

Resolving contracting complaints — responsibilities of FACS-funded service providers



For child and family, community building, domestic and family violence, and homelessness programs

FUNDED CONTRACT MANAGEMENT | Guide | 8 January 2019

About this guide

This guide outlines the requirements for FACS-funded service providers when resolving contracting complaints.

It includes the requirements for an effective complaints mechanism, and includes links to resources to assist with its development and implementation.

Your obligations for managing complaints

Your organisation is responsible for responding to, and resolving complaints about the contracted services it delivers.

Under the contract with FACS, your organisation is required to have a complaint mechanism. This is to ensure you are able to effectively receive and resolve complaints.

In addition, under Section 3 Clause (2)(e) of the *Community Services (Complaints, Reviews and Monitoring) Act 1993*, 'a service provider is to enable a complaint about the service to be dealt with fairly, informally and quickly and at a place convenient to the complainant'.

The provisions of the contract and the Act mean that, as an autonomous organisation, you have primary responsibility for investigating complaints about your organisation.

This includes complaints about:

- the contracted services
- the conduct of your staff
- the decisions and actions of your management and governing body
- the conduct of subcontractors that FACS has given consent to fulfil part of, or all of the services FACS has funded you to deliver.



Refer to the [What you need to know about subcontracting](#) fact sheet on the FACS website for more information about subcontracting of FACS-funded services.

How and when FACS may become involved

FACS has an interest in assisting and working with service providers to resolve matters that pose a risk to the delivery of funded services to clients. This includes issues with an organisation's internal management, which may indicate underlying problems with its governance practices or actions of the governing body.

The form and degree of FACS involvement will vary according to the circumstances, including:

- the nature and seriousness of the issues raised in the complaint
- how FACS became aware of the complaint; for example, FACS may have been the recipient of the complaint or it

may have been referred to FACS by another agency

- how responsive the service provider has been in resolving the issues raised in the complaint
- whether the complainant is satisfied with the service provider’s response to, and resolution of the issues.

Depending on the nature and/or number of complaints about a service provider, FACS may need to:

- review the complaint and your response, and provide assistance or support, or investigate the matter further
- review your complaints mechanism
- if necessary, develop and implement a formal improvement plan.

How and when other parties may become involved

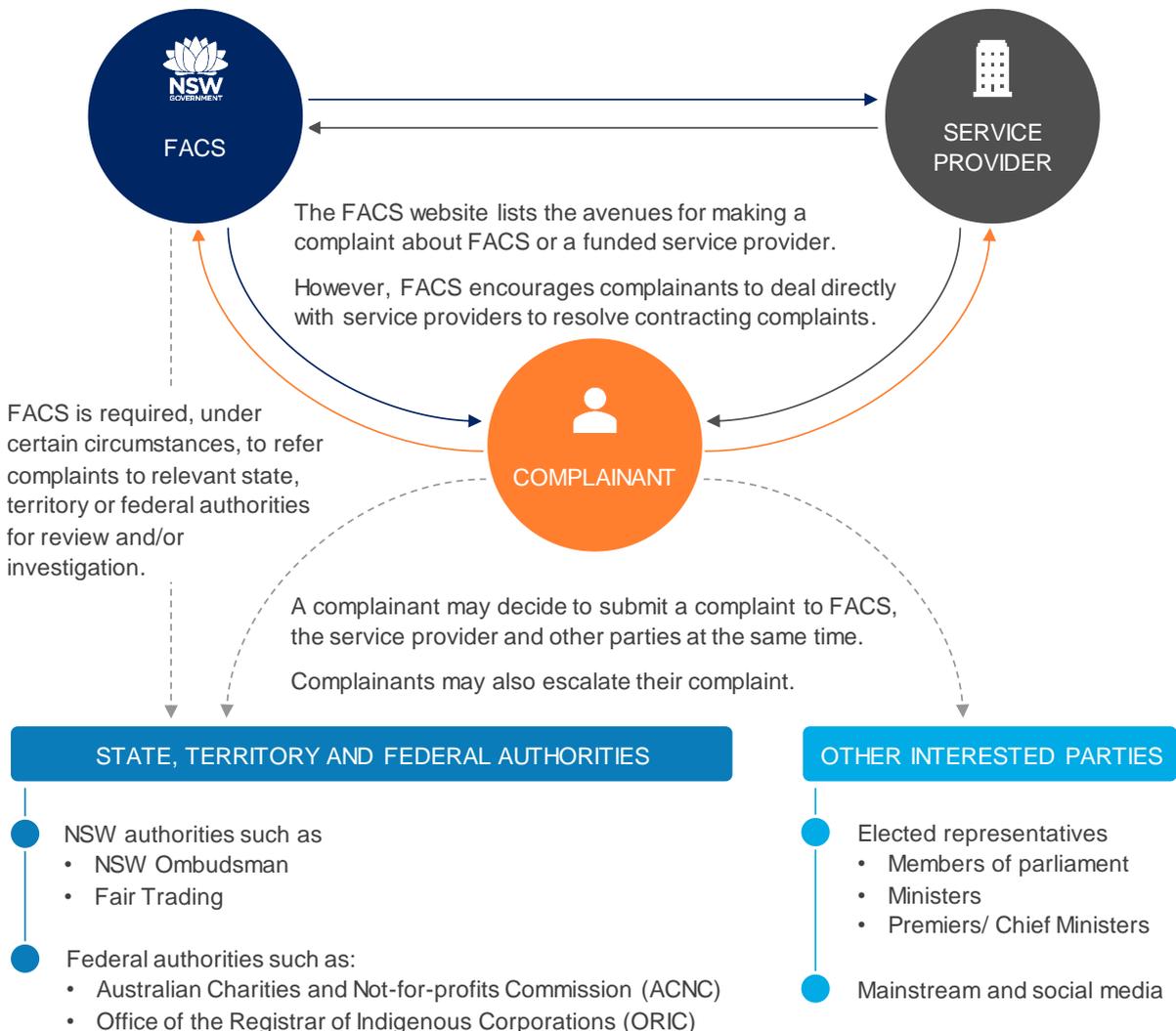
Depending on the matter, FACS may refer to, or have matters referred from, other state, territory and federal authorities.

The diagram below outlines the parties that may become involved during a complaint and depicts the escalation points available to complainants if they are unsatisfied with how a complaint was handled by a service provider.

This highlights the importance of effective complaint handling at the first instance, to avoid unnecessary escalations.

FACS handles contracting complaints it receives in accordance with the FACS policy and processes outlined in the Funded Contract Management Framework.

Service providers must have a formal complaint management policy and process to handle contracting complaints.



Responding to complaints referred to you by FACS

If FACS receives a complaint about your organisation, it will be forwarded to you for comment or resolution using the FACS *Contracting complaint referral form*.

FACS refers contracting complaints to the service provider to investigate and manage when the complaint:

- is about casework practices
- is about service delivery
- relates to a service provider's internal management practices.

Contracting complaints referred to your organisation for resolution will be monitored by your FACS contract manager. In this way, FACS can provide any information and advice required to assist you to resolve the issues raised in a complaint.

It is important to view matters referred by FACS as an opportunity to act in good faith and identify areas for improvement, and so avoid or minimise the possibility of the issues recurring or the complainant escalating the matter.



For more information, refer to the [How FACS handles contracting complaints](#) fact sheet on the FACS website.

To respond to complaints forwarded by us, FACS expects your organisation's nominated representative to:

1. Commence implementing your organisation's complaint management procedure to review or investigate the matters raised.

This requires communicating with the complainant.

2. Record relevant details of your organisation's findings in Part 3 of the *Contracting complaint referral form*.
3. Return the completed form to FACS within the timeframe specified.

FACS may request a short turnaround time, depending on the reason for the referral. In either case, the timeframe will be communicated clearly on the referral form.

If the matter will take longer than expected to investigate, notify FACS within the timeframe specified.

Requirements for your complaint management system

This section provides an overview of the necessary components of your organisation's complaints mechanism, as required by the contract with FACS.

At any time, FACS is able to request copies of the documents referred to, together with any other material relevant to any complaint.

Requirements for your complaint management process

Your organisation must have a documented complaint management process that is regularly reviewed and updated to deal with any complaint about the contracted services.

We recommend this process aligns with the FACS process to allow streamlined and efficient resolution of complaints. This includes:

1. Sending an acknowledgment letter to the complainant within 5 business days of receiving the complaint.

2. Sending a resolution and closure letter to the complainant within 20 business days of acknowledging the complaint.
3. If the matter will take longer than expected to investigate, sending a letter to the complainant explaining the reason, within 20 business days of acknowledgement.
4. Advising the complainant that if they are unsatisfied with the resolution or outcome of the complaint they may also complain to FACS or a relevant authority such as the NSW Ombudsman.
5. Having a process to receive anonymous complaints.
6. Making your complaint management process document publicly available.

As part of having an effective complaints mechanism as agreed in the contract, FACS expects your organisation to keep and maintain proper records, including a complaint register that records accurate details and allows tracking of all complaints received in relation to the contracted services. This may include a spreadsheet to log and summarise all complaints received, and a separate folder in your document management system for each complaint handled.

Note that these requirements for your complaint management process are based on the NSW Ombudsman’s best-practice guidelines. FACS is subject to the same requirements.

Requirements for information to be publically available

Best practice complaint management is for your organisation’s website to include clear information for clients, their advocates and the general public about:

- what they can complain about

- how to make a complaint
- how to make an anonymous complaint
- when to involve FACS or the NSW Ombudsman
- how to escalate a complaint already made, including escalating to FACS and other government departments that fund the delivery of your services.

If you do not have a website, send the complainant a fact sheet with this information following receipt of a complaint.



The FACS complaint management process is outlined in the [How FACS handles contracting complaints](#) fact sheet on the FACS website.

Dealing with unreasonable complainant conduct

Unreasonable complainant conduct is any behaviour by a current or former complainant that, because of its nature or frequency, raises substantial health, safety, resource or equity issues for the parties to a complaint.

Even if a complaint appears to be motivated by malice, it must be reviewed on its own merits as it may raise a legitimate issue.

There is no one-size-fits-all approach to managing unreasonable complainant conduct. To deal with it, you can include strategies such as:

- limiting the complainant to a sole contact point
- restricting the subject matter of communications
- restricting communication to being in writing only
- limiting or terminating access to services (which requires a specific procedure to be followed).

If your organisation decides to implement any of these strategies, ensure it is well-documented in case the complainant escalates the matter to FACS, another state, territory or federal authority, or other interested party.

To assist you, the NSW Ombudsman’s model policy and procedure on unreasonable complainant conduct is linked in the *Resources* section at the end of this guide.

Responding to complaints being managed by FACS

From time to time, FACS may be required to investigate a contracting complaint made to us about your organisation.

FACS investigates and manages complaints about service providers when the complainant alleges that the service provider:

- denied a client access to its services or provided insufficient service
- may not have a complaint management process
- may not have dealt with the complaint according to its complaint management process
- may not have addressed the substance of a complaint.



For information about allegations of misconduct and whistleblowing, refer to the guide to [Dealing with allegations of misconduct and protecting whistleblowers](#) on the FACS website.

FACS is required to assess whether the matters raised:

- are an exception or one-off circumstance
- are indicative of underlying issues that FACS can assist with.

To make this determination, FACS will communicate with you, in writing:

- asking for a response to the complaint and the issues it raises
- providing examples of what is required to be included in your response
- specifying a clear timeframe for the response.

This affords your organisation an opportunity to assure FACS that proper process was followed.

Note that if the timeframe is short it is because:

- under the contract, it is expected or required that you have the information readily available to provide to FACS on request. This includes copies of your complaint management policy and complaint register
- FACS aims to resolve the complaint within the 20-business-day timeframe.

Depending on your response, FACS may have to investigate the matter further, or may work with your organisation to reach an agreement on how to address the issues raised in the complaint. FACS works with services providers to resolve issues informally, or formally through a *Service Development Plan* or *Performance Improvement Plan*, depending on the severity of the issues.



For more information about *Service Development Plans* and *Performance Improvement Plans*, refer to the [Glossary for funded contract management](#) on the FACS website.

Resources

These resources will assist your organisation to develop a fit-for-purpose complaint handling process that accords with best practice.

Complaint handling

[*Complaint handling by charities and not-for-profits*](#), Justice Connect

[*Model internal reporting policies*](#), NSW Ombudsman

[*Better practice guide to complaint handling*](#), Commonwealth Ombudsman

Handling vexatious or unreasonable complainants

[*Managing Unreasonable Complainant Conduct Manual*](#), NSW Ombudsman

[*Managing unreasonable complainant conduct – a model policy and procedure*](#), NSW Ombudsman

[*Unreasonable complainant conduct*](#), Commonwealth Ombudsman