



# **LOCAL GOVERNMENT PROCUREMENT**

**LOCAL GOVERNMENT PROCUREMENT PTY LTD**

## **COMPLAINTS POLICY**

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## 1. INTRODUCTION

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- 1.1 Local Government Procurement Pty Ltd (LGP) affirms and supports the right of Customers, prospective tenderers, tenderers, suppliers and members of the public to provide feedback on LGP's activities, and to have their Complaints heard and actioned. LGP recognises that feedback, both positive and negative, is essential if quality procurement services are to be provided that meet the needs of Customers and suppliers.
- 1.2 This Complaints Policy provides information on how Complaints to LGP (including allegations of breach of the Code of Conduct by external parties) should be made, and the steps LGP will take in dealing with Complaints.

## 2. PURPOSE

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- 2.1 The purpose of this Policy is to provide a framework for dealing with Complaints received from Customers, prospective tenderers, tenderers, suppliers and members of the public.

## 3. SCOPE

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- 3.1 This Complaints Policy applies to LGP's services, policies, procedures or charges carried out by LGP and its Officers, and any conduct by LGP Officers (acting in the capacity as an LGP Board member, member of staff, consultant or agent of LGP).
- 3.2 A Complaint will be deemed to be outside the scope of this Complaints Policy where:
  - 3.2.1 the Investigating Officer (Complaints Officer, LGP CEO/ Chairperson of the Audit & Risk Committee or Internal Ombudsman) suspects that a matter involves a criminal offence, the matter is to be referred to the NSW Police;
  - 3.2.2 a Complaint concerns the conduct of a Council staff member or Councillor involved in any LGP activity, (including a Councillor acting in their capacity as an LGP Board Member). The Investigating Officer may, where appropriate, refer the matter to the Councillor or Council staff member's Council, or to another appropriate External Agency for investigation;
  - 3.2.3 a Complaint is made by an LGP Officer(s) against another LGP Officer(s).
- 3.3 Where a provision of this Complaint Policy is inconsistent with a provision of a State or Commonwealth law, the relevant provision of the State or Commonwealth law must be observed.

## 4. DICTIONARY

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***Code of Conduct*** means the LGP Code of Conduct and Conflict of Interest Policy.

***Complaint*** means a formal expression of dissatisfaction or concern in relation to any of LGP's services, policies, procedures or charges, or the conduct of any LGP Officer, and includes an allegation of breach of the Code of Conduct.

**Complainant** means any person or body who makes a Complaint in accordance with the Complaint Policy, excluding an LGP Officer.

**Complaine** means the person to whom the Complaint is against.

**Complaints Policy** means this LGP Complaints Policy.

**Council** has the same meaning as under the *Local Government Act 1993* (NSW).

**Customer** means any Council, or other entity approved by LGP and/or registered as a customer.

**External Agency** includes a Council within New South Wales, the Office of Local Government, the Independent Commission Against Corruption, the New South Wales Ombudsman's Office, the New South Wales Police Service or the Federal Police Service.

**Informal Complaint** means an informal expression of dissatisfaction or concern in relation to any of LGP's services, policies, procedures or charges, or the conduct of any LGP Officer, and includes an allegation of breach of the Code of Conduct. This is distinguished from a formal Complaint as a Complaint is deemed an Informal Complaint until a Complaint Form (Appendix A) or Record of Verbal Complaint (Appendix B) is completed and has been received by an LGP Officer.

**Internal Auditor** means the Internal Auditor appointed by LGP under the *LGP Internal Audit Guidelines & Charter* and includes any personnel conducting activities on behalf of the Internal Auditor.

**Internal Ombudsman** means the Internal Ombudsman appointed as required by the LGP CEO and includes any personnel conducting activities on behalf of the Internal Ombudsman. The Internal Ombudsman will be an independent person selected from the Resolution Institute's national list of accredited probity advisers.

**Investigating Officer** means the LGP CEO, Complaints Officer and/or Internal Ombudsman.

**LGP** means Local Government Procurement Pty Ltd.

**LGP Board** means the board of directors for the time being of Local Government Procurement Pty Ltd.

**LGP Complaints Officer** means the person appointed by the LGP CEO to assess and/or investigate Complaints. The LGP Complaints Officer will be recognised independent professional.

**LGP Officer** means a member of the LGP Board, LGP staff member, or a consultant or agent of LGP.

## 5. **COMMITMENT**

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5.1 LGP is committed to:

5.1.1 recognising the right of Customers, prospective tenderers, tenderers, suppliers and members of the public to complain, offer suggestions and /or provide feedback in relation to any services provided by LGP;

- 5.1.2 providing a context in which Complaints can be made, considered and resolved with associated constructive feedback provided by LGP;
  - 5.1.3 dealing with Complaints fairly and in a manner that is respectful to Complainants;
  - 5.1.4 providing an efficient, fair, non-discriminatory, transparent and accessible mechanism for dealing with Complaints;
  - 5.1.5 ensuring that procedural fairness is afforded when dealing with Complaints;
  - 5.1.6 ensuring that Complaints are processed in a timely manner;
  - 5.1.7 monitoring Complaints so as to ensure continued improvement in the quality of services provided by LGP;
  - 5.1.8 keeping Customers, prospective tenderers, tenderers and suppliers informed about the Complaint handling process;
  - 5.1.9 keeping the relevant LGP Officer(s) informed about the Complaint handling process, if it involves the conduct of a specific LGP Officer(s);
  - 5.1.10 ensuring that allegations of breach of the Code of Conduct are treated seriously;
  - 5.1.11 providing appropriate sanctions where an LGP Officer is found to have failed to comply with the Code of Conduct;
  - 5.1.12 promoting an environment conducive to the resolution of Complaints and compliance with the Code of Conduct;
  - 5.1.13 taking appropriate remedial action where, following assessment and/ or investigation, a finding or findings are made which indicate that such action should be taken;
  - 5.1.14 using the information obtained in Complaints to identify problems and change procedures to prevent similar Complaints in the future; and
  - 5.1.15 upholding LGP's corporate values encouraging transparency and robustness in LGP's procedures and processes.
- 5.2 LGP will ensure that the Complaints Policy is accessible to all LGP Officers, prospective tenderers, tenderers, suppliers, Customers and members of the public by publishing the Complaints Policy on LGP's website and intranet.
- 5.3 Where a Complaint contains allegation(s) about the conduct of a LGP Officer, the requirements of the Code of Conduct are to be taken into account in an assessment, investigation and report of the Complaint.

## **6. KEY RESPONSIBILITIES**

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### **6.1 LGP CEO**

- 6.1.1 The LGP CEO is responsible for the following:
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- 6.1.1.1 to direct the relevant LGP Officer to seek to resolve an Informal Complaint with Complainant, once notified of the receipt of an Informal Complaint;
- 6.1.1.2 to assess a Complaint at first instance, once a formal Complaint has been lodged with LGP;
- 6.1.1.3 to appoint the Complaints Officer;
- 6.1.1.4 to refer the matter to the Complaints Officer, subject to his or her discretion and provided this decision and the reasons for the decision are given to the Complainant in writing, (Section 13);
- 6.1.1.5 to observe the Code of Conduct in exercising his or her functions;
- 6.1.1.6 to receive updates on the status of assessment of investigation of a Complaint from the Complaints Officer;
- 6.1.1.7 to receive, consider and decide whether to act upon recommendations from the Complaints Officer;
- 6.1.1.8 to ensure access and the provision of any LGP documents relevant to assessment, investigation or resolution of a Complaint;
- 6.1.1.9 to receive any conflict of interest declarations from an Investigating Officer, assess whether a conflict exists and, if so, decide how the conflict is to be handled;
- 6.1.1.10 receive the Complaints Officer's findings and recommendations following the assessment and/or investigation of a Complaint;
- 6.1.1.11 to appoint the Internal Ombudsman;
- 6.1.1.12 to ensure that a copy of any Complaint reports are provided to the Internal Auditor;
- 6.1.1.13 provide information to the LGP Contracts and Legal Officer to update the Complaints Register, and
- 6.1.1.14 include the Complaints Register as standard with LGP Board papers.

## 6.2 **Complaints Officer**

- 6.2.1 The Complaints Officer is responsible for the following:
  - 6.2.1.1 to receive the assigned Complaint from the LGP CEO, and to refer, assess, and investigate Complaints;
  - 6.2.1.2 to ensure that any assessment, investigation and reporting of a Complaint follows the rules of procedural fairness, in accordance with Section 14 of the Complaint Policy;

- 6.2.1.3 to consider, amongst other things, whether the Complaint contains allegations which, if proven, would constitute a breach or breaches of the Code of Conduct;
- 6.2.1.4 to carry out an investigation of the Complaint as he or she sees fit, subject to the provisions in the Complaints Policy;
- 6.2.1.5 to report regularly to and notify the LGP CEO in general terms, of the status of the Complaints he or she is assessing or investigating;
- 6.2.1.6 to report to the LGP CEO with any findings and recommendations, in accordance with the Complaints Policy;
- 6.2.1.7 to observe the LGP Code of Conduct, in exercising his or her functions; and
- 6.2.1.8 to provide information to the LGP Contracts and Legal Officer to update the Complaints Register.

### 6.3 **Internal Ombudsman**

6.3.1 The Internal Ombudsman is:

- 6.3.1.1 appointed by the LGP CEO and has independent status within LGP;
- 6.3.1.2 to assess and investigate Complaints referred by the Complaints Officer;
- 6.3.1.3 responsible for ensuring that any assessment, investigation and reporting of a Complaint follows the rules of procedural fairness, in accordance with Section 14 of the Complaint Policy;
- 6.3.1.4 required to notify the LGP CEO, in general terms, of the status of the assessment or investigation of the Complaint;
- 6.3.1.5 to provide a written report to the LGP CEO with any findings and recommendations in accordance with the Complaint Policy. This is subject to the obligation to comply with any confidentiality, privacy or other legal requirement;
- 6.3.1.6 to observe the LGP Code of Conduct, in exercising his or her functions;
- 6.3.1.7 at the request of the LGP CEO, to produce a separate report for the LGP CEO, the Audit & Risk Committee and the Internal Auditor, raising any issues, trends or patterns identified as a result of the assessment and investigation of Complaints under the Complaints Policy, and providing any recommendations for action in light of this analysis;

6.3.1.8 to provide information to the LGP Contracts and Legal Officer to update the Complaints Register.

#### 6.4 **Chairperson of the Audit and Risk Committee**

6.4.1 The Chairperson of the Audit and Risk Committee is charged with the responsibility of the LGP CEO in the Complaint handling process where a Complaint:

6.4.1.1 is made against the LGP CEO;

6.4.1.2 where there is a conflict of interest if the LGP CEO is involved in the Complaints handling process; or

6.4.1.3 if the Complaint is deemed to be high risk by the LGP CEO.

#### 6.5 **LGP Contracts and Legal Officer**

6.5.1 The LGP Contracts and Legal Officer has the responsibility to update the Complaints Register throughout the Complaints process, as directed by the LGP CEO.

### 7. **COMPLAINT HANDLING PROCESS - OVERVIEW**

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#### 7.1 **Informal Complaint Received**

7.1.1 Notice of an Informal Complaint received by LGP. The LGP Officer receiving the Informal Complaint is to notify the LGP CEO in writing of the details received and to further notify the LGP Contracts and Legal Officer, who will create a record of the Informal Complaint in Complaints Register.

7.1.2 Once notified of the receipt of an Informal Complaint, LGP CEO is to direct the relevant LGP Officer to seek to resolve the Informal Complaint with Complainant.

7.1.3 If the Complainant is unsatisfied with response from the relevant LGP Officer, the LGP Officer is to advise the Complainant of LGP's formal Complaints process and advise the method of lodging a formal Complaint (Section 12).

#### 7.2 **Formal Complaint Initiated**

7.2.1 Once a formal Complaint is received by an LGP Officer, it is to be immediately referred to the LGP CEO, or within 2 working days.

7.2.2 LGP CEO is to assess the Complaint and assign to the appointed Complaints Officer. LGP CEO has discretion to not refer Complaint, subject to defined criteria in Section 13.

7.2.3 The Complaints Officer will assess and investigate the Complaint.

7.2.4 Following assessment/investigation, the Complaints Officer will issue a report to LGP CEO.



- 7.2.5 The LGP CEO is to review the report and to respond to the Complainant with a copy of the report and any other information as he or she sees fit.
- 7.2.6 If the Complainant is unsatisfied with response from the Complaints Officer, the matter may then be referred to the Internal Ombudsman for assessment/investigation/reporting.
- 7.2.7 The LGP CEO is to appoint an Internal Ombudsman to assess/investigate the Complaint.
- 7.2.8 The Internal Ombudsman is to issue a report to the LGP CEO, who will respond to the Complainant with a copy of the report.
- 7.2.9 If the Complainant is unsatisfied with response from the Internal Ombudsman, the Chair of the LGP Board will review the determination of the Complaint and provide the Complainant with a response.
- 7.2.10 If the Complainant is unsatisfied with response from the Chair of the LGP Board, the Complainant may wish to contact the NSW Ombudsman directly.

## **8. COMPLAINT HANDLING PROCESS**

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### **8.1 Content of Complaint**

- 8.1.1 All relevant details requested in the Complaint Form and Record of Verbal Complaint should be completed (see Annexure A and B). Failure to complete the Complaint Form or to provide all information requested in the Record of Verbal Complaint may hinder or prevent LGP from assessing and/or investigating the Complaint in accordance with the Complaints Policy.

### **8.2 Receipt by LGP CEO**

- 8.2.1 Upon being notified of a formal Complaint, the LGP CEO is to assess a Complaint at first instance, in order to determine whether the Complaint is to be referred to the Complaints Officer, subject to discretion in Section 13.

### **8.3 Receipt of Complaints by Complaints Officer**

- 8.3.1 Upon receiving a Complaint, the assigned Complaints Officer will assess or investigate the Complaint, unless he or she decides not to assess or investigate the Complaint under Section 13.
- 8.3.2 Where the Complaints Officer refuses to assess or investigate a Complaint, the Complaints Officer is to provide the reasons to the Complainant and the LGP CEO for not investigating or assessing the Complaint. The Complainant is also to be informed that they may seek review of this decision (Section 13.2). The LGP CEO will re-assign the Complaint to another Complaints Offer.

### **8.4 Assessment of a Complaint**

- 8.4.1 The Complaints Officer may carry out a preliminary assessment of the Complaint.

- 8.4.2 Once a preliminary assessment of the Complaint has been carried out, the Complaints Officer may determine:
- 8.4.2.1 to make findings and recommendations with respect to the Complaint without conducting an investigation;
  - 8.4.2.2 to undertake an investigation into the Complaint;
  - 8.4.2.3 not to make findings and recommendations and to refuse to investigate the Complaint; or
  - 8.4.2.4 to refer the Complaint to the LGP CEO to appoint to an External Agency.
- 8.4.3 For the purposes of carrying out an assessment, the Complaints Officer may write to the Complainant to request further information with respect to any matter raised in the Complaint and may specify a date by which such information must be provided.
- 8.4.4 The Complaints Officer will carry out an assessment as he or she sees fit, subject to compliance with the Complaints Policy (in particular, affording procedural fairness in accordance with Section 14), the Code of Conduct and any other applicable laws, policies, codes or guidelines.
- 8.4.5 The Complaints Officer and the Internal Ombudsman must, in determining the findings of the investigation, decide whether any allegation of breach of the Code of Conduct discloses a *prima facie* breach of the Code.

## 8.5 Reporting the findings of an investigation

- 8.5.1 Following investigation of a Complaint, the Complaints Officer and/or the Internal Ombudsman will report relevant findings, and the reasons for those findings, in writing to the LGP CEO, the Complainant and the Complainee.
- 8.5.2 The Complaints Officer may recommend LGP take any action provided for in the Complaints Policy that the Complaints Officer considers reasonable in the circumstances.

## 8.6 Remedial Action

- 8.6.1 The Complaints Officer and/or Internal Ombudsman may recommend any of the following action be taken to resolve a Complaint or to act as a sanction for breach of the Code of Conduct:
- 8.6.1.1 refer a matter to the LGP CEO, Chairperson of the Audit & Risk Committee or the LGP Board for further consideration;
  - 8.6.1.2 rectify an omission or delay;
  - 8.6.1.3 revoke or vary a decision or recommendation by an LGP Officer(s);
  - 8.6.1.4 provide reasons for a decision;

- 8.6.1.5 revise LGP's policies or procedures;
  - 8.6.1.6 undertake any necessary corrective or other work to resolve a Complaint;
  - 8.6.1.7 make an appropriate correction, deletion or addition to a record;
  - 8.6.1.8 require LGP or an LGP Officer against whom adverse findings have been made to formally apologise to any person adversely affected by LGP or the LGP Officer's conduct;
  - 8.6.1.9 counsel an LGP Officer against whom adverse findings have been made;
  - 8.6.1.10 refer the matter to an appropriate External Agency for investigation;
  - 8.6.1.11 take such other actions as the Complaints Officer and/or Internal Ombudsman consider reasonable and just.
- 8.6.2 Where adverse findings have been made against an LGP Officer, the Complaints Officer and/or Internal Ombudsman may recommend one or more of the following actions to the LGP CEO:
- 8.6.2.1 require the Complainee to apologise to any person adversely affected by his or her conduct;
  - 8.6.2.2 counsel the LGP Officer;
  - 8.6.2.3 take disciplinary action pursuant to the terms of the LGP Officer's contract with LGP, taking into account the LGP Code of Conduct;
  - 8.6.2.4 refer the matter to an appropriate External Agency for investigation.
- 8.6.3 Where adverse findings have been made against the LGP CEO, the Chairperson of the Audit & Risk Committee will appoint the Complaints Officer to conduct the investigation, who may recommend one or more of the above actions to the Audit & Risk Committee and LGP Board.
- 8.6.4 Prior to making any adverse finding against an LGP Officer, or recommending any such action, the LGP Officer must be accorded procedural fairness, in accordance with Section 14 of the Complaints Policy.
- 8.6.5 Sanctions against LGP Officers for breach of the Code of Conduct will depend on the severity, scale and importance of the breach and must accord with any relevant employment contract or agreement.

## **9. RIGHTS OF COMPLAINANTS**

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- 9.1 Complainants have rights to:
  - 9.1.1 be heard;

- 9.1.2 be protected from victimisation as the Complainant;
- 9.1.3 have their identity kept confidential if agreed by the LGP CEO due to the nature of the Complaint;
- 9.1.4 know whether the Complaint is being dealt with in accordance with the LGP Complaints Policy;
- 9.1.5 know that a thorough and non-discriminatory assessment of their Complaint will be undertaken;
- 9.1.6 know that, where the Complaint relates to the conduct of an LGP Officer, the LGP Code of Conduct will be taken into account in the assessment, investigation and reporting of the Complaint;
- 9.1.7 know that their Complaint will not be dealt with by a person or person(s) who are the subject of the Complaint;
- 9.1.8 be provided with, and request all relevant material to support their Complaint, subject to any relevant laws;
- 9.1.9 be informed of the procedures and progress of their Complaint;
- 9.1.10 be informed of any response to the allegations made in their Complaint;
- 9.1.11 where applicable, seek review of any decision made to refuse to assess or investigate their Complaint, and be informed of the outcome of the review;
- 9.1.12 where applicable, be informed of the outcome of an assessment of their Complaint and where relevant, the findings and recommendations at the conclusion of the investigation.

## **10. RIGHTS OF COMPLAINNEES**

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- 10.1 Complainees have rights to:
  - 10.1.1 be heard;
  - 10.1.2 be protected from victimisation as the Complainee;
  - 10.1.3 have their identity kept confidential if agreed by the LGP CEO due to the nature of the Complaint;
  - 10.1.4 know whether the Complaint against them is being dealt with in accordance with the LGP Complaints Policy;
  - 10.1.5 know that a thorough and non-discriminatory assessment of the Complaint against them will be undertaken;
  - 10.1.6 be informed of the procedures and progress of the Complaint against them;
  - 10.1.7 be informed of any formal response from the Complainant;

- 10.1.8 where applicable, seek review of any decision made to refuse to assess or investigate the Complaint against them, and be informed of the outcome of the review;
- 10.1.9 where applicable, be informed of the outcome of an assessment of the Complaint against them and where relevant, the findings and recommendations at the conclusion of the investigation.
- 10.2 If the Complaint is against an LGP Officer
  - 10.2.1 Where a Complaint contains allegation(s) about the conduct of an LGP Officer:
    - 10.2.1.1 the above rights for a Complainee will apply, in addition to;
    - 10.2.1.2 the requirements of the Code of Conduct are to be taken into account in any assessment, investigation and report of the Complaint;
    - 10.2.1.3 the LGP CEO will strongly encourage a resolution be agreed amicably between the Complainant and the Complainee; and
    - 10.2.1.4 that LGP Officer shall not be involved in the assessment or investigation of a Complaint.

## **11. RIGHTS OF THE INVESTIGATING OFFICER**

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- 11.1 The Complaints Officer and the Internal Ombudsman have the right to:
  - 11.1.1 decline the request to investigate a Complaint in accordance with section 13 of the Complaint Policy, provided this decision and the reasons for the decision are given to the Complainant in writing;
  - 11.1.2 serve as an objective party in the investigation and be protected accordingly to ensure a full and thorough investigation;
  - 11.1.3 conduct any required interviews, as well as request and obtain sufficient information about a Complaint to enable a proper assessment and/or investigation to be undertaken;
  - 11.1.4 advise a Complainant of a date when any information needed to assess the Complaint is to be provided by;
  - 11.1.5 if a Complaint is about proposed action by LGP, to consider whether the action should be deferred, and, if of the opinion that the action should be deferred, to recommend this course to the LGP CEO;
  - 11.1.6 be provided with access to all LGP documents relevant to the assessment, investigation or resolution of a Complaint by the LGP CEO. Where privacy or confidentiality requirements arise, the LGP CEO or Chairperson of the Tender Evaluation Panel (if the document is protected from disclosure under a probity plan applying to a tender process) will ensure that any necessary procedures are addressed prior to the Complaints Officer or Internal Ombudsman being provided with access;

- 11.1.7 refer a Complaint to an External Agency for investigation;
- 11.1.8 make recommendations to the LGP CEO on proposed remedial action to be taken by LGP or any LGP Officer to resolve a Complaint;
- 11.1.9 recommend to the LGP CEO that appropriate sanctions or disciplinary action be imposed where the findings indicate a *prima facie* breach of the LGP Code of Conduct; and
- 11.1.10 produce a report to be issued to the LGP CEO, the Chairperson of the Audit and Risk Committee and the LGP Board (subject to any confidentiality, privacy or other legal requirement) that sets out the findings and recommendations with respect to the Complaint.

## 12. HOW TO MAKE A COMPLAINT

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### 12.1 Complaints in Writing

- 12.1.1 A person can make a formal or Informal Complaint in writing or verbally.

Complaints which are made in writing should be lodged with the LGP CEO, preferably by filling out a Complaint Form (Appendix A).

The Complaint is to be submitted to the LGP CEO by post, email, or hand delivered to LGP's offices as follows:

*Postal delivery:*                      *Local Government Procurement*

*GPO Box 4742*

*Sydney NSW 2001*

*Office Address*                      *Local Government Procurement*

*Level 11, 55 Clarence Street*

*Sydney NSW 2000*

*Email:*                                      *info@lgp.org.au*

### 12.2 Verbal Complaints

- 12.2.1 A verbal Complaint should be made directly to the LGP CEO by telephone on 02 8270 8700 or in person at LGP's offices, Level 11, 55 Clarence Street, Sydney NSW 2000.
- 12.2.2 All such Complaints should be directed to the LGP CEO who has the responsibility for recording the Complaint as per Appendix B (Complaint in the Record of Verbal Complaint).
- 12.2.3 Where the Complainant attends LGP's offices, the LGP CEO will ensure the Record of Verbal Complaint is signed by the Complainant to verify that it is a true record of events. In the absence of the LGP CEO, one of the LGP CEO's direct reports will take a Record of Verbal Complaint on behalf of the LGP CEO.
- 12.2.4 Where a Complaint is made by telephone, the LGP CEO will:

12.2.4.1 suggest to the Complainant that a Complaint Form (Appendix A) be forwarded to him or her for completion and return to LGP so that an accurate and complete record of the Verbal Complaint is made for assessing in accordance with the Complaint Policy; and

12.2.4.2 if the Complainant agrees, arrange for a Complaint Form to be forwarded to the Complainant as soon as practicable. If not, the Record of Verbal Complaint is to constitute the Complaint.

12.2.5 The LGP CEO is required to make and retain a copy of the Record of Verbal Complaint, and if a Complaint Form (Appendix A) is subsequently received from the Complainant, forward the original Record of Verbal Complaint to the Complaints Officer or the Internal Ombudsman as soon as practicable for assessment or investigation of the Complaint.

12.2.6 If the Complaint is about the LGP CEO, the Complainant may forward the Complaint to the Chairperson of the Audit and Risk Committee c/o Level 11, 55 Clarence Street, Sydney NSW 2000.

### 12.3 **Anonymous Complaint**

12.3.1 A person may make a Complaint anonymously. However, this may limit the consideration given to the Complaint if there is a need for the Complaint to be substantiated.

### 12.4 **Notification of Disclosure of Information**

12.4.1 The LGP CEO must, upon receiving a Complaint, inform the Complainant that if the Complaint is assessed or investigated, the effective assessment and investigation of the matter, and the rules of procedural fairness, may require the disclosure of information regarding the Complaint that may identify the Complainant. Such disclosure includes the reporting of the Investigating Officer's findings to the LGP CEO, the Chairperson of the Audit & Risk Committee and/or the LGP Board.

### 12.5 **Content of Complaint**

12.5.1 All relevant details requested in the Complaint Form and Record of Verbal Complaint should be filled in. Failure to complete the Complaint Form or to provide all information requested in the Record of Verbal Complaint may hinder or prevent LGP from assessing and/or investigating the Complaint in accordance with the Complaints Policy.

## 13. **REFUSAL TO INVESTIGATE A COMPLAINT**

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### 13.1 **Refusal to assess or investigate a Complaint**

13.1.1 The LGP CEO, Complaints Officer and/or the Internal Ombudsman may refuse or cease to assess or investigate a Complaint when they are satisfied that:

- 13.1.1.1 the Complaint is frivolous, vexatious or not made in good faith, or concerns a trivial matter;
  - 13.1.1.2 the Complaints Officer suspects that the Complaint involves a criminal offence, in which case they should refer the matter to the NSW or Federal Police Service;
  - 13.1.1.3 the Complaint concerns the conduct of a Councillor or Council staff member, and could be made to the Councillor or Council staff member's Council or another External Agency, in which case the LGP CEO may refer the matter to the Customer or External Agency;
  - 13.1.1.4 the Complaint relates to a matter or matters already under investigation by an External Agency, in which case the Complaint is referred to the External Agency for investigation;
  - 13.1.1.5 the Complainant has not provided sufficient information about the Complaint following a request for such information by the Complaints Officer;
  - 13.1.1.6 there is insufficient information available to warrant investigation of the Complaint.
- 13.1.2 Where the Complaints Officer decides not to assess or investigate a Complaint, ceases to investigate a Complaint, or refers a Complaint to an External Agency, the Complaints Officer will write to the Complainant, informing them of the decision and the reasons for their decision. The Complainant is also to be informed of the ability to seek review in accordance with Section 13.2.

## 13.2 **Complainant may seek review of refusal**

- 13.2.1 The Complainant may request an internal review of a decision under Section 13.1 to refuse to assess or investigate a Complaint or to cease to assess or investigate a Complaint.
- 13.2.2 The application for review must be made within 28 days of the date of the notification of the decision under Section 13.1, or within such further time as the LGP CEO allows.
- 13.2.3 An application for review is to be made in the same way that a Complaint is made under Section 12 of the Complaints Policy.
- 13.2.4 If the application for review relates to a decision of the Complaints Officer, the application may be dealt with by LGP's Internal Auditor.
- 13.2.5 The Internal Auditor will be deemed to have the same powers and obligations as the Complaints Officer and Internal Ombudsman under this Policy for the purposes of dealing with the application for review.
- 13.2.6 However, if the Internal Auditor decides, contrary to the original decision, that the Complaint should be assessed or investigated, or that the assessment or investigation of the Complaint should continue, the Internal Auditor will refer such assessment or investigation of the Complaint to the LGP CEO and LGP Board.



13.2.7 The Internal Auditor is to notify the Complainant as to the outcome of their review including:

13.2.7.1 if the original refusal is upheld, the reasons for the Internal Auditor or the LGP CEO's decision on the review; and

13.2.7.2 if the original refusal is overturned, the estimated timetable for the assessment or investigation process.

## **14. PROCEDURAL FAIRNESS**

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14.1 All Investigating Officers (LGP CEO, Complaints Officer and Internal Ombudsman) must ensure that procedural fairness is afforded when dealing with Complaints.

14.2 When assessing and/or investigating a Complaint, or reporting findings and recommendations, any Investigating Officers dealing with the Complaint must:

14.2.1 define the allegation and obtain a thorough response, in writing and/or by interview, from all deemed relevant parties;

14.2.2 inform the Complainee(s) of any allegations against them, and the substance of any adverse comment in respect of them;

14.2.3 inform the person against whom the Complaint has been made, the details of the defined allegation;

14.2.4 provide the person(s) with reasonable opportunity to put their case;

14.2.5 where making enquiries into an LGP Officer's conduct which may give rise to disciplinary action, include the right of the Officer to be represented by a support person of their choosing, who cannot be any other persons involved with the investigation;

14.2.6 make reasonable enquiries before making a recommendation;

14.2.7 ensure that no person is involved in undertaking enquiries in which they have a direct interest;

14.2.8 act fairly and without bias; and

14.2.9 conduct the assessment and/or investigation without undue delay.

## **15. CONFLICT OF INTEREST ISSUES**

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### **15.1 Functions of the LGP CEO**

15.1.1 Where the LGP CEO decides that a conflict of interest may arise by the LGP CEO performing any of the functions outlined at Section 6.1 above, the Chairperson of the Audit and Risk Committee is to perform the function(s).

15.1.2 Where the Chairperson of the Audit and Risk Committee decides that a conflict of interest may arise by the Chairperson performing any of these functions, the LGP Board is to appoint one of its members to perform the function(s).

## 15.2 **Functions of the Investigating Officer**

- 15.2.1 The LGP CEO, Complaints Officer or Internal Ombudsman must satisfy themselves that there are no conflicts of interest which would make it inappropriate for them to conduct an assessment or investigation in any particular case.
- 15.2.2 If any of the Investigating Officers identify a conflict of interest, they must immediately disclose the interest in writing to the LGP CEO, or the Chairperson of the Audit and Risk Committee. In the event that the LGP CEO has the conflict of interest, this is to be handled in accordance with the Code of Conduct in determining whether a conflict exists, and, if so, how the conflict is to be handled.

## 16. **RECORD KEEPING AND CONFIDENTIALITY**

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### 16.1 **Record keeping**

- 16.1.1 The LGP CEO will establish and document record-keeping requirements to be observed by LGP when receiving, assessing, investigating, determining and reporting Complaints, including verbal Complaints.
- 16.1.2 These record keeping requirements must, amongst other things, ensure that the Investigating Officer:
  - 16.1.2.1 maintains full and accurate records of their activities when receiving, assessing or investigating Complaints;
  - 16.1.2.2 maintains a separate file for each Complaint.
- 16.1.3 The LGP Contracts and Legal Officer has the responsibility to update the Complaints Register throughout the Complaints process, and liaise with the Investigating Officers to obtain the requisite information.

### 16.2 **Confidentiality**

- 16.2.1 Any Investigating Officer must use or disclose all information collected in the course of an assessment or investigation of a Complaint solely for the purposes of that assessment or investigation.
- 16.2.2 The Investigating Officer must comply with the information handling obligations of LGP under:
  - 16.2.2.1 the *Privacy Act 1988* (Cth) and the *Australian Privacy Principles* (The Office of the Australian Information Commissioner); and
  - 16.2.2.2 the Code of Conduct, and any other agreement, policy, code, or guideline. (It is the responsibility of the LGP CEO to ensure the application of such agreements, policies, codes or guidelines.)

## 17. **REVIEW OF POLICY**

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- 17.1 This Complaints Policy may be reviewed by the LGP Board or the LGP CEO, as required.

## **APPENDIX A – COMPLAINT FORMS**

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Please use this [form](#) to submit a written complaint to LGP.

All complaints will be sent to the LGP CEO.

## **APPENDIX B – RECORD OF VERBAL COMPLAINT**

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If you wish to submit a verbal complaint, please call the LGP Office on 02 8270 8700 and an LGP Officer will take your complaint via this [form](#).

All complaints will be sent to the LGP CEO.