co-workers meet with members of the public face to face, a security audit or a consultation with local law enforcement can go a long way to avoiding potentially dangerous situations in terms of physical layout of meeting areas, the need for stricter security measures like silent alarms, or methods or de-escalating potentially violent situations. Whenever possible, do not meet with members of the public alone. Critical incident debriefing services are available through the Public Service Commission's Employee Assistance Program: <http://www.psc.gov.nl.ca/psc/eap/index.html>.

Unreasonable complainant behaviour often takes place over the telephone and the human instinct is always to abruptly hang up. This step does little, however, to placate the complainant; rather, it urges them to call back and start the abuse over again. To prevent escalation on the phone or in person, complaint handlers should:

1. allow the person ample time to describe their frustration;
2. maintain a calm demeanour and voice;
3. do not assume an aggressive physical position or stance;
4. be respectful and do not get drawn into an argument;
5. interrupt only when you find behaviours particularly offensive;
6. explain why you find the behaviour offensive;
7. ask the complainant to refrain from the offensive behaviour;
8. in the event the behaviour continues, give the complainant a choice to continue in a respectful manner or face consequences (termination of call, termination of meeting, notification of security or law enforcement);
9. note the date, time and specifics of the unreasonable behaviour;
10. contact a manager, security or law enforcement as needed.

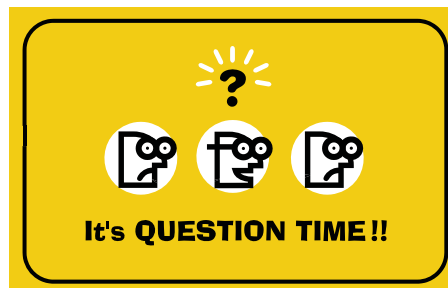
Organizations may wish to set limits on how an individual can contact them. Limits should not be imposed arbitrarily. They should be approved by a manager and should, in all cases, be supported by adequate documentation outlining reasons why limits are imposed. Some limits include:

- prescribing a set time that a complainant's call will be accepted;
- designating one staff member only to deal with the complainant;
- accepting submissions in writing only;
- accepting phone calls or correspondence from a third party for whom acceptable consent is granted; and,
- banning an individual from visiting government premises by written notification or court order. This is an extraordinary step that will require approval from senior managers and normally involves police intervention.

Some other tips for managing unreasonable complainant behaviour:

- address the person by their name;
- get to the root of the problem by asking what the person is angry about;
- acknowledge any truth in what they say about why they are angry;
- state your boundaries in “I” terms (ex) I’m not comfortable with that type of language;
- put yourself in the complainant’s shoes and show empathy;
- empower the person by giving choices whenever you can;
- take a break from the meeting or phone call, if necessary;
- remember to provide warnings or consequences of future unreasonable behaviour in writing wherever possible;
- follow through on consequences;
- consult a health practitioner or other resource on workplace wellness or relaxation techniques;
- talk to a co-worker or share your experiences with a manager in order to relieve stress and tension, as well as provide others with a sense of the behaviour you have tolerated at work; and finally,
- if you work in complaint handling, find a hobby or outlet for relaxation outside of work.

Resources



If you have any questions or need additional resources on the subject of prudent complaint handling, contact the OCR. Visit our website at www.citizensrep.nl.ca to learn more about our services. Presentations by the OCR in your workplace on this topic and others are available by appointment.



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