

# Authorised officer complaints management



Environment  
Protection  
Authority Victoria

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Policy

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## 1. Background

The primary role of EPA Victoria's (EPA) authorised officers is to ensure duty-holders comply with the *Environment Protection Act 1970* (the EP Act). They do this by inspecting businesses and premises, providing guidance and advice about how to comply and enforcing the law where necessary.

EPA values transparency and accountability in its employees and practices. Authorised officers are appointed certain powers under the EP Act to do their job. EPA expects its authorised officers to exercise their powers with a high standard of professionalism and impartiality. EPA does not tolerate improper conduct by our employees. If a complaint relating to improper conduct by an EPA authorised officer is received, EPA investigates the complaint to determine if it is justified and takes appropriate action in line with this policy and associated internal standard operating procedures. EPA ensures the complaint is dealt with promptly, independently and fairly.

The *EPA authorisations: roles and powers* policy defines the role of an authorised officer.

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## 2. Policy purpose

This policy provides an overview of the authorised officer complaints process.

Specifically, this policy defines:

- what an authorised officer conduct complaint is
- who can make a complaint
- how to submit a complaint
- the complaint assessment and review process
- the complaint action(s) and final outcome.

## 3. Policy scope

This policy covers:

- the process for making external complaints about the conduct of EPA authorised officers
- the process for managing external complaints made about the conduct of EPA authorised officers.

This policy does not cover:

- external complaints about the conduct of non-authorised EPA staff
- external complaints about the issuing of EPA statutory tools such as Penalty Infringement Notices, Pollution Abatement Notices and Clean Up Notices
- external complaints relating to commercially sensitive information under section 60 of the EP Act.

This policy also does not cover the investigation of external complaints against authorised officers relating to the *Protected Disclosures Act 2012*. These include disclosures about one of the following:

- corrupt conduct
- substantial mismanagement of public resources
- a substantial risk to public health or safety
- a substantial risk to the environment
- criminal activity.

These complaints are receipted by the authorised officer complaints management process, however they are investigated according to the [Making and handling protected disclosures procedure 2015](#).

## 4. What is an authorised officer complaint

EPA defines a complaint as an external expression of dissatisfaction about inappropriate conduct of an authorised officer. Conduct is how the EPA authorised officer behaves in a particular place or situation while performing their statutory role. An authorised officer conduct complaint is referred to as 'complaint' in this document.

## 5. Who can make a complaint

Any member of the public or person who has a duty or obligation under the EP Act (a duty-holder) can make a complaint if they believe there is an issue regarding the conduct of an authorised officer. In this document, the person who has made the complaint is referred to as the complainant..

## 6. What can complainants complain about?

Complainants can make complaints regarding:

- inappropriate conduct by an authorised officer as detailed in section 6.2 whilst performing their powers as detailed in section 6.1
- any other interaction with an authorised officer within the context of their statutory role.

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## 6.1 What powers do authorised officers have?

Under the EP Act, EPA authorised officers have the following powers to perform their role:

- enter any site or premises at any time and make inquiries and assess compliance
- direct or require immediate action to reduce an impact or potential impact to the environment
- issue a notice to require an environmental impact or risk to be remedied, including a requirement to clean up, stop works, install controls or change a process or activity
- take photographs, films, audio, video or other recordings
- take samples, including drilling bores
- require information such as reports, books, plans or maps relating to pollution or waste discharge
- enter private property where it is reasonably suspected that pollution is occurring.

The exercise of these powers must be in accordance with the law.

## 6.2 Examples of inappropriate conduct

Examples of inappropriate conduct by authorised officers can include the following:

- interaction or communication was offensive
- authorised officer was rude or abrupt
- an abuse of power, such as an authorised officer has been biased, behaved improperly or misused their authority
- aggressive behaviour
- public behaviour that reflects badly on EPA, such as reckless driving of an EPA vehicle
- failure to supply sufficient information to allow compliance.

## 7. How to make a complaint

A complaint against an authorised officer is a serious issue. All authorised officer complaints must be submitted in writing so EPA can obtain as much accurate information as possible.

All complaints must be submitted using the authorised officer complaint form.

Complete and submit the form online at [www.epa.vic.gov.au](http://www.epa.vic.gov.au).

Alternatively you can call EPA's Customer Service Team on 1300 EPA VIC (1300 372 842) to be sent a hard copy complaint form.

### 7.1 Information included in the complaint form

All the information provided in a complaint must be true, accurate and complete.

Complainants must keep the following in mind when making a complaint to EPA:

- provide complete and factually correct information
- do not include false or misleading information
- do not lodge frivolous, vexatious or malicious complaints
- write complaints in a polite and respectful manner.

The complaint form also allows complainants to inform EPA of what action(s) they believe should be taken to resolve the problem. This may include an explanation, further information or written apology. Any resolution action(s) suggested must be written constructively and be reasonable, realistic and proportionate to the alleged complaint.

### 7.2 Anonymous complaints

EPA handles all information provided in connection with the complaint in accordance with the *Privacy and Data Protection Act 2014* and it will only be used for the associated complaint review.

However, EPA are aware some people prefer to be anonymous. Anonymous complaints are difficult to assess as the complainants cannot be contacted to provide more information about the allegations. As a result, anonymous complaint assessments are limited to the content of the complaint form. Consequently, any consideration of the issues raised or review conclusions cannot be reported back to the complainant.

Consistent with this policy, anonymous complaints undergo a preliminary assessment to determine if there is sufficient information

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to enable a comprehensive assessment of the allegation(s). Where there is insufficient information to progress, such complaints are recorded but no further action is taken.

To submit an anonymous complaint, please use the authorised officer complaint form leaving out personal details.

## 7.3 Special needs cases

EPA acknowledges that not all complainants have the capacity to complete a written complaint.

Such complainants may include people that have sensory or visual impairment or English as a second language. In situations where special needs exist, the complainant can:

- have the form completed by someone else on their behalf, or
- contact EPA's Customer Service Team on 1300 EPA VIC (1300 372 842) for assistance.

## 7.4 Where to send EPA authorised officer complaint forms

Completed complaint forms, can be submitted using one of the following confidential options:

|               |                                                                                                             |
|---------------|-------------------------------------------------------------------------------------------------------------|
| <b>Online</b> | <a href="http://www.epa.vic.gov.au">www.epa.vic.gov.au</a>                                                  |
| <b>Post</b>   | CONFIDENTIAL<br>Manager – Operations Capability<br>EPA Victoria<br>GPO Box 4395<br>Melbourne, Victoria 3001 |

## 8. Authorised officer complaints process

The following section outlines some of the key components of the process used to investigate a complaint against an authorised officer. A full process overview is provided in Appendix 1.

### 8.1 Complaint Review Panel

The Complaint Review Panel (CRP) is a three member senior internal panel. The CRP reviews all external conduct complaints against authorised officers and reaches majority agreement on complaint action and outcome. Members of the CRP are not directly involved in day to day authorised officer activities and are selected to provide an independent and consistent review of all authorised officer complaints.

### 8.2 Complaint case manager

The Complaints Management Administrator assigns each complaint a case manager from a pool of senior EPA employees who work in roles independent of direct field work. The case manager:

- performs the complaint assessment by gathering independent and factual information
- presents the assessment report to the CRP
- does not make recommendations regarding complaint action and outcome.

In the case where an EPA case manager does not have the appropriate skills to perform the complaint investigation, the CRP will appoint an external case manager.

### 8.3 Complaint assessment and review

The case manager performs a preliminary assessment to determine if the case requires a full investigation.

The case manager liaises with the complainant, authorised officer and associated witnesses to obtain the facts. Throughout the review the main sources of information include:

- the completed authorised officer complaint form
- documentary evidence (records)
- information from site inspections (e.g. inspection reports)
- oral evidence (recollections, observations).

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The case manager maintains a confidential assessment record, including all discussions, telephone calls and interviews. Finally, the case manager prepares an assessment report to present to the CRP.

## 8.4 Making a final complaint decision

The CRP makes a final decision on the complaint based on the weight of evidence and on the balance of probability. In the absence of a consensus between the three members, a majority vote is required. The final complaint decision will be one of the following:

- complaint not justified (authorised officer did not demonstrate inappropriate conduct)
- compliant justified (authorised officer not at fault - failing in system or process)
- complaint justified (authorised officer at fault - demonstrated inappropriate conduct)

## 8.5 Complaint action

Where the CRP decide the complaint is justified, that is, the authorised officer demonstrated improper conduct, an appropriate action is required to address the complaint.

Depending on the nature of the complaint, the CRP may recommend one or more of the following actions:

- an explanation
- an apology
- mediation
- a change in policy, procedure, practice or training
- disciplinary action, including suspension or cancellation of authorised officer status, termination of employment etc.

## 9. What to expect from EPA

EPA manages complaints regarding authorised officers as promptly as possible. Management of such complaints is done in line with this policy and associated internal standard operating procedures.

### 9.1 Process timelines

EPA sends an acknowledgement letter to the complainant within 5 business days of receipt of the complaint.

EPA attempts to resolve all authorised officer complaints within 20 business days of initial receipt with the following exceptions:

- allegations of abuse of power by an authorised officer (45 business days).

Depending on the nature and complexity of the complaint, it may not be possible to resolve the complaint within the allocated time. Some complaints are reasonably straightforward and can be resolved promptly without the need for a full review. Some complaints are more serious and require an in depth investigation.

If EPA believe the review may exceed the time limit, EPA will inform the complainant in writing, with a revised completion due date.

Where the complaint is the subject of, or involved in court or tribunal proceedings, review of the complaint will be put on hold until the litigation is complete.

### 9.2 Notification of complaint outcome

When the outcome of the authorised officer complaint is finalised, the complainant will receive a letter with a summary including:

- complaint final decision (outcome)
- complaint action (if relevant).

### 9.3 Are authorised officers made aware of the complaint against them?

The authorised officer is notified of all external conduct complaints made in relation to them upon receipt of the complaint.

The authorised officer:

- is notified that a complaint has been made against them
- is interviewed as part of the assessment/review
- is updated during the process
- has the opportunity to respond in the event of an adverse finding

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- is informed of the complaint final decision and action (if relevant)
- has internal/external support available throughout the process.

## 9.4 Will the authorised officer be subject to restrictions during the complaint review?

Generally, no internal restrictions, such as suspension of authorised officer status, will be placed on the authorised officer during the review. If required, restrictions will only be applied at the completion of the complaint review.

## 9.5 Complaint withdrawal process

If the complainant wishes to withdraw a complaint, they must send a written request to withdraw to the Manager of Operations Capability as detailed in section 7.4. Alternatively, the complainant can send an email to: [authorisedofficercomplaints@epa.vic.gov.au](mailto:authorisedofficercomplaints@epa.vic.gov.au).

## 10. Challenging EPA's complaint decision

Where a complainant is not satisfied with EPA's final decision, the complainant can contact Victorian Ombudsman.

Victorian Ombudsman  
Level 9, North Tower 459 Collins Street  
Melbourne, Victoria 3000

Phone: 03 9613 6222  
Fax: 03 9614 0246

Email: [ombudvic@ombudsman.vic.gov.au](mailto:ombudvic@ombudsman.vic.gov.au)  
Website: [www.ombudsman.vic.gov.au](http://www.ombudsman.vic.gov.au)

## 11. Continuous improvement

EPA is committed to continuous improvement. Improvements identified as part of the authorised officer complaints process, such as amendments to procedures or additional training, are implemented where appropriate.

The authorised officer complaints management process enables reporting on routine, defined key performance indicators. This may identify negative trends or reoccurring systematic complaints.

## 12. Further information

For further details on this policy, contact EPA Victoria on 1300 372 842 (1300 EPA VIC).

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## Appendix 1. Overview of the Authorised Officer complaints process

