



PTO BOARD POLICY

This is a PTO Board Approved Policy.
Amendments cannot be made
without Board approval

PTO Internal Complaint Handling Policy

March 2014

The PTO recognises that complaints about its operations provide an opportunity to review and improve existing systems and procedures. Accordingly, the PTO has a fair, accessible and transparent internal complaint handling policy and process.

The PTO complies with the *National Benchmarks for Industry-Based Customer Dispute Resolution Schemes 1997*¹. Clauses 6.5-6.8 of the Benchmarks require dispute resolution schemes to have effective procedures for receiving and dealing with complaints about the scheme.

Types of complaints

The PTO may receive complaints from consumers or operators (public transport operators who are members of the PTO scheme) about any action, omission, or decision made during case handling or about the service provided by PTO staff and the Ombudsman. Complaints can include a failure to comply with the PTO Constitution, Charter, policies and procedures. We categorise complaints in the following way:

1. Complaints about Case Handling;
2. Complaints where a PTO Manager has closed a complaint after deciding that no further investigation was warranted (NFI);
3. Complaints about jurisdictional decisions; and
4. Complaints about the operation of the PTO scheme or the Ombudsman.

Further information about each complaint category is outlined below.

Complaints about how the PTO has handled an individual's personal information may be made under the PTO's Privacy Policy. A copy of the Policy is available on our website or on request.

Who can make a complaint?

Anyone who has accessed, or been refused access to the PTO's services can make a complaint. This includes consumers, their authorised representatives and operators.

How will complaints be handled?

Every complaint will be treated seriously and will be reviewed openly, efficiently and fairly. If requested the complaint will be escalated to a PTO Manager.

If the PTO has made a mistake, it will be acknowledged and appropriate action to remedy the situation will be undertaken.

¹ The *National Benchmarks for Industry-Based Customer Dispute Resolution Schemes 1997* can be viewed:
<http://www.anzoa.com.au/National%20Benchmarks.pdf>

Where appropriate, the PTO will implement improvements to policies and processes to prevent the future recurrence of complaints.

Timeframes for handling complaints

A complaint will be acknowledged by the PTO within one business day of receipt.

- After the receipt of an escalated complaint about case handling, a comprehensive response will be provided to the consumer or operator within seven business days, this may be provided verbally or in writing. The Ombudsman will be informed of every escalated complaint about case handling within seven business days of receipt of the complaint (whether it has been finalised or not).
- The consumer or operator will be provided with a substantive response to any review undertaken by the Ombudsman regarding case closure or jurisdictional disputes within 20 calendar days.

If additional time to complete a thorough review a complaint is needed, the PTO will contact the consumer or operator within seven business days of receipt of the complaint to provide a revised timeframe for response.

Recording Complaints

Complaints about case handling which are responded to by a PTO Officer or PTO Manager will be recorded within the Resolve case file and will include a summary of the complaint and the findings of any review.

An Internal Complaint Register will be maintained by the PTO for recording summaries of complaints reviewed by the Ombudsman regarding case closures or jurisdictional disputes, any findings and any action taken by the PTO in response to the findings.

The Ombudsman's Report to each PTO Board Meeting will include information about complaints reviewed by the Ombudsman during the preceding period.

A de-identified summary of any complaints reviewed by the Ombudsman, following the closure of an investigation by a PTO Manager under clause 6.3 (c) of the PTO Charter and formal jurisdiction reviews made under this policy will also be reported in the PTO Annual Report.

1. Complaints about Case Handling

In line with established alternative dispute resolution principles, the PTO asks that consumers and operators raise any concerns they have with the handling or progress of a case with the relevant PTO Officer in the first instance.

The PTO Officer is required to make a record of this feedback and take appropriate steps to address the concerns raised. The PTO Officer must inform their manager of the complaint and how it has been addressed.

Escalation of complaints about case handling

A complaint will be escalated to the Operations Manager (or other PTO Manager where appropriate) for review, if the consumer or operator:

- advises the PTO Officer that they are not satisfied with the approach taken to address the concerns they have raised;
- requests to speak to the PTO Officer's Manager;
- raises serious issues about the conduct of the PTO Officer; or
- makes a formal complaint in writing.

Where a complaint is made about the Operations Manager's handling of a complaint, it will be immediately referred to the Ombudsman for review.

The Ombudsman will also deal directly with:

- complaints that allege serious misconduct, including a conflict of interest, criminal conduct or corruption by a PTO Officer, or conduct which if substantiated, may result in the termination of the PTO Officer's employment; and
- complaints where the consumer or operator threatens legal action against the PTO.

The PTO Manager/Ombudsman will ask the consumer or operator to provide all relevant information about their concerns and to outline how they want the concerns addressed or resolved. A fair and open investigation will be undertaken and may include a review of:

- all relevant PTO case records;
- the consumer or operator's statement about the way the case has been handled;
- any new or additional information which the consumer or operator has provided that may be relevant to the handling of the case;
- the PTO Officer's account of the issues raised; and
- the PTO Officer's adherence to relevant policies and procedures.

Outcomes of complaints about case handling

Once all relevant information has been obtained and reviewed, the consumer or operator will be informed of the outcome of the PTO's investigation. This will occur within seven business days, unless otherwise specified during the review of the complaint.

Outcomes of complaints may include, but are not limited to:

- providing the consumer or operator with a summary of the findings of the review, either verbally or in writing;
- where appropriate, reallocation of the case to another PTO Officer;
- providing the consumer or operator with details about how PTO policies, procedures and training will be improved to prevent a recurrence in the future; and/or
- providing the consumer or operator with an apology.

The PTO Manager will confirm whether the consumer or operator is satisfied with the outcome of the review. If satisfied, the review will be finalised and no further action taken.

If the consumer or operator remains dissatisfied with the outcome of a review undertaken by a PTO Manager, the complaint will be escalated to the Ombudsman for review.

Details of the review and any findings will be recorded in the Resolve case file by the appropriate PTO Manager.

Improvement to PTO services

The PTO Officer involved will be provided with a summary of the review, any findings and any resolution options provided to the consumer or operator.

Any staff performance issues identified will be addressed through training, coaching or other appropriate actions in line with the PTO's Performance Development processes.

Any areas identified for PTO systems, policies and process improvements will be acted on accordingly.

2. Complaints about a PTO Manager's decision to close a case under the PTO Charter

Consumers may complain about a PTO Manager's decision to decline to further investigate their complaint under clause 6.3 (c) of the PTO Charter². This includes decisions where the PTO Manager is of the view that:

- the investigation to date has addressed the merit of the complaint and no further investigation by the PTO is warranted; or
- a fair and reasonable offer has been made by the operator to resolve the complaint.

The Ombudsman has delegated the authority to make these decisions to specific PTO Managers, in accordance with clause 7.2(a) of the PTO Charter.

The PTO complies with the rules of procedural fairness. Prior to a case being closed on this basis, the PTO Officer handling the complaint provides the consumer with a detailed assessment of the investigation and provides an opportunity to respond to the assessment and provide any additional or new information that would assist further investigation.

If a decision is made to close the investigation, the PTO provides the consumer with written reasons for the decision and information about how they can have the decision reviewed.

Ombudsman review process

Where a complaint has been closed on this basis by a PTO Manager, the consumer can request an Ombudsman Review within 28 calendar days of the closure of the case.

Generally, any request should be in writing, and should include reasons why the consumer believes the PTO Manager's decision is wrong and any information to support this view. A verbal request to review a closed case will be considered where special circumstances warrant it.

The grounds for a review are:

- bias;
- error or omission during the investigation; and/or
- the provision of new information, not previously available, which would materially affect the outcome of the investigation.

All reviews are undertaken by the Ombudsman, although other PTO staff may be involved in the preliminary stages of the review.

The Ombudsman is able to review discretionary decisions by PTO Manager's independently and objectively, having not been involved in the decision making process.

When conducting a review of the decision to finalise the case, all information relevant to the decision will be considered by the Ombudsman. Where necessary, further information may be requested from the consumer, operator or another party, to inform the Ombudsman's review.

Outcomes of Ombudsman's review

The Ombudsman will advise the consumer of the outcome of the review within 20 calendar days of receipt of the internal complaint.

Possible outcomes of an Ombudsman's review are:

- confirmation that the decision to close the case was correct;
- clarification of the reasons the case was closed; or
- re-opening the case so further investigation can be undertaken.

² A copy of our Charter is available on our website www.ptovic.com.au or on request.

A written response will be provided to the consumer at the conclusion of the Ombudsman's review, detailing the scope and findings of the review and any actions to be undertaken.

Where the Ombudsman decides to re-open a case, the operator will be advised of the reasons for reopening the case and the issues that require ongoing investigation.

3. Complaints about jurisdictional decisions

The PTO recognises that it may be the consumer's only available option for dispute resolution. Accordingly, all PTO staff take an inclusive approach when determining if a complaint is within or outside the PTO's jurisdiction to investigate under clause 3.1 and 4.2 of our Charter³.

If a consumer or operator is not satisfied with the PTO's jurisdictional assessment regarding an individual complaint, they may seek to have the decision reviewed.

Complaints about jurisdictional decisions should be raised with the Operations Manager and should include reasons for why the consumer or operator considers that the PTO's jurisdictional assessment is incorrect and any relevant supporting information.

The scope of a review will be limited to whether the assessment of jurisdiction was correct. A review will not include complaints about the investigation, progression or outcome of an individual complaint (please refer to Section 1 and 2 of this policy for information about complaints of this nature).

The Operations Manager (or other PTO Manager where appropriate) will review the question of jurisdiction and will advise the consumer or operator of their findings. The complaint status and case handling process remain unchanged during this review period.

- If the Manager determines that the PTO **does not** have jurisdiction to investigate a complaint, the consumer will be advised they can seek to have the decision reviewed by the Ombudsman. No investigation will be undertaken unless the Ombudsman determines that the PTO does have jurisdiction over the complaint.
- If the Manager determines that the PTO **does** have jurisdiction to investigate, the case will remain registered at the same level and an investigation will continue. The operator will be advised that if they are dissatisfied with the finding, they can seek to have the decision reviewed by the Ombudsman.

Outcome of an Ombudsman's review of jurisdiction

If, following a review, the Ombudsman determines that the complaint is not within the PTO's jurisdiction to investigate, the consumer (and operator where appropriate) will be advised of the outcome in writing.

- The consumer will be provided with information about why the complaint is out of jurisdiction and where appropriate will be provided with referral information about any agency/body that may deal with the complaint. This will be provided within 20 calendar days of the Ombudsman receiving the complaint.

If following a review, the Ombudsman determines that a complaint is within jurisdiction, the operator (and consumer where appropriate) will be advised of this finding verbally.

- If the operator remains dissatisfied, a senior executive from the operator may formally request a further review of the PTO's jurisdiction by providing a written submission to the Ombudsman detailing the basis for its view that the PTO does not have jurisdiction to investigate. This should also include the operator's own legal opinion.

³ Information about our jurisdiction can be found at <http://www.ptovic.com.au/make-a-complaint/to-the-ptov-what-we-can-do>

- The Ombudsman will consider the operator's submission and may seek independent legal advice. The Ombudsman will then respond to the operator in writing with a decision about whether the case is in or out of the PTO's jurisdiction. The complaint will continue to be investigated during this time.

If the Ombudsman finds that the complaint is in jurisdiction and the operator continues to dispute jurisdiction, the Ombudsman will notify the PTO Board of the jurisdictional dispute. Ultimately, however, it is the Ombudsman's decision to determine jurisdiction.

If the Ombudsman is of the view that the issues fall within the PTO's jurisdiction an investigation will commence/continue. If the Ombudsman is of the view that an issue does not fall within jurisdiction, the complaint will not be investigated.

4. Complaints about the operation of the PTO scheme or the Ombudsman

Complaints about the PTO scheme

Consumers and operators may complain about a broad aspect of the scheme's operation such as its awareness activities or recruitment decisions.

The Ombudsman will consider these complaints in the first instance and will respond to the consumer or operator verbally or in writing. A response will be provided within 20 calendar days of receipt of the complaint.

If the consumer or operator is not satisfied with the Ombudsman's response, the Ombudsman will refer the complaint to the Chair of the PTO Board for advice. The next steps in any review will be determined by the Chair and the consumer or operator will be advised accordingly.

Complaints about the Ombudsman

Written complaints alleging misconduct by the Ombudsman or about the Ombudsman's capacity to perform their role independently or satisfactorily will be immediately referred to the Chair of the PTO Board for investigation and response.

Please note: complaints about the operation of the PTO scheme or a complaint about the Ombudsman do not include complaints about the investigation, progression or outcome of specific cases, or complaints about jurisdictional decisions. The PTO Board will not review complaints about specific cases, investigation outcomes or jurisdictional decisions.

Availability of this Complaint Policy

The PTO Internal Complaint Handling Policy is readily available to all operators and consumers. . It is available on the PTO website and a hard or electronic copy is available on request.

The Policy is referenced in the investigation brochure provided to consumers at the beginning of a PTO investigation and in correspondence confirming case closure following a PTO Manager's decision to decline to investigate a case further.

Privacy and Confidentiality

The PTO respects the privacy and confidentiality of the people who access our services and who may make complaints about our services. We comply with the Australian Privacy Principles outlined in *Privacy Act 1988 (Cth)* regarding the collection, retention, storage and disposal of personal information.

More information about our Privacy Policy is available on our website www.ptovic.com.au.

Janine Young
Ombudsman
Public Transport Ombudsman Limited
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