

The Complaints System: An Overview

Introduction

This Information Sheet provides an overview of the Council's system for receiving, handling and adjudicating upon complaints. Other Information Sheets give more details about particular aspects of the system. They are available from the Complaints section of the Council's website or by contacting the Council office.

Complaints are assessed by applying the Council's Standards of Practice, which are available in the Standards section of the website. Possible outcomes include:

- a remedy such as a correction or apology which the publication agrees to provide;
- a Letter of Advice by the Council's Executive Director to the publication;
- a decision by the Council's Adjudication Panel which must be published by the publication and indicates whether the Standards have been breached.

Making a complaint

Any person or organisation can make a complaint to the Council without a fee. They must do so by submitting the complaints form which is available on the website or from the Council office. In special circumstances the initial contact can be made by telephone or email.

Complaints can be made to the Council about material published in print or digital form by the publisher members of the Council or about the methods used by them to obtain information. Almost all Australian newspapers are published by these members, as well as most magazines and most of the leading news websites. In some circumstances, the Council may consider a complaint about a publisher which is not a member.

Complaints may relate to news reports, articles, editorials, letters, cartoons, images and other material. The Council does not consider complaints about advertising, except where the complaint is that the material is not clearly identifiable as advertising.

Complaints must usually be made within thirty days of the first publication of the relevant material. A longer period may be allowed under certain circumstances. It is not necessary to have complained first to the publication in question.

Complainants must tell the Council if they have commenced legal proceedings in relation to the material about which they are complaining, or if there is a reasonable possibility that they may do so. The publisher may then request, but not require, that the Council does not take any further action in response to the complaint unless the complainant meets certain conditions.

For further details, see the fact sheet "Legal Proceedings"

The Council's response

After receiving a complaint, Council staff seek any further details which are needed for initial assessment. The Executive Director then decides whether the complaint meets certain basic requirements (for example, whether it was made within the time limit). He or she will decide whether the complaint should proceed to informal consideration ("Level 1") or be discontinued because, for example,

- it is highly unlikely that a breach of the Council's Standards of Practice has occurred; or
- the possible breach is not sufficiently serious to justify further consideration.

In some cases, the Executive Director may ask the complainant to raise the matter directly with the publication in question. If the complainant does so but is not satisfied with the outcome, they may request further consideration by the Council. When a complaint is made through a lawyer, the complainant will usually be asked to deal directly with the Council in future.

If the complainant is not identified or directly affected by the published material, the complaint will be processed in the same way as other complaints except that the complainant is not usually involved in the processes of negotiation and adjudication.

For further details, see the fact sheet “Secondary Complaints”

Informal consideration of complaints (“Level 1”)

Most complaints are finalised at this level, either by an agreed outcome being negotiated or the matter being discontinued. The Council’s staff begin by considering and, if necessary, investigating the issues before deciding whether to seek a response from the publication.

There may be further communication with the complainant and the publication to clarify the issues and explore the possibility of an outcome which each of them is willing to accept. Possible outcomes from discussions with publications include

- an informal expression of regret by the publication;
- publication of balancing material;
- publication of a correction, clarification or apology in an agreed form;
- amendment or removal of material on a website;
- commitments about future coverage of particular people or issues.

The Executive Director then decides whether the matter should be referred to the Council’s Adjudication Panel. It will not be referred if, for example,

- the complainant has withdrawn the complaint or has not responded to communication from the Council within a reasonable period of time; or
- it is highly unlikely that a breach of the Standards of Practice has occurred; or
- the breach is not sufficiently serious to justify referral.

If a complaint is not referred for adjudication, the Executive Director may nevertheless send a formal Letter of Advice to the publication. The letter may advise the publication, for example, that if similar material is published in future it is likely to be referred to the Panel.

Adjudication of complaints (“Level 2”)

If a complaint has been referred for adjudication, the Executive Director prepares a Summary of Issues to be considered by the Adjudication Panel. Both the complainant and the publication can suggest amendments and ask for other material to be sent to the Panel with the Summary. They will see any material which is sent to the Panel, unless exceptional circumstances apply.

The Panel is chaired by the Council’s Chair or a Vice-Chair and usually has four to six other members. The majority of the Panel are not affiliated with the media industry. It convenes a discussion with the complainant and the publication, usually by teleconference call. The complainant may be accompanied by a friend or relative for support and the publication’s representative may be accompanied by a relevant journalist. They cannot be represented by lawyers or other professional representatives, unless there are very exceptional circumstances.

The Panel decides whether the Standards of Practice have been breached. It can issue a reprimand or censure and can call for, but not require, apologies, retractions, corrections or other remedial action. It may also call for specific measures to prevent a recurrence of the type of breach in question. But it has no power to impose a fine or other financial sanctions.

The Panel’s provisional adjudication is sent to the complainant and publication on a confidential basis. Either party may request a revision or review on limited grounds but, in general, no new facts or arguments can be introduced at this stage.

When finalised, the adjudication must be published as specified by the Executive Director in relation to aspects such as the date, page number, positioning and headlines. Failure to comply may lead to re-publication being required. Each adjudication is also published on the Council’s website and distributed widely through the electronic *APC Update* newsletter.

For further details see the fact sheets “Review of Decisions” and “Publication of Adjudications”