



editorial  
policies

# complaints handling procedures

# 1 Preamble

ABC self-regulation has dual aims: accountability and continuous quality improvement.

Good complaints handling is a necessary and important element of effective self-regulation. But it is only one element. As technologies change for the ABC and for the public, mechanisms for engagement by a media organisation with its audiences change too.

Part of the ABC's challenge is to match audience members with the most appropriate response mechanism. We need to widen access, promote options, and educate audiences and ourselves about new possibilities for interaction.

Audience members wanting to share their views about ABC content or services can engage with ABC content makers and with other audience members in the growing number of interactive forums available on the ABC's own website, as well as the spaces the ABC hosts on various social networking and other sites. More than ever before, these sites provide opportunities for people to challenge, question, inject fresh information, discuss and debate.

Audience responses vary greatly. Not all responses are complaints. Not all complaints relate to editorial standards. Not all complaints that relate to editorial standards are equally serious. Not all audience members want action. They may want simply to feel that they have been heard, that their response to the ABC has been received, understood and acknowledged.

Many audience members will want to respond online or in talkback on radio or in interactive TV forums. In these ways they know that other members of the audience, not just the ABC personnel, will be able to see, hear and consider their views.

Others may elect not to respond in a public forum such as an online discussion on a program's website. They may prefer one-to-one engagement with the ABC.

To complain in writing about an editorial matter and await an investigation and finding is just one of the options an audience member may consider. It will not be the most appropriate or satisfying option in every case. Much, but not all, will depend on the preferences of the audience member. As a statutory corporation that relies on public funds, the ABC must aim to ensure that the time and resources used in dealing with audience responses are proportionate to the circumstances of each response.

All these factors affect the way the ABC receives, assesses, sorts, investigates, resolves and learns from audience responses.

## 2 Principles

### 2.1 Procedures and standards are to be interpreted having regard to:

#### 2.1.1 Statutory requirements, including:

##### *ABC Act*

- a The functions of the ABC as described in its Charter.
- b The ABC Board's duty to ensure that the gathering and presentation by the Corporation of news and information is accurate and impartial according to the recognised standards of objective journalism.
- c The ABC Board's duty to develop Codes of Practice relating to programming and – if relevant – a datacasting service, and notify those codes to the Australian Communications and Media Authority (ACMA).

##### *Broadcasting Services Act*

- d The requirement to provide a substantive response to a complaint within 60 days of its receipt where the complaint alleges that the ABC has acted contrary to a Code of Practice developed by the Corporation and notified to ACMA.
- e Obligations in relation to the hosting of prohibited content or potential prohibited content on the internet or via mobile phones.

#### 2.1.2 Recognised standards of objective journalism.

#### 2.1.3 Recognised standards in other genres of content making.

#### 2.1.4 Recognised standards of objective complaint handling: fairness, accessibility, responsiveness, efficiency, and integration within the core activities of the organisation.

#### 2.1.5 Findings of the 2009 review of the ABC's self-regulation framework, which recognised the value for both audience members and ABC staff in promoting more informal engagement with audience responses, reserving more formal complaint handling for those matters which warrant such treatment.

### 2.2 These Procedures are subject always to the discretion of the ABC Managing Director, who is also Editor-in-Chief, to intervene and determine any matter at any time by any process the Managing Director thinks fit.

### 2.3 The ABC seeks to deal with complaints as quickly as possible and aims to respond to all complaints within 30 days of receipt. However, due to the complexity of some complaints and the availability of staff, some complaints may take longer to finalise.

- 2.4** The ABC is committed to respecting the confidentiality of complaints and, to the extent permitted by law, not disclosing the identity of individual complainants. However, in cases where the complainant is an organisation, or a complaint is a matter of public record, the ABC may elect to make the identity of the complainant and the ABC's response publicly available.
- 2.5** The ABC's approach to handling written editorial complaints places great weight on the relevant ABC staff responding properly at the earliest stages so that the Authorised Decision-maker has access to all of the relevant material.
- 2.6** The ABC will apply the following criteria in determining proportionate handling of any matter:
- 2.6.1** seriousness of the matter;
  - 2.6.2** likelihood of harm;
  - 2.6.3** potential to mislead;
  - 2.6.4** proximity of person raising the matter to the substance of the matter;
  - 2.6.5** scale of audience response, and
  - 2.6.6** degree of risk of damage to public trust and confidence in the ABC.

## 3 Definitions

- 3.1 Audience and Consumer Affairs** is a unit of the ABC separate from the content-making divisions of the ABC and responsible to the Director Editorial Policies, who is directly responsible to the Managing Director.
- 3.2 Authorised Decision-maker** is a person authorised in writing by the Director Editorial Policies to make findings about editorial complaints in accordance with these Procedures.
- 3.3 Executive Editorial Complaints Adviser (EECA)** is a person authorised in writing by the Managing Director to undertake the EECA functions set out in these Procedures.

### 3.4 What is a complaint?

#### *Complaint*

- 3.4.1** A complaint is an expression of dissatisfaction made to the ABC in relation to the ABC's content or services where some response is explicitly or implicitly expected.

#### *Written complaint*

- 3.4.2** A written complaint is a complaint made in writing and lodged with the ABC by hand, post, facsimile, email or webform submission. It does not include comments and other user-generated content posted to discussion boards and other interactive services, or SMS messages.

#### *Editorial complaint*

- 3.4.3** An editorial complaint is a written complaint that is an expression of dissatisfaction made to the ABC, in relation to one or more specific items of ABC content or a specific ABC service, relating to the ABC's editorial standards as expressed in the ABC Editorial Policies or ABC Code of Practice, and with an expectation of a response and action by the ABC. The complaint need not refer specifically to the ABC Editorial Policies or Code of Practice, or use the language of those standards to be considered to be an editorial complaint.

### 3.5 Why these definitions matter

- 3.5.1** These definitions are important because they guide ABC staff in decisions about whether complaints require referral to Audience and Consumer Affairs:
- a Complaints which are not received in writing (for example, complaints received by telephone or in person by ABC staff) should generally not be referred to Audience and Consumer Affairs. These complaints should be handled directly by the division to which they relate.

- b Written complaints which are not editorial complaints need not be referred to Audience and Consumer Affairs. These complaints should be handled directly by the division to which they relate.
- c Written complaints which are editorial complaints must be referred to Audience and Consumer Affairs for assessment to determine whether formal handling is appropriate.

- 3.5.2** In cases where there is doubt about whether a written contact amounts to an editorial complaint, content division staff should clarify this issue with the audience member.
- 3.5.3** If the audience member clarifies that the matter is intended as an editorial complaint, the matter should then be referred to Audience and Consumer Affairs.
- 3.5.4** Audience and Consumer Affairs will determine proportionate handling.
- 3.5.5** Audience and Consumer Affairs has a discretion to refer an editorial complaint back to the relevant division for handling where that is appropriate in the circumstances.

## 4 Handling of audience complaints by divisions

### 4.1 Telephone complaints

- 4.1.1 The ABC accepts that many people prefer the immediacy of making a complaint by telephone, including complaints about serious editorial matters. It is the responsibility of the relevant divisional director to make arrangements for the handling of telephone complaints about their services and content.
- 4.1.2 Where a person simply wants their telephone complaint noted, this will be done. If a response is required which cannot be provided by the person who answers the phone, the caller's name and contact details will be taken and advice given to the relevant area that a return call is required, or the caller will be directly transferred to the content area.
- 4.1.3 Every effort should be made to resolve telephone complaints during the initial call, or to arrange an appropriate person to call back.
- 4.1.4 In some circumstances, telephone callers wishing to make a complaint will be asked to put their complaint in writing. This is appropriate where the matter is complex, detailed or involves referring to several sources of information, or where the matter relates to editorial standards and the caller prefers that the matter be assessed by Audience and Consumer Affairs. It can also be an appropriate response to a caller who becomes abusive. In other cases, however, a request to put a complaint in writing should not be the sole course of action made available to the caller.
- 4.1.5 Where a telephone caller seeks a written response to a complaint, the caller will generally be asked to put their complaint in writing. If the caller has genuine difficulties in writing (for example, language, literacy, disability) or chooses not to put it in writing, alternative arrangements will be made to create a written record of the complaint. This will generally involve the call taker in the content area making a written summary of the caller's complaint.

### 4.2 Procedures for handling written non-editorial complaints

- 4.2.1 Written complaints that do not relate to alleged breaches of the Editorial Policies or Code of Practice may be received and handled directly by program and content areas, or forwarded to relevant divisions by Audience and Consumer Affairs for direct reply or other appropriate handling.
- 4.2.2 Divisions and Audience and Consumer Affairs will encourage audience members submitting non-editorial complaints to express their views using the range of interactive mechanisms available on ABC Online and other relevant websites. This may include assisting the audience member to locate and use a particular site, or assisting those who may need help to transfer their concern from one medium to another (for example, a letter to a posting online).

- 4.2.3** Divisional directors are responsible for putting in place arrangements to ensure that complaints referred centrally to a division (such as by Audience and Consumer Affairs) are brought to the attention of the responsible editorial line manager and receive an appropriate response where warranted.
- 4.2.4** Audience and Consumer Affairs may also respond to written non-editorial complaints on behalf of divisions, as agreed in writing between directors, or at the request or direction of the Managing Director or Chairman. In preparing such responses, Audience and Consumer Affairs will receive the reasonable assistance of divisional staff.
- 4.2.5** Non-editorial written complaints which require reply and which require significant input from more than one division can be coordinated by Audience and Consumer Affairs. Audience and Consumer Affairs will obtain input from the areas concerned and prepare a final response.



## 5 Procedures for handling editorial complaints

### 5.1 Receipt and assessment

- 5.1.1** Unless a specific alternative arrangement has been agreed by Audience and Consumer Affairs, any editorial complaint received in writing by the ABC is to be promptly referred to Audience and Consumer Affairs. Referrals should occur as quickly as possible, but in any case no later than 3 working days following receipt of the complaint by the ABC.
- 5.1.2** In cases where content staff have communicated with the audience member to clarify whether the matter they have raised is an editorial complaint, referral to Audience and Consumer Affairs should occur within three working days of the audience member confirming that the matter is an editorial complaint.
- 5.1.3** Audience and Consumer Affairs will write to the complainant/s to acknowledge receipt of a new complaint.
- 5.1.4** Audience and Consumer Affairs will undertake an initial assessment of the complaint, which may include discussions and/or exchange of correspondence with the complainant and/or content-makers in order to clarify the focus of the complaint and expectations of the complainant. This process will assist in determining whether the matter should be handled by Audience and Consumer Affairs, or dealt with in some other appropriate way.
- 5.1.5** At the completion of the complaint assessment process, Audience and Consumer Affairs will determine whether or not to accept a complaint for investigation or, having accepted it for investigation, determine not to investigate further. Reasons that a complaint may not be accepted for investigation or may not be further investigated include the following:
- a the complaint does not refer to a specific item of content (eg a program or online article) for which the ABC has editorial responsibility and which has already been transmitted or published;
  - b the complainant fails to respond to a request for information or clarification in relation to the complaint;
  - c the complaint concerns content which is or becomes the subject of legal proceedings;
  - d the complainant does not have a sufficient interest in the subject matter of the complaint, where the complaint alleges a breach of Fair and honest dealing (Standards 5.1-5.9) or Privacy (Standard 6.1);
  - e Audience and Consumer Affairs exercises its discretion to refer a matter to a content team for handling and direct reply to the complainant;

- f an alternative to formal investigation by Audience and Consumer Affairs exists, and the complainant and the ABC agree to the alternative handling of the matter (this could include posting of the correspondent's comment on an interactive facility established by the ABC for such a purpose, or an agreement by the program area and the correspondent to discuss the matter in a telephone call. If the complainant remains dissatisfied, he or she can revert the matter to Audience and Consumer Affairs for fresh assessment);
  - g the complaint is frivolous, or vexatious or not made in good faith;
  - h the complaint was lodged with the ABC more than six weeks after the date when the content was last broadcast or published by the ABC, unless Audience and Consumer Affairs accepts the complaint for investigation after being satisfied that it is appropriate to do so, having regard to:
    - (i) the interests of the complainant in the subject matter of the complaint;
    - (ii) the seriousness of the alleged breach;
    - (iii) the reason/s for the delay;
    - (iv) the availability of the content which is the subject of the complaint; and
    - (v) any prejudice the delay may otherwise have on the ABC's ability to investigate and determine the matter fairly.
- 5.1.6** Audience and Consumer Affairs retains a discretion to investigate or to further investigate any complaint where it is satisfied that it is appropriate to do so, having regard to such factors as:
- a the seriousness of the alleged breach;
  - b the interests of the affected parties;
  - c the number of complaints received about the subject matter of the complaint;
  - d the practicability of investigating the matter fairly; and
  - e the extent to which the cause of the complaint has already been redressed.
- 5.1.7** Where Audience and Consumer Affairs accepts a complaint for investigation, it will assess the seriousness and complexity of the matter to determine the resources and nature of response that may be required. The extent of resources to apply to complaint investigations should be proportionate to the nature of the complaint, having regard to the Principles section of these Procedures.
- 5.1.8** If a complaint is not accepted for investigation, Audience and Consumer Affairs will write to the audience member advising of this decision and explaining the basis of its decision and of alternative methods for the audience member to engage with the ABC and its audiences.
- 5.1.9** Where the assessment process is straightforward, the decision not to investigate and associated information can be conveyed in the initial acknowledgement of the complaint.

## 5.2 Referral of matters back to content divisions for handling

- 5.2.1** Where Audience and Consumer Affairs refers an editorial complaint to a division for direct handling, the division is responsible for the creation and retention of appropriate records demonstrating how the matter was handled and the timeliness of the response. This will include retention of a copy of any written complaint and any written response to the complainant, in keeping with the ABC's Records Disposal Authority. Similarly, Audience and Consumer Affairs will create and retain records of matters that it handles.
- 5.2.2** Where Audience and Consumer Affairs refers an editorial complaint to a division for handling and the matter is covered by the ABC Code of Practice the division, in its response to the complainant, will advise the complainant of the option to refer the matter to ACMA if the complainant remains dissatisfied.

## 5.3 Audience and Consumer Affairs Investigation

### *Principles*

- 5.3.1** The guiding principles of investigations are relevance, responsiveness, accuracy and fairness.
- 5.3.2** All relevant ABC personnel should have in mind the best interests of the ABC in maintaining trust and confidence in the ABC's capacity to regulate itself appropriately. Collegiality is essential. Adversarial approaches are to be avoided by Audience and Consumer Affairs and divisions because they waste time and resources and harm relationships, both within the ABC and between the ABC and its audiences.

### *Provision of broadcasts, publications and facts and arguments*

- 5.3.3** Audience and Consumer Affairs will notify the division/s within three business days of its decision to accept an editorial complaint for investigation.
- 5.3.4** Audience and Consumer Affairs will provide each division with a copy of the complaint and any other relevant materials provided by the complainant.
- 5.3.5** Where it is possible to do so without the input of the division, Audience and Consumer Affairs will identify the editorial standard/s that it considers most relevant to its initial assessment of the complaint and will advise the division accordingly.
- 5.3.6** The division will consider these materials and will provide Audience and Consumer Affairs with a response. The response will:
- a include any comments by the division on the editorial standard/s identified by Audience and Consumer Affairs as relevant;
  - b substantively address compliance with the editorial standards that Audience and Consumer Affairs have identified as relevant;

- c substantively address compliance with any additional editorial standards that the division considers relevant, and
- d provide any background or additional material which may assist resolution of the particular complaint.

**5.3.7** The response provided by the division will include:

- a copies of any broadcast and/or published material relevant to the complaint which Audience and Consumer Affairs requests from the division;
- b copies of any other broadcast and/or published material which the division considers relevant to the investigation;
- c copies of any material not broadcast or published which the division considers relevant to the investigation;
- d the facts and arguments sought by Audience and Consumer Affairs; and
- e any facts and arguments the division believes relevant to Audience and Consumer Affairs' consideration of the matter.

**5.3.8** The division will provide this material to Audience and Consumer Affairs as quickly as possible, but in ordinary circumstances no later than seven business days after the request from Audience and Consumer Affairs.

**5.3.9** During consideration of material provided, Audience and Consumer Affairs may request in writing further facts or argument from the division for consideration in making a draft finding. The division will provide a response to such requests as quickly as possible, but in ordinary circumstances no longer than three business days after receipt of the request.

#### *Notifying relevant staff and facilitating access*

**5.3.10** Divisions may elect to give Audience and Consumer Affairs a general invitation to communicate as Audience and Consumer Affairs sees fit with the division's staff and contractors.

**5.3.11** Divisional directors may elect to nominate a divisional representative to receive complaints from Audience and Consumer Affairs, take responsibility for responses and for arranging access for Audience and Consumer Affairs to relevant divisional information and persons.

**5.3.12** Divisional directors are to ensure staff and contractors directly affected by an investigation are appropriately informed of the fact of the investigation and its outcome. To meet the fundamental requirement of fairness in complaint handling, it is imperative that any staff who may be adversely affected by the outcome of the investigation have the opportunity to be heard during the investigation and appropriately informed of the result.

**5.3.13** Where requested by Audience and Consumer Affairs, the division will provide Audience and Consumer Affairs staff with direct access to divisional staff and contractors involved in the matter.

### *Providing a draft finding*

- 5.3.14** Following consideration of the materials, facts and arguments provided by a division, and consideration of any other matters Audience and Consumer Affairs considers relevant, an Authorised Decision-maker will make a draft finding about whether a complaint is resolved, upheld, partly upheld or not upheld.
- 5.3.15** If a draft finding is that a complaint is upheld or partly upheld, an Authorised Decision-maker may also recommend a remedy, but may not mandate one.
- 5.3.16** A complaint may be regarded as resolved where the division takes steps to remedy the cause of complaint prior to or within 30 days of the ABC receiving the complaint, those steps are communicated to the complainant and Audience and Consumer Affairs, and the steps are considered by Audience and Consumer Affairs to be adequate and appropriate such that further processes formally to uphold, part uphold or not uphold would add nothing of substance.
- 5.3.17** The draft finding, setting out the basis of the decision, will be provided to the director of the relevant division.
- 5.3.18** The divisional director may elect to nominate a delegate for receipt of routine draft findings from Audience and Consumer Affairs. The director will notify the Head of Audience and Consumer Affairs of the identity of the delegate. In the absence of a delegate, the director will receive all draft findings direct.
- 5.3.19** Notwithstanding any such delegated arrangement, Audience and Consumer Affairs will bring its draft findings to the personal attention of the director as well as the director's delegate in cases it considers warrant such attention, such as:
- a the draft finding or recommended remedy is known to be contested by the division
  - b the nature of the recommended remedy;
  - c the draft finding is likely to establish an interpretive precedent;
  - d the number of complaints received about a particular issue;
  - e the identity or nature of the complainant;
  - f for other reasons relevant to a particular complaint or investigation, director-level attention is considered warranted.

### *Finalising the finding*

- 5.3.20** The divisional director may accept the draft finding and advise the Authorised Decision-maker accordingly as soon as practicable and in any case within three business days of receipt of the finding.
- 5.3.21** Alternatively, the director may choose, within three business days of receiving the draft finding, to refer the draft finding to the Executive Editorial Complaints Adviser, together with any other facts or arguments the director believes relevant to the making of a different finding.

- 5.3.22** The EECA will consider the draft finding, the director's submissions and any other facts or arguments the EECA receives or acquires, and, within two weeks, provide written advice to the Authorised Decision-maker, copied to the director.
- 5.3.23** The Authorised Decision-maker must consider the EECA's advice and, to the extent that the Authorised Decision-maker does not take that advice, the Authorised Decision-maker must give reasons in the final decision.
- 5.3.24** The Authorised Decision-maker will convey his or her final decision in writing to the director, copied to the EECA.

#### *Remedies*

- 5.3.25** The director of the division responsible for the content, action or inaction the subject of the complaint is responsible for determining, implementing and recording any remedy or penalty arising from a complaint investigation.

#### *Informing the complainant*

- 5.3.26** Where a remedy has been or is to be applied, the relevant director will advise Audience and Consumer Affairs of this as soon as possible, but in any case within three business days so that Audience and Consumer Affairs can appropriately advise the complainant of the remedy.
- 5.3.27** Audience and Consumer Affairs will write to the complainant advising of the finding/s of the investigation, any remedial action that the division will be taking or has already taken and, in applicable cases, the complainant's option to refer a matter to the Australian Communications and Media Authority.

#### *ACMA*

- 5.3.28** If the complainant refers a matter to ACMA, Audience and Consumer Affairs will be responsible for representing the ABC in the ACMA proceeding. In circumstances where a complaint which has been responded to directly by a division is subsequently accepted by ACMA for investigation, Audience and Consumer Affairs will conduct its own expedited investigation of the matter in order to establish the ABC position that will be represented to ACMA.
- 5.3.29** Audience and Consumer Affairs will be responsible for conveying the ACMA decision to the relevant director and, where relevant, the Executive Editorial Complaints Adviser. The relevant director is to ensure that any affected staff or contractor is also informed.
- 5.3.30** Regardless of the outcome of an ACMA proceeding, the Authorised Decision-maker, the director, and any other relevant ABC executive (including, where relevant, the Executive Editorial Complaints Adviser) will meet to discuss the outcome, their own judgements in the matter and anything learned from the experience that is likely to be of use to them or others in future matters.

## 6 Termination of correspondence

### 6.1 Frivolous, vexatious, not in good faith

- 6.1.1 The ABC makes considerable efforts to provide an adequate response to complaints. In cases where a complaint is frivolous, vexatious or not made in good faith, or a complainant is vexatious or not acting in good faith, it may be appropriate to consider terminating correspondence.
- 6.1.2 Decisions to terminate correspondence on complaints or with complainants on this basis may only be made by the relevant director/s and the Head of Audience and Consumer Affairs, in consultation with one another.
- 6.1.3 If a decision is made to terminate correspondence, the Head of Audience and Consumer Affairs will write a letter to the complainant advising of the decision and stating the reasons it was made. A copy will be kept by the Head of Audience and Consumer Affairs and distributed to relevant directors.
- 6.1.4 Where the ABC terminates correspondence with a complainant, new correspondence from the complainant will be read to see whether any substantive issues have been raised which the ABC should consider. However, there will be no obligation for the ABC to correspond with the complainant about any matter. Any action the ABC chooses to take will be at its absolute discretion.

### 6.2 Unable to satisfy complainant after reasonable efforts

- 6.2.1 The ABC will also consider terminating correspondence with a complainant in cases where the ABC has clearly been unable to satisfy a complainant in relation to a particular matter, despite reasonable efforts having been made. In such cases, the correspondent should be advised that the ABC will not continue to engage in correspondence in relation to the matter.
- 6.2.2 In cases where correspondence is terminated in relation to a particular complaint, rather than with a complainant who is vexatious or not acting in good faith, correspondence about any new issues should be considered and a response provided where appropriate.

