

POLICY TITLE
COMPLAINTS POLICY & PRACTICE GUIDELINES

Supporting Policies	All CHSS Policies and practice Guidelines
Policy Reference No	<i>Issue No. 2</i>
Policy Authorisation	Chief Executive Officer, Committee of Management
Policy Administration Manager Policy development	Research, formulation, drafting and review
Manager Human Resources	Implementation and Consultation
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Review Date	23 October 2006

1.0 Organisational Context

Central Hume Support Services has a legal and moral responsibility to ensure, where reasonably practicable, that staff and clients of CHSS are not subjected to unlawful discrimination, harassment, and victimisation or bullying.¹ CHSS is committed to providing all staff with a supportive work environment and all clients with a high standard of care and support. The **Complaint Resolution Process** detailed in this document aims to resolve staff or client complaints fairly, with an emphasis on resolving conflict at a local level and improving work relations. This policy **does not reduce the rights of an individual** under State and Federal law to pursue a complaint through an External Advisory Service such as Human Rights and Equal Opportunity Commission (Cth) or the Equal Opportunity Commission (Vic).²

¹ 'Staff' refers to the combined workforce at CHSS – paid employees such as permanent; part time; casual and temporary. It includes unpaid workers such as volunteers and reimbursed workers such as foster carers.

² **Once an external agency has been engaged that agency's process takes precedence over CHSS'.**

2.0 Policy Intent

The intent of this policy is to:

- Allow CHSS to deal with complaints from staff about the behaviour of other staff, or matters that adversely affect their ability to work productively in a positive environment.
- Allow CHSS to deal with complaints from clients about the behaviour of other clients, staff or any other person associated with CHSS, or matters affecting a clients' support or standard of care provided to them by CHSS.
- Provide an option whereby complaint matters are amicably resolved through cooperation and conciliation at a local level.
- Ensure that no staff member or client is discriminated against at work or whilst supported by CHSS as a result of using the complaints procedure.
- Ensure that all staff or clients are provided with the opportunity to directly refer serious matters including discrimination or harassment to:
 - Relevant Line Manager;
 - Human Resource Manager;
 - Chief Executive Officer;
 - Committee of Management;
 - External advisory services such as HREOC (Cth), or Equal Opportunity Commission (Vic), or the Homeless Advocacy Services (HAS), or other advocacy services.

3.0 Application

3.1 This policy applies to the entire CHSS workforce and clients of CHSS - their parents; families; relatives; friends; support persons or advocates; service providers or other professionals and agencies lodging a complaint relating to:

- Decisions, processes or actions by staff or clients of CHSS. This might include issues related to workload or allocation of tasks or breaches of CHSS' policies, standards of care and support provided or omitted; or
- interpersonal conflict; or

- unlawful discrimination, harassment (including sexual), victimisation or workplace bullying or violence.

4.0 Legislation/ Principles

4.1 This policy and its associated practice guidelines are subject to the Information Privacy Act 2000 (VIC) and Information Privacy Principles (IPPs) regulating the manner in which information is collected, stored, disclosed and destroyed.

4.2 This policy and its associated practice guidelines are maintained by the following **key principles**:

- Any complaint received by CHSS shall not be discouraged.
- All complaints shall be received and handled with dignity, openness, in a confidential manner and in the spirit of helpful cooperation.
- All complainants shall be treated in a fair and equitable manner.
- Where reasonably practicable, complaints will be resolved at their point of origin.
- Complaints will be properly considered and any remedial action taken as soon as is reasonably practicable.
- The rights of an individual shall be considered and maintained throughout the complaints process.
- Any and all decisions taken in resolving a complaint are subject to a review process

5.0 Categories of Complaint

5.1 Verbal (Minor) - is a verbal expression of dissatisfaction that is of a minor nature and can be dealt with courteously and immediately to the complainants' satisfaction. If the complainant remains dissatisfied, the complaint becomes **Verbal (Major)**.

5.2 Verbal (Major) - are verbal expressions of dissatisfaction that cannot be resolved immediately. These can be perceived or actual **Major** departures from the standards of care expected by a staff member, client or other person/agency, or accepted legal, ethical or professional guidelines/standards or work practices.

5.3 Written - any expression of dissatisfaction by a complainant made in writing to CHSS. The complaint may be in the form of correspondence, email, notes or feedback forms.

5.4 Notifiable – any expression of dissatisfaction made by a complainant either verbally or in writing that involves allegations of assault and/or abuse. Statutory reporting requirements must be followed and adhered to in these instances.

6.0 Policy Statement

CHSS is committed to maintaining a fair and productive workplace and providing a high standard of care.

6.1 All CHSS staff are expected to behave in a professional manner that respects the rights of others and contribute to an environment that is free from unlawful discrimination, harassment and workplace bullying.

6.2 Equally, all clients of CHSS are expected to behave in a manner that respects the rights of others and contribute to an environment that is free from unlawful discrimination, harassment, workplace bullying and violence.

6.3 CHSS supports the right of any staff member or client to make a legitimate complaint without suffering any victimisation, recrimination or harassment as a result.

6.4 Managers have industrial and legal responsibilities to take all reasonably practicable steps to identify and attempt to prevent and resolve problems in the workplace.

6.5 Complaints will be treated promptly, confidentially and according to substantive and procedural fairness.

6.6 Where practicable, complaints will be resolved at a local level, with as few people involved as possible. This assists in protecting the reputation of the individuals involved; minimises the possibility of defamation litigation, and assists in the return to a productive working relationship and care environment.

6.7 Complaint resolution aims to find an outcome that minimises detriment to ongoing relationships rather than making a finding or allocation of blame.

6.8 Complaints will be resolved through discussion, raising awareness, facilitation and mediation wherever possible. A mediator, agreed between the parties, can be engaged to assist with conflict resolution if necessary. The mediator may be a CHSS employee or a person nominated from an external organisation.

6.9 Complainants and respondents can have a support person involved at every stage of the Complaints Resolution Process (CRP). However, that support person cannot make or pursue a complaint on the complainants' behalf.

6.10 Where a complainant is dissatisfied with the outcome of a complaint hearing, he/she may seek a review of the resolution.

6.11 The **request for a review** shall be lodged with the Chief Executive Officer **within five (5) working days** of receiving the notification of resolution. The outcome of the review will be final.

6.12 Complaints that are misconceived, lack substance, frivolous or malicious will not be pursued by CHSS.

6.13 Unlawful discrimination, harassment, victimisation or workplace bullying can lead to disciplinary action on the grounds of misconduct, or serious misconduct.

6.14 Complaints that are malicious, or intended to intimidate or harass the respondent can lead to disciplinary action or other appropriate action against the complainant on the grounds of misconduct, or serious misconduct.

6.15 Appropriate notes shall be kept to enable monitoring of the resolution and then destroyed according to the guidelines within this policy.

7.0 Responsibilities

7.1 Managers/Supervisors are to:

- Resolve complaints through appropriate management practices; and
- maintain a record of actions and decisions; and
- take all reasonably practicable steps to prevent unlawful discrimination and harassment, victimisation, bullying and violence; and
- in consultation with the Human Resource Manager, provide appropriate management, training and guidance to all staff members within direct managerial responsibilities.

7.2 Support persons can:

- Provide advice and support to any staff member or client involved in the complaint.

7.3 Respondents are to:

- Participate actively in attempts to resolve complaints; and
- refrain from victimising or harassing any complainant or others involved in resolving the complaint.

7.4 Human Resource Manager is responsible for:

- Promoting, administering, monitoring, evaluating and reporting on this policy; and
- in consultation with Line Managers, providing appropriate management training for CHSS staff; and
- providing professional advice on issues relating to management of conflict, possible approaches and implications of courses of action; and
- carrying out investigations where required and appropriate to do so.

7.5 Chief Executive Officer is responsible for:

- Receiving requests for and reviewing any and all proposed resolutions of a complaint.

8.0 This policy does not cover complaints relating to:

- Privacy issues where a complaint related to a breach of the Privacy Policy is the primary complaint – this is covered under **CHSS' Privacy Policy**.
- Complaints being considered under any other CHSS policy where an appeal process is involved – such as **CHSS' Staff Disciplinary Policy**.
- Complaints being considered under **State or Federal legislation** by an external agency.

9.0 Complaint Resolution

9.1 Any staff member or client who attempts to victimise or harass any party to a complaint during, before or after the Complaint Resolution Process (CRP), may be subject to CHSS' Disciplinary process or, in the case of clients, other action as deemed appropriate.

9.2 Such behaviour shall be referred immediately to the relevant Line Manager, Human Resource Manager or Chief Executive Officer.

9.3 Professional advice and support is available at any stage of the process for complainants, respondents and Managers from the Human Resource Manager.

9.4 Where issues are sensitive and potentially litigious, Managers/Supervisors are advised to consult with Human Resource Manager as soon as possible.

9.5 CHSS may provide access to an independent, external mediation service, free of charge to the parties involved. The financial costs for such a service shall be provided by CHSS.

9.6 When attempts at a local level complaint resolution fail or stall, and if both parties agree, the Line Manager shall apply to the Human Resource Manager or Chief Executive Officer for access to a mediator.

9.7 If access to mediation is approved, the Human Resource Manager or Chief Executive Officer – or nominee – will facilitate the engagement of an appropriately qualified and experienced mediator.

10.0 Conflicts of Interest

10.1 A conflict of interest may arise for a number of reasons, including but not limited to the following:

- Managers/supervisors may have a personal relationship or friendship with one or more of the parties (**excluding clients**) in the complaint and/or;
- Managers/supervisors may feel their personal opinion or belief on an issue prevents them from being impartial and/or;
- Managers/supervisors may feel that their previous dealings with one or more of the parties to a complaint may affect their judgment.

10.2 A conflict of interest does not necessarily mean that a manager/supervisor cannot proceed to resolve the complaint. However, the manager/supervisor shall:

1. Make it clear that a conflict of interest exists and this prevents them from handling the complaint – the matter will subsequently be referred to another Manager/supervisor;

Or

2. Make the potential conflict known to the complainant and give the person the opportunity to take the matter up with a different Manager/supervisor.

11.0 Practice Guidelines

These Practice Guidelines are designed to provide a clear and simple process for the effective handling of complaints. Other approaches that comply with this policy may be implemented if all parties agree to them. Managers/supervisors responsible for handling a complaint shall seek advice from the Human Resource Manager before varying the approach used.

11.1 Early (initial) attempt at resolution

- Every reasonable and practical option should be explored in an attempt to resolve the complaint at a local level – that is between the parties to the complaint (complainant and respondent).
- If the complaint cannot be resolved through direct one-to-one resolution, or if the complainant does not feel able to approach the respondent, the complainant has the right to seek assistance to facilitate resolution.
- Assistance may be sought from the complainant's Line Manager/ supervisor or, in the case of clients, from a support person or advocacy service such as **Homelessness Advocacy Service (HAS)**³.
- In instances where the complainant is a staff member and where the Line Manager/supervisor is the respondent in the complaint, the complainant shall approach another Manager/supervisor, or seek guidance and instruction from the Human Resource Manager in identifying an appropriate person to mediate a resolution.
- In instances where a Line manager/supervisor is the respondent in a complaint lodged by a client, the client shall be encouraged to raise the matter with the Human Resource Manager or the CEO.
- Managers/supervisors shall note actions taken to resolve the complaint and any agreed resolution and ask all parties to sign the record to indicate acceptance.
- Any documents raised in this process shall, at all times, remain strictly confidential and shall be destroyed **12 months** after the complaint was resolved – if the complaint is resolved.
- **Documents relating to a client complaint** will be handled as follows and in accordance with Privacy Legislation:

³ See end document for contact details and links to advocacy services for clients.

- Clients are entitled to the original document and are to be notified that a **copy of the original document** will be held by CHSS for a period of 12 months as a precaution against loss or damage of the original.
- If the client does not wish a copy to be held by CHSS, the original will be provided to the client with no copies made.
- The client shall be informed that in the event their original document is lost or destroyed all responsibility for that loss or destruction rests with the client and not CHSS.

11.2 Possible resolutions may include but are not limited to the following:

- Providing more information or clarifying why a decision was made or a particular process used; or
- remedying an identifiable mistake; or
- revoking an initial decision; or
- altering or adding a policy and procedure or reinforcing existing policies and procedures; or
- reconsideration of an application or request; or
- providing all or individual staff with appropriate training, counselling or information; or
- taking action against a staff member, carer or volunteer according to relevant disciplinary processes; or
- other actions deemed appropriate by management.

11.3 Guidelines for responding to complaints received by phone:

In circumstances where a staff member receives a complaint by telephone, the staff member shall:

- Ask the person whether he/she is making a complaint or providing general feedback – if the person is providing general feedback, this must be noted on a feedback form and provided to the relevant Line Manager.

If the person is lodging a complaint:

- Create a file note of the conversation to assist in forming the basis of the complaint and; (file note shall be created on a **CHSS Complaint Form**) **[attached at the end of this policy document]**.
- seek additional information to clarify the nature and history of the complaint and whether it involves a staff member or client of CHSS; and
- inform the complainant of the process to lodge a complaint and options for resolution.
- Ask the complainant if they wish to address the complaint directly with a particular staff member in the first instance or if they would prefer the matter to be referred to someone else;
- if the complainant agrees to discuss the matter with a particular staff member, inform the complainant that the request will be passed on to that person and a response should be expected as soon as practicable.
- If the complainant chooses not to discuss the matter with a particular staff member, the name and contact details of the relevant Line Manager shall be provided to the complainant.
- The staff member receiving the complaint call shall, **as soon as is practicable, inform the relevant Line Manager of the complaint call** and provide as much detail as is possible about the nature and history of the complaint and any contact details – where provided – of the complainant. The date and time of call shall be noted and provided.
- The Manager/supervisor shall arrange, as soon as is practicable, to discuss the matter with the person(s) lodging the complaint – **but no later than five (5) working days after receiving the initial complaint inquiry**.
- In the event that the Manager/supervisor discusses the matter with the complainant over the telephone, notes of this conversation shall be taken by the Manager/supervisor.
- The Line Manager/supervisor shall inform the person making the complaint that all future discussions after this initial inquiry and reply must be provided and dealt with in writing.
- Once the complaint information has been obtained and assessed by the Manager/supervisor, a reasonable opportunity shall be provided to the respondent(s) of the complaint to put forward their version of events in response to the complaint.

11.4 All correspondence relating to the complaint shall include:

- Name of complainant – where provided; and
- nature and history of the complaint; and
- steps taken in handling the complaint; and
- reasons provided for any action taken; and
- recommendations made.

11.5 Further action will not proceed if the complaint is deemed ill-founded.

12.0 Formal Resolution Process

12.1 If the early (initial) attempt at resolving the complaint fails, a **FORMAL PROCESS shall be adopted.**

12.2 A Formal written complaint shall be lodged with the relevant Line Manager/supervisor if the issue has not been resolved initially, or the issue is of such a serious nature that it requires a fully documented and formal process to be followed.

12.3 The formal complaint will be lodged with the relevant Line Manager.

12.4 Acknowledging the Complaint - The Manager/supervisor who receives a formal complaint shall acknowledge receipt of the complaint in writing to the complainant **within 5 working days**. The acknowledgement shall include:

- That CHSS takes the complaint seriously; and
- contact details of the person responsible for investigating the complaint – if this is not the manager receiving the complaint; and
- a copy of CHSS **Complaints Policy** and practice guidelines; and
- an outline of the approach the person investigating the complaint intends to use and an anticipated timeframe; and
- an offer to the complainant that they can be accompanied to any interview by a support person of their choice (providing the support person is not a witness to the issues under investigation); and
- an assurance that all parties involved in the investigation are bound by confidentiality.

12.5 Complaint Investigation⁴ - Investigations of a complaint shall be conducted in accordance with the principles of **Substantive and Procedural** fairness and in conjunction with this policy. This means:

- The complainant is to be interviewed first to clarify the allegations and details, confirm facts, explore desired outcomes and advise of the processes to be followed.
- It may be necessary to re-interview the complainant at a later stage.
- Assess the allegations in the context of CHSS' policies – whether there exists a legitimate complaint and whether the complaint lodged should be covered under this policy and practice guideline or another more suitable policy.
- Inform the respondent of the precise nature and origin of the allegation(s) as soon as is possible and ensure the respondent has an adequate opportunity to respond to the allegations – **within five (5) working days**.
- **The respondents must provide his/her response to the allegation(s) in writing.**
- The information provided to the respondent shall include the identity of the person making the complaint and when and where the alleged incident(s) took place.
- Document the allegation(s) and the respondents' response for future reference.
- If necessary, interview other parties relevant to the allegation(s) and ensure their comments are relevant to the allegation(s) made and assess whether there may be a conflict of interest or bias.

12.6 Ill-founded complaints - If, through the course of an investigation it is concluded that the complaint is ill-founded:

- The Manager/supervisor carrying out the investigation shall provide all documents and an explanatory statement to the Human Resource Manager within **five (5) working days** of receipt of the complaint.
- The Human Resource Manager shall determine whether the complaint is ill-founded.

⁴ This complaint investigation process outlined in this document does not apply to Allegations of Abuse by Carers – this is a separate policy. All matters relating to a complaint against a carer alleging abuse shall be dealt with under the specific policy.

- If the Human Resource Manager finds the **complaint is not ill-founded**, compliant procedures will be resumed.
- If the complaint is found to be malicious, intimidating or harassing, complaint procedures shall be terminated and the complainant may be subject to disciplinary procedures.

12.7 Complaint withdrawal - If the complainant does not wish to pursue the complaint:

- The complaint must be formally **withdrawn in writing** and provided to the Manager/supervisor tasked with handling the complaint.
- The Manager/supervisor handling the complaint shall notify the relevant parties **in writing within five (5) working days of the complaint being withdrawn**, that the complaint has been withdrawn.
- **If the complaint is of a serious nature**, CHSS reserves the right to continue with the investigation and decide upon an outcome regardless of whether the complaint is withdrawn.

13.0 Complaint Resolution Process

13.1 Proposing a Resolution – The Manager/supervisor investigating the complaint may propose a resolution and provide the complainant and respondent with the opportunity to comment upon it.

13.2 A resolution may include any one or a number of those mentioned at [11.2] and will depend upon the circumstances of the case.

13.3 A resolution will not be offered where:

- The resolution sought is not practicable and/or reasonable; or
- the issue should be addressed under another CHSS policy instead of CHSS **Complaints Policy**.

13.4 The Manager/supervisor who received the complaint shall determine the resolution, based on the results of the investigation and the responses of the parties involved.

13.5 The Manager/supervisor shall inform the complainant and respondent of the proposed resolution and provide the supporting reasons in writing as soon as reasonably practicable.

13.6 The complainant may seek a **Review of the Complaint Resolution** by writing to the Chief Executive Officer. This must be lodged **within five (5) working days** of the notification of the resolution.

13.7 Acceptance of the resolution – If no request for a review is received from the complainant **after five (5) working days** of being notified of the resolution, the respondent will be notified in writing that the complaint has been resolved. The complaint will, after this point, be concluded.

13.8 Monitoring the resolution – Where appropriate, the Manager/supervisor shall arrange for actions arising from the resolution to be monitored in writing. This might include:

- Requesting evidence of attendance at any agreed training workshop.
- Setting a meeting to review progress.

13.9 Document confidentiality - The Manager/supervisor and the person nominated to investigate the complaint shall ensure **all notes/records** relevant to the complaint investigation and resolution are **kept strictly confidential**.

14.0 Complaint Review Process

14.1 Responsibility for the Review – The Chief Executive Officer has ultimate responsibility and decision-making for all complaint reviews.

14.2 If requested, a review of the complaint process – including its investigation and outcomes - shall be initiated **no later than five (5) working days** from the date of receipt of the review application.

14.3 No person with direct involvement in the decision or matter that is the subject of the complaint shall participate in any review of the resolution.

14.4 If the Chief Executive Officer has direct involvement in the decision or matter under investigation, he/she shall be excused from participating in any review and refer the matter of review to a nominated person/body.

14.4 The complainant shall be given the opportunity to indicate if the Chief Executive Officer is likely to have a conflict of interest in considering their review application.

14.5 Outcome of Review: The Chief Executive Officer shall take account of the findings of review and make the following decisions:

- The resolution to be adopted or;

- if the complaint was not substantiated, recommend that no further action be taken and advise the complainant/respondent in writing; or
- refer the matter back to the Human Resource Manager/Line Manager/supervisor/mediator to ensure the policy is complied with in substance and in a manner appropriate to the circumstances; or
- recommend disciplinary action as per CHSS Staff Disciplinary Policy and practice Guidelines; or
- in the case of a client of CHSS, action appropriate to that person's case/care plan and/or support agreement.

15.0 Recording of Complaints

15.1 The recording of accurate data concerning complaints is the responsibility of all CHSS staff. Critical data to be collected comprises of:

- File name (cover of file); and
- Classification of complaint; and
- Steps taken to handle/resolve the complaint; and
- Outcome of the complaint.

15.2 Complaint reports are to be provided the Line manager monthly to:

- Human Resource Manager.
- Chief Executive Officer.
- Committee of Management.

15.3 Complaint reports can be used for Service delivery improvements and/or resource allocation purposes

15.4 All final documents relating to a complaint shall include:

- All actions taken to resolve the complaint and the agreed resolution and;
- be signed by the parties to the complaint to indicate their acceptance of the record.

15.5 (Staff only) All records/notes of the complaint investigation, resolution and review shall be provided to the **Human Resource Manager** who shall ensure the security of such documents.

15.6 (Staff only) All documents relating to the complaint its investigation, resolution and any review, shall be kept on the staff member's file and destroyed **after 12 months of the complaint being formally resolved.**

15.7 (Staff only) Disciplinary action may be taken where any unauthorised/unnecessary disclosure of information occurs.

13.0 Definitions

Client: Is any person(s) currently supported/case managed/or residing in a CHSS managed and operated premises.

Complainant: Is the person who has made a complaint.

Complaint: Is the notice of an occurrence in connection with an endorsed CHSS activity or a specific behaviour that a staff member believes adversely affects their work.

Facilitation: Is a process in which a third party assists the parties involved to identify the problems to be resolved, acknowledges injured feelings and identifies the positive opportunities emerging through the interactions, and actively encourages them to accept an offer of resolution. The focus is on acknowledging the feelings of the parties so they can focus on the actions needed to restore the working relationship.

Harassment: Is unwelcome and offensive or intimidating behaviour or comments. Harassment can include being subjected to unwelcome and offensive images.

Ill-founded complaints: Are those deemed to be mischievous, frivolous, malicious, misconceived, lacking in substance, or containing spurious information.

Investigator: Is a person nominated by the supervisor to investigate the facts of the complaint and make a recommendation for action.

Manager/Supervisor: As used in this policy, refers to CHSS employees that have responsibility for the management of staff.

Mediation: Is a process in which a third party (the mediator), acts as an intermediary between the opposing parties and intercedes on behalf of the other party in order to assist all parties reach a resolution.

Substantive or procedural fairness: Includes the right to be heard, the right to be treated without bias, the right to be informed of allegations being made and provided with an opportunity to respond to them.

Resolution: Means an outcome to which all parties are able to agree and the resources are available to implement.

Respondent: Means the person against whom the complaint has been made.

Staff member: For the purposes of this policy and its associated guidelines, a staff member includes – paid employees such as permanent; part time; casual and temporary. It includes unpaid workers such as volunteers and reimbursed workers such as foster carers.

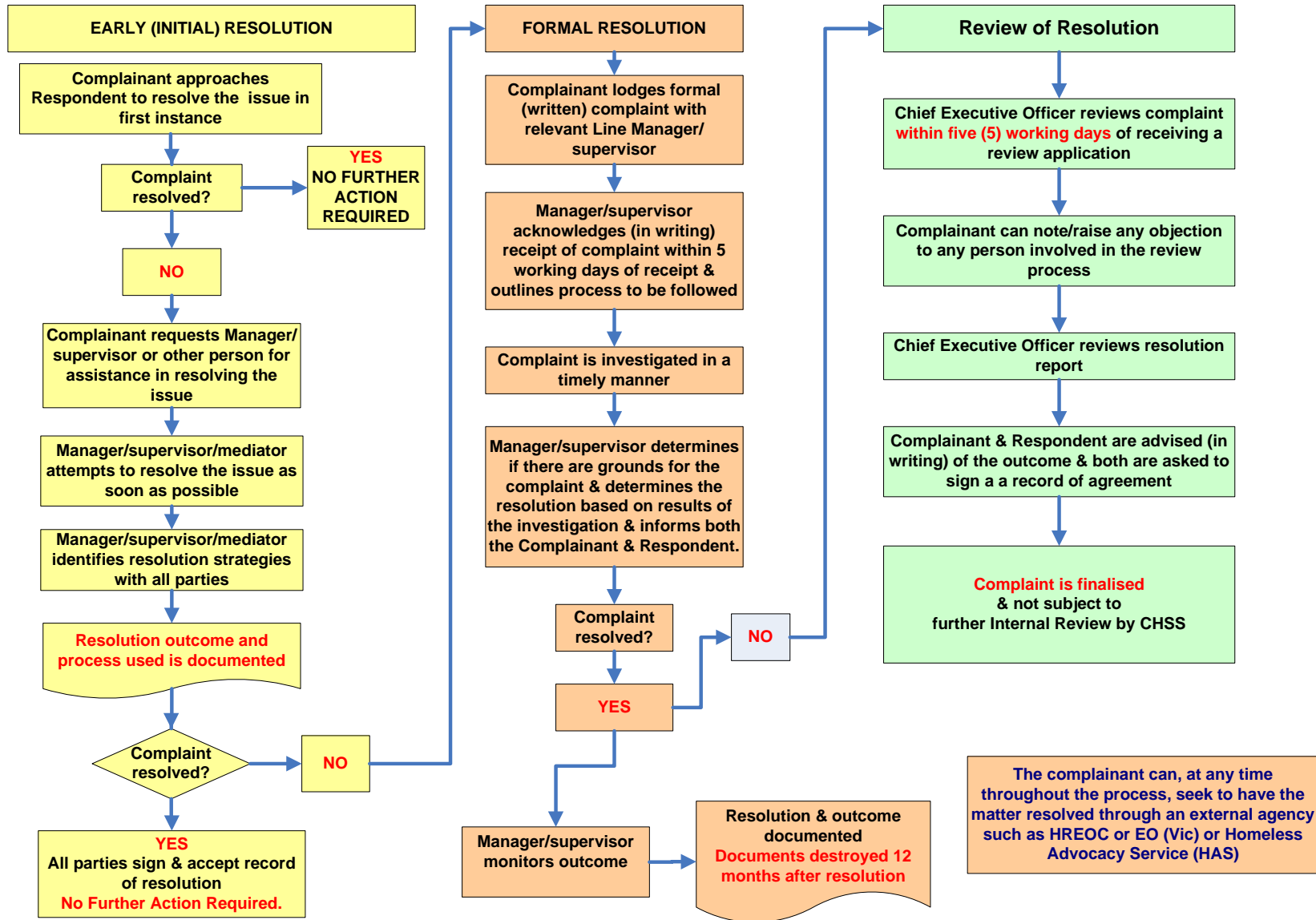
Unlawful discrimination: Involves unfair and inequitable treatment on the basis of a person's gender, sexuality, marital status, pregnancy, race, national origin, ethnic origin, disability, age, religion, trade union activity or criminal record that is irrelevant to the nature of their work.

Victimisation: Means treating someone unfairly because they have acted on the rights given to them by law, or because they have supported someone else who acted on those rights.

Chief Executive Officer

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Date:



CONTACT DETAILS & LINKS TO CLIENT ADVOCACY SERVICES

Council to Homeless Persons
Homelessness Advocacy Service
Freecall – 1800 066 256

Disability Rights Victoria
Disability Advocacy and Information Service
Wodonga
Phone: 02 6056 2420

Privacy Victoria
Phone - 1300 666 444

Federal Privacy Commissioner
Privacy Hotline - Toll free 1300 363 992

Equal Opportunity Commission Victoria
Enquiries (03) 9281 7100
Toll free: 1800 134 142

Human Rights and Equal Opportunities Commission
Telephone: (02) 9284 9600
Complaints Info line: 1300 656 419
Privacy Hotline: 1300 363 992
<mailto:newcomplaints@humanrights.gov.au>

You can write to the Commission outlining your complaint. You should address your complaint to:

**Director,
Complaint Handling
Human Rights and Equal Opportunity Commission
GPO Box 5218
Sydney NSW 2001**