Part 2 – Administrative procedures and general policies

Administrative procedures

Responding to Requests for Urgent Action

Urgent matters are those for which there is critical date in a Court (or tribunal/authority) timetable deadline to be met which may not be met if normal office procedures and timeliness standards are followed.

The process is:

1. The grants staff member processing inward mail:

   – checks the correspondence for any request for urgent action
   – places this in the appropriate Grants Officer in-tray with a marker "for immediate attention"

2. The Grants Officer attends to applications or correspondence marked "for immediate attention" on the same day it is received.

3. The Grants Officer assesses the urgency request and either:

   – confirms that urgent action is required ➡ gives priority to meeting the deadline requested
   – judges that urgent action is not required ➡ normal office timeliness standards are applied.

See also 'Decision making in urgent applications' in **Part 3 Applications**.

Returned Mail

When correspondence sent to aided persons is returned unclaimed this procedure is to be followed.

Log and update details

1. Ensure returned envelope is date stamped.

2. Match with file.

3. Request a "Correspondence Returned to Lawyer" request letter in LA Office.

4. Print letter from LA Office.

5. Send original request letter to lead provider with returned correspondence.

6. When a new address is provided by the lead provider, update LA Office so that any further correspondence is sent to the correct address.

7. Note new address on file cover.

8. Track and File.

Specialist Advisers – experts available for more complicated applications

1. The majority of decisions will be relatively straightforward and can be made for eligible applicants within the standard rates outlined in the proceedings steps in this manual.

2. However, in cases that fall outside these standard rates the Agency has contracted law practitioners to assist with a recommendation to grant or decline legal aid and decisions on remuneration.

3. The specialist adviser position has been designed to ensure that the Agency has the necessary technical expertise for more complex cases. Four internal specialist advisers are based at the Wellington legal aid office.

4. Contracted external specialist advisers are located throughout the country. All referrals to specialist advisers go to the internal specialist advisers first who make the decision to handle the referral themselves or forward to an external specialist adviser.

General policies

Files with no Activity

Introduction

It is important for the Agency's financial planning and auditing that open files with no activity for an extended period are finalised as soon as possible. Such files impact on the Agency's ability to forecast legal aid expenditure.

Policy

All open files with no activity over the last nine months will be finalised unless there are sufficient reasons to keep the file open. For the purposes of this policy, 'no activity' is defined as no communication regarding the file from the provider.

Procedures

1. A report listing all files with no activity against each regional office will be generated at Head Office and distributed to regional managers via email on a monthly basis. Regional managers will allocate responsibility for following up inactive files to Grants Officers in each office.

2. On receipt of the 'Inactive Files' report, the Grants Officer will review the files listed against their office and determine:

- Whether any correspondence, including faxes and emails, has been received from the provider within the last nine months.
- If there has been any other contact, e.g. telephone calls recorded in a file note, with the provider in the preceding nine month period.
- If there is a particular characteristic of the file that may give rise to renewed activity, such as:
  - a court fixture set down for a future date,
  - repeated adjournments due to the complexity of the case,
  - if the files are bundled together and it is clear from the other file that the matters are still progressing.

3. If correspondence or calls have been received from the provider and there are adjournments or court fixtures, the case and the file are to remain open.
4. If there has been no correspondence or contact and there are no adjournments or court fixtures, a letter is sent to the provider asking if the case has been completed.
5. If the provider responds with a request to keep the file open, the Grants Officer will consider the following when assessing the request:

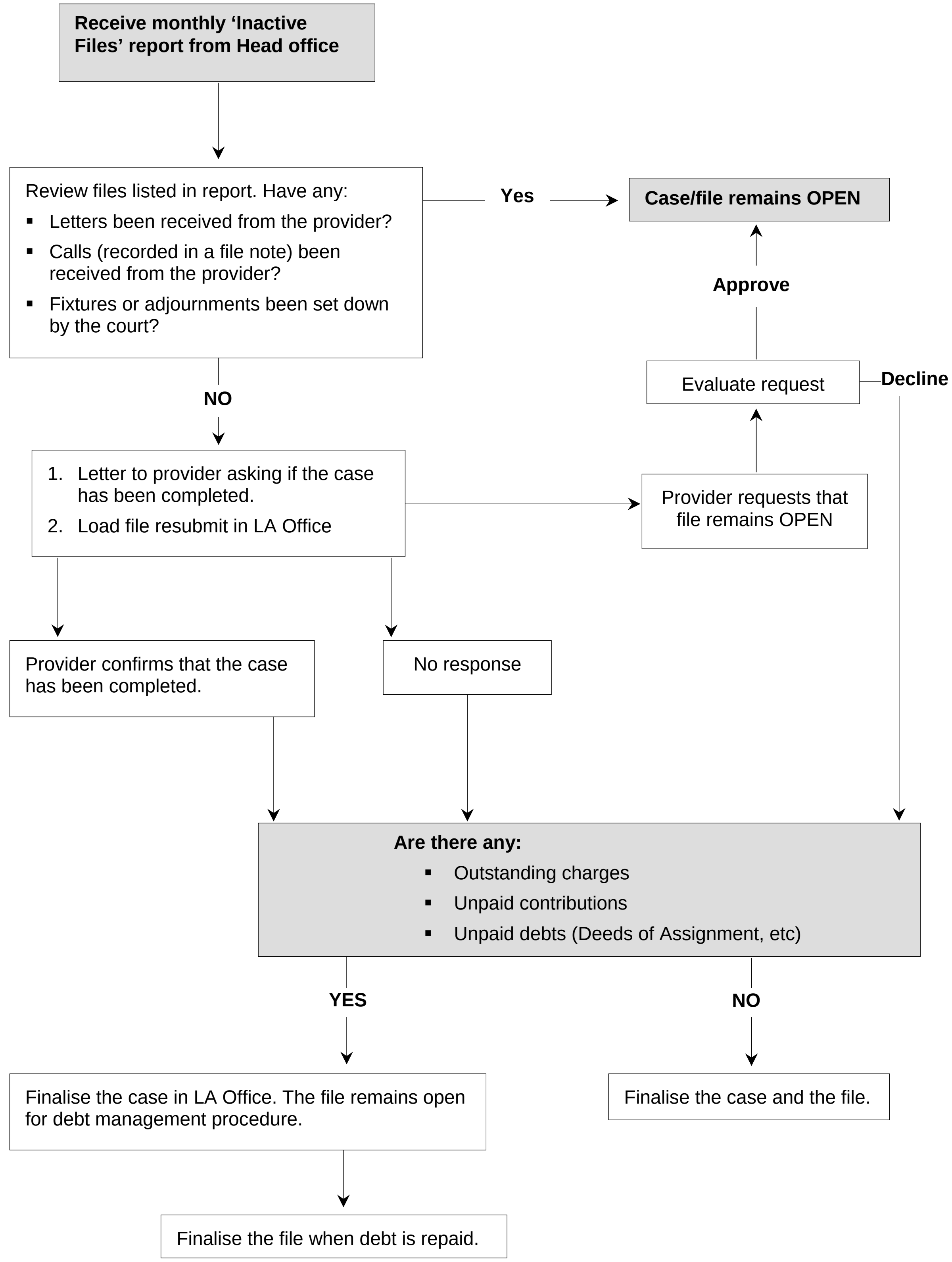
   - Likelihood of any further activity, for example, outstanding legal issues;
   - Previous requests to keep the file open followed by periods of inactivity;
   - Adjournments for extended periods due to complexity or backlogs of cases at the court.

6. The Grants Officer will inform the provider of their decision.
7. If the provider confirms that the case has been completed, the Grants Officer will review the file to determine if there are any:

   - outstanding invoices awaiting approval and/or payment,
   - outstanding charges,
   - unpaid contributions
   - unpaid debts (Deed of Assignment, etc.)

8. In the absence of any outstanding invoices or debt loading, the case and the file will be finalised.
9. If any debt is loaded against the file, only the case will be finalised. The file will remain open for debt recovery procedure and will be finalised when the debt is repaid.
10. If there is an outstanding debt loaded against the file that has not been addressed, for example, no letter has been sent, there has been no response from provider, or no payment has been received as required, the Grants Officer will follow up with the legally aided person and the provider as appropriate.

Files with no Activity – Summary



Privacy Act and Official Information Act Requests

Introduction

The following guidelines and procedures are based on the Agency's Official Information Act and Privacy Act policy.

Background

1. Under the Official Information Act (OIA) and Privacy Act requests for information must be actioned within 20 working days from the date of receiving the request. Any request for urgency must be properly considered.

2. The request does not have to be received in writing and the requester does not have to make any references to the Act(s).

3. As a general rule, requests for information from a legally aided person's own file, including a request made by a lawyer on the legally aided person's behalf, are handled under the Privacy Act 1993.

4. Other requests are handled under the Official Information Act 1982. Official information is anything held on the file, which includes letters, notes, emails, comments in the margins, etc. It also includes manuals.

5. The key principle is availability. This means information must be made available unless there is a reason under the Act to protect the information or to refuse the request.

6. Information may be withheld under some parts of s9 of the OIA only if there is not a greater public interest to be served by releasing the information, which is a requirement of s9(1).

Procedures

1. The Grants Officer will inform their regional manager of any request for information. After discussion with the Regional Manager, the Grants Officer may respond to OIA or Privacy Act requests for information from files for which they are responsible.

2. Each request is considered individually. Table A below has instructions for staff on how requests for information about legal aid or for documents from the legal aid file are generally handled. Grants Officers are required to obtain approval from their regional manager if they intend to deviate from these instructions.

3. See Table B for requests that will be forwarded to Head Office (Manager Grants) for a response.

Table A – requests managed at local office level

Information Request	Decision	Action
Send me a copy of my file Send my papers from my file	Release under Privacy Act	Check no personal information about a third person is included – which may be deleted.
Send me a copy of my client's file	Release under Privacy Act	Check that lawyer has client's authorisation.
Is X receiving legal aid?	Confirm X is receiving/is not receiving legal aid	Advise the requestor in writing.
How much legal aid has X received?	If the case is finished in the courts, release total grant amount. If case is not finalised in the courts, withhold the grant amount under s6(c) of OIA.	Advise the requestor in writing.
Has X applied for legal aid? or Has X applied and been refused legal aid?	Withhold under s9(2)(a) of OIA as this information gives an indication of financial status or merits of the case	Advise the requestor in writing.
Give me the name of the Specialist Adviser	Release the information. Generally the Agency does not release the name of a Specialist Adviser but if it is specifically requested it is released.	Advise the requestor in writing.
Any other request for information should be discussed with the Regional Manager for referred to Head Office.		

Table B – requests forwarded to Head Office

<table>
<tr><th>Information request</th><th>Action</th></tr>
<tr><td>Copy of a legally aided person's application form</td><td rowspan="5">1. Confirm that this is a request that must be forwarded with the Regional Manager first.
2. Advise the person making the request</td></tr>
<tr><td>Copies of documents on a legally aided person's file</td></tr>
<tr><td>Requests that are complex or require substantial coordination or research</td></tr>
<tr><td>Requests that are conveyed in a threatening, aggressive or otherwise inappropriate manner – this allows a local situation to be 'de-fused'</td></tr>
<tr><td>Requests that deal with controversial material</td></tr>
</table>

Information about providers (refer directly to the Manager Service Contracts)	in writing that the request has been forwarded to Head Office for response. 3. Forward the request to Manager Grants at Head Office.
From a Government department or Crown agency must be referred to head office for a response (e.g. Police, IRD, MSD (Work and Income)	
From MPs or ministers of the Crown	
From the media	
Requests where it is considered that a charge may be appropriate	
Requests from the Police for a copy of the legally aided person's file	
Any requests not described above	

4. If information is being withheld, the reason it is being withheld must be stated in the letter. The letter must also have a statement advising: *"If you are not satisfied with the response of the Agency to your information request you have the right to ask the Ombudsman [Privacy Commissioner] to investigate or review the decision."*

5. If documents are to be released, these should be copied on to paper pre-printed with "Released under the Official Information Act".

6. As a courtesy, the person who is the subject of the information request may be advised of the request and the Agency's response.

7. Allegations of ineligibility for legal aid, or information that raises doubts about a legally aided person's eligibility are to be managed via the **Investigating Allegations of Ineligibility** procedures below.

Investigating Allegations of Ineligibility

Introduction

Allegations of ineligibility for legal aid, or information that raises doubts about a legally aided person's eligibility may be received from another party involved in proceedings or from a third party. Such allegations fall outside the Agency's complaints and Official Information Act and Privacy Act policies and will be managed by the Agency according to the procedures set out below.

Procedures

Verbal Allegations

1. If the allegations are received by phone or in person, the Grants Officer will ask the informant to:
   - provide their full contact details;
   - document their allegations in writing and;
   - provide authorisation to forward a copy of their allegations to the legally aided person and their lawyer.
2. The Grants Officer will follow up any offer by the informant to provide evidence of their allegations or additional information.
3. If the informant refuses to authorise disclosure or to provide contact details and written confirmation of their allegations, the Grants Officer will decide whether the allegations are worth pursuing. Before making this decision, the Grants Officer will:
   - assess the quality of the information supplied;
   - verify any of the details provided in LA Office;
   - consider whether the allegations are frivolous or vexatious, for example, has the informant made similar allegations on previous occasions which have not been verified;
   - consider whether the informant is unable to provide a letter due to illiteracy.

Written Allegations

4. On receipt of the letter, fax or email, the Grants Officer will contact the informant and ask if they are prepared to allow the legally aided person to receive a copy of the allegations.
5. Authorisation must be obtained in writing, preferably using the Agency's form. However, authorisation provided by letter, email or fax is also acceptable. Verbal authorisation will not be accepted.

6. The Grants Officer will explain to informants that:

   - Information will only be disclosed to those directly involved in the allegations, for example, the Grants staff involved in the granting decision, the legally aided person and their lawyer;
   - Failure to provide written authorisation may restrict the ability of the Agency to conduct an effective investigation;
   - If the informant is a party to the proceedings, the other party's lawyer will notify them if legal aid has been withdrawn, as required by s21(3) of the Act.

Undertaking an Investigation

7. Once written confirmation and authorisation to disclose the allegations has been received, the Grants Officer will forward a copy of the allegations to the legally aided person's lawyer with a request to communicate with their client and to provide comment on the allegations.

8. Alternatively, it may be appropriate to prepare a summary of the information, where this has been presented in an inflammatory or threatening manner. When preparing this summary, the Grants Officer will ensure that the allegations are clearly stated and if necessary, ask specific follow up questions based on the information received. For example, if an allegation that the legally aided person has not declared all their income and assets is received, the Grants Officer will ask direct questions based on this information and include an application form with a request to re-submit a statement of the legally aided person's financial details.

9. If the informant does not wish to be identified or does not wish a copy of the allegations to be supplied, the Grants Officer will need to decide whether to continue with the investigation. This will involve an assessment of the reliability of the information supplied by the informant (see 'Insufficient or Unreliable Information' below).

10. Where authorisation is refused and the Grants Officer has determined that the information is reliable, the legally aided persons' lawyer will be asked to communicate with their client and respond in detail to each allegation. The Grants Officer will prepare a summary of the allegations and ask direct questions based on these allegations. In formulating these questions, the Grants Officer will enure that any additional information, which may breach the informant's confidentiality, is not supplied.

11. The lawyer's response is then assessed against the:

    - allegations made
    - information already on file
    - statutory eligibility criteria
    - other policy and procedural documentation (e.g. circular memoranda, LARP decisions)

    If necessary, further information will be requested from the legally aided person and/or their lawyer. The legally aided person may be asked to re-submit a statement of their financial details if they have not already done so.

12. On completion of the investigation, the Grants Officer will advise the informant that the investigation has been completed and confirm whether or not the legally aided person is receiving legal aid.

13. If the informant has requested confirmation that the applicant for legal aid has *applied* for or has been *declined* legal aid, the Grants Officer will respond that this information has been withheld to protect the privacy of the applicant.

14. If the Grants Officer decides that the allegations are justified, they will consider:
    - The impact on the contribution.
    - Initiating the process to withdraw aid.
    - In discussion with their Regional Manager:
      - Taking action to recover the legal aid funds under s28(2) of the Act.
      - Referring the matter to Head Office to initiate a prosecution under s110 of the Act.

Insufficient or Unreliable Information

When an allegation about ineligibility is received where the information provided is unreliable or insufficient for a determination to be made, the Grants Officer will advise the person making the allegation that:

1. There are guidelines which the Agency follows in determining eligibility and these are set out in the Legal Services Act and Legal Services Regulations.

2. The Agency must look at the type of case for which legal aid is sought as well as the personal circumstances of the person which usually means their income and outgoings as well as their family situation.

3. If they require further information, they should consult the Agency's website.

4. If they have a lawyer, any outstanding concerns about legal aid should be discussed with their lawyer.

Grants Internal Complaint Handling Procedure

Introduction

1. The Grants complaints handling procedure has been designed to manage complaints from legally aided persons and providers in a structured way that achieves resolution as close as possible to the point of first contact.

2. The complaints procedure is structured into three tiers:

   - *Frontline Consideration (First Tier):* at this stage, the emphasis is on achieving an effective resolution as quickly as possible. It is preferable for both the Agency and the client or provider that the issue be resolved at the point of first contact.
   - *Management Investigation (Second Tier):* if the complaint can not be resolved in the first tier, complainants will be offered the opportunity to have the issue investigated by a member of the Agency's management structure.
   - *Head Office Review (Third Tier):* in the final stage of the process, the investigation of serious complaints and complaints which have not been resolved to the satisfaction of the client or provider will be reviewed by senior management.

Definitions

Complaint	A complaint is a grievance or expression of dissatisfaction, written or verbal, about the service or actions by the Legal Services Agency, its governing board or its individual staff members.
Justified Complaint	A justified complaint is one that can be substantiated on consideration or investigation and follow-up action by the Agency can remedy the complaint.
Complaint Not Justified	A complaint is not justified when it cannot be substantiated on consideration or investigation and/or there is no action available to the Agency to remedy the complaint.
Substantiated	A complaint is defined as substantiated when: ▪ There is a violation of Agency policy or procedure. ▪ A breach of legislation has been established. ▪ There is a valid concern that the staff members' actions or behaviour do not conform with the expectations of the Agency. ▪ An Agency policy or procedure does not comply with specific legislation.

Informal Issue Resolution

1. Relatively minor issues capable of immediate resolution can be dealt with by Grants staff at the point of first contact.

2. However, the formal complaints procedure will always be used where:

   - an issue is raised in writing;
   - a Grants decision causes significant concern;
   - there are issues of transparency, honesty and integrity involved.

Step 1: Receipt and Acknowledgement

1. On receipt of a formal complaint, staff are required to create a new record in the Grants internal complaints log. The complaints log is used to record and track the progress of any formal complaint, with entires being made after each step in the process. This entry in the log records the name of the complainant and general details of their complaint.

2. Staff have been instructed to encourage complainants to lodge their complaint in writing. However, it is recognised that this may not always be possible, for example if the complainant has literacy problems. If the complaint is received in person or by telephone, staff are required to discuss the issue raised by the complainant, or arrange a time for a follow up discussion, and:

   - Clarify the complaint;
   - Set out in writing the nature of the complaint;
   - Determine the outcome sought;
   - Check whether the complainant requires support of any kind, or has poor sight or hearing, or a language difficulty, and determine what assistance the complainant needs in order to understand the complaints procedure;
   - Provide in writing the name(s) and contact number(s) of the officer(s) dealing with their complaint;
   - Explain the timeliness standards for responding to a complaint, providing progress updates and resolving a complaint;
   - Describe the three stages of the complaints process and the criteria for a complaint moving from the first to the second tier;
   - Clarify how certain types of complaints relating to reviews and reconsiderations are dealt with by statutory processes outside this complaints system. Additional statutory rights of review outside of the Agency such as the Ombudsman, should also be explained to the complainant;
   - Ensure that all telephone and in person discussions with the complainant are recorded in a file note.

3. Staff are required to obtain authorisation to disclose details of the complaint to any third parties involved. Staff will need to explain to complainants that:

   - Information will only be disclosed to those directly involved in the complaint, for example, the subject of a complaint against staff;

- Failure to provide authorisation may constrain the ability of the Agency to consider the complaint or conduct an effective investigation.

4. In the event of a complainant declining to provide such authorisation, a decision will be made whether or not to proceed with the consideration or investigation. The Grants Officer considering the complaint has the discretion to make this decision. In making this decision, staff will consider:
   - The type and relative importance of the complaint;
   - Whether there is little or no involvement of third parties, indicating that the complaint could be considered without the disclosure of personal information.
5. If it is decided that the complaint cannot be considered or investigated in the absence of disclosure, the complainant will be notified in writing that no further action will be taken by the Agency until such time as the authorisation is received.
6. If the complaint is to be considered, the Grants Officer will send an acknowledgement letter noting the date on which the complaint was received and the contact details of the officer undertaking the consideration.
7. If the issue has already been investigated and closed, the complainant will be informed in writing that no further action will be undertaken. The letter will include reference to the outcome of previous investigations and any correspondence.

Step 2: Referral Process

1. Having decided to proceed with a consideration, staff will then determine which procedure the complaint should be referred to.
2. The following categories of complaints against the Agency are outside the Grants internal complaints process and will be referred for reconsideration or review:
   - A grant of aid that has been declined;
   - A grant of aid that has been approved;
   - The amount of aid granted;
   - Conditions on a Grant;
   - The withdrawal of aid.
3. If the complaint involves the policies and procedures of another operating unit within the Agency, it is to be referred to that unit for resolution. Staff will advise the complainant in writing of the name and contact details of the individual to whom the complaint has been referred.
4. Complaints concerning any of the following issues will be handled through the Grants internal complaint system:
   - Timeliness of response or decisions;
   - Management of the application or case;
   - Grants policy;
   - Grants procedures;

- Other, i.e., any type of complaint outside the above categories and for which there is no alternative avenue or policy.

5. Complaints relating to the actions or behaviour of Grants staff will be referred directly to the Regional Manager who will consider the complaint.

6. Complaints about listed providers alleging breaches of Agency policy and procedures are handled through the procedure documented in section 5.7 of this manual: 'Complaints or Concerns about Lawyers acting outside Agency Policy.'

7. An aided person's request for an examination of the cost of services under section 38 of the Act will processed via the Agency's procedures for undertaking examinations under s75 of the Act.'

8. Complaints from an aided person concerning the quality of service provided by a listed provider can be referred for an audit under section 78 of the Act. This is a discrete procedure outside the scope of this process.

Step 3: 1st Tier Frontline Consideration

1. If it is decided that the complaint is within the scope of the Grants internal complaint system, the Grants Officer (or Regional Manager) will need to consider the complaint to determine whether it is justified or not justified.

2. The staff member will review
   - the relevant legislation, policy and procedural documentation of direct or potential relevance to the complaint
   - Copies or preferably originals of all the documents involved.
   - The complaint and the relevant documentation to determine the sequence of events and to verify the identity of the parties involved in the matters complained of.
   - The information obtained in conjunction with the relevant legal, policy and procedural documentation and determine whether the complaint is justified or not justified (See the Definitions section).

3. After considering the complaint, the staff member will prepare a summary report including:
   - Background information to the complaint;
   - Explanation of the complaint;
   - Description of the research;
   - Conclusions and
   - Recommendations for remedial action if the complaint is justified.

Step 4: Follow up

1. At the conclusion of the first tier consideration, the staff member will discuss the report with a Team Leader, Regional Manager or Manager Grants. Provided that the senior Grants staff member approves of the report and recommendations, the staff member will issue a letter advising of one of the following outcomes:

- The Agency accepts the complaint, and will take appropriate action to resolve the issue. Briefly describe the remedial action, and include the option to have the matter escalated to the second tier of the complaints system if the complainant remains dissatisfied with the Agency's response.
- The Agency rejects the complaint, for specific reasons. This letter is to include the review rights available to the complainant.

2. If the complainant accepts the decision, the record in the complaints log is updated and closed.

3. If the complainant rejects the decision and remains dissatisfied, it is the responsibility of the staff member to ensure that the complaint is escalated to the next level of Grants management for investigation. For Grants Officers and Senior Grants Officers, this is the Regional Manager. The investigating officer is to inform the complainant of the next stage in the complaints process, and to provide the name and contact details of the manager who will be undertaking the second tier investigation.

Step 5: 2nd Tier Management Investigation

1. The manager will initiate the investigation with a review of the1st tier consideration to verify that:
   - the consideration was executed according to procedure
   - the outcome and any recommended remedies are consistent with legislation, policy and procedure
2. In the event of a complaint being referred to this stage, the manager will inform any staff member(s) involved and/or any third parties that a complaint has been received and that an investigation is to be undertaken. This officer will contact these individuals and request an explanation in response to the complaint. It is preferable that these responses are received in writing. However, if necessary, the other parties should be offered the option of responding in an interview.
3. At the conclusion of the second tier investigation, the investigating manager will prepare a report covering:
   - Background information on the complaint;
   - Outcome of the review of the first tier consideration;
   - Results of the investigation, including a response to the complainants grounds for rejecting the first decision;
   - Conclusions and
   - Recommendations for remedial action (where relevant).
4. If the original (1st Tier) decision is upheld, the complainant will be informed in writing of:
   - the outcome of the review of decision;
   - the reasons for upholding the original decision and for disallowing the complainants appeal;
   - review rights.

5. The investigating manager at this level has the discretion to offer additional remedies, and may consider doing so should the first tier decision be amended or overturned. In this case, the complainant should be informed of the decision, the remedy and the review rights should the complainant remain dissatisfied.

6. The investigating manager must now complete the record in the complaints log.

Step 6: 3rd Tier Head Office Review

1. It is the responsibility of the 2nd tier investigating manager to ensure that complaints not resolved at the second tier are escalated to the next level of Grants management, generally the Manager Grants.

2. At their discretion, the Manager Grants may appoint another senior member of staff to conduct the Head Office review on their behalf.

3. In the event of a complaint being escalated to this stage, the Manager Grants or their nominee will contact the complainant and any staff members or third parties involved to advise them that a review of the management investigation is being undertaken. All parties involved should be offered the opportunity to provide new information, such as the grounds for requesting a Head Office review.

4. After considering any additional information and any responses from the parties to the complaint, the reviewing officer will review the second tier investigation to verify that the investigation was carried out according to procedure and that the outcome and any recommendations are consistent with the relevant legislation, policy and procedural documentation.

5. At the conclusion of the Head Office Review, the reviewing officer will prepare a report covering:

   - Background information on the complaint;
   - An overview of the work undertaken to investigate and resolve the complaint;
   - Outcome of the review of the management investigation, including a response to the complainants grounds for rejecting the decision;
   - Conclusions and
   - Recommendations for remedial action (where relevant).

6. If the review upholds the original decision, the complainant is to be informed in writing of:

   - the outcome of the review of decision;
   - the reasons for upholding the original decision and for disallowing the complainants appeal;
   - review rights external to the Agency, that is, if the complainant is not satisfied, they have the right to ask the Ombudsman to investigate and review the Agency's decision.

7. In the event of the management investigation decision being reversed or amended, the complainant should be informed of the outcome of the review, the remedy and the review rights should the complainant remain dissatisfied.

8. The Head Office senior manager will then update and close the record in the complaints log.

Timeliness Standards

1. The following timeliness standards have been set for each stage of the complaint process:

    - Initial acknowledgement of receipt of complaint to complainant. The staff member needs to ensure that a letter acknowledging a formal complaint must be delivered within **5** working days of the complaint being received.
    - A substantive response to the complainant, either a final report or a progress report, must be delivered with in **15** working days.

2. If the complaint appears complex and requires lengthy analysis and investigation, it is recommended that the investigating officer inform the complainant and set a more appropriate timetable for dealing with the complaint.

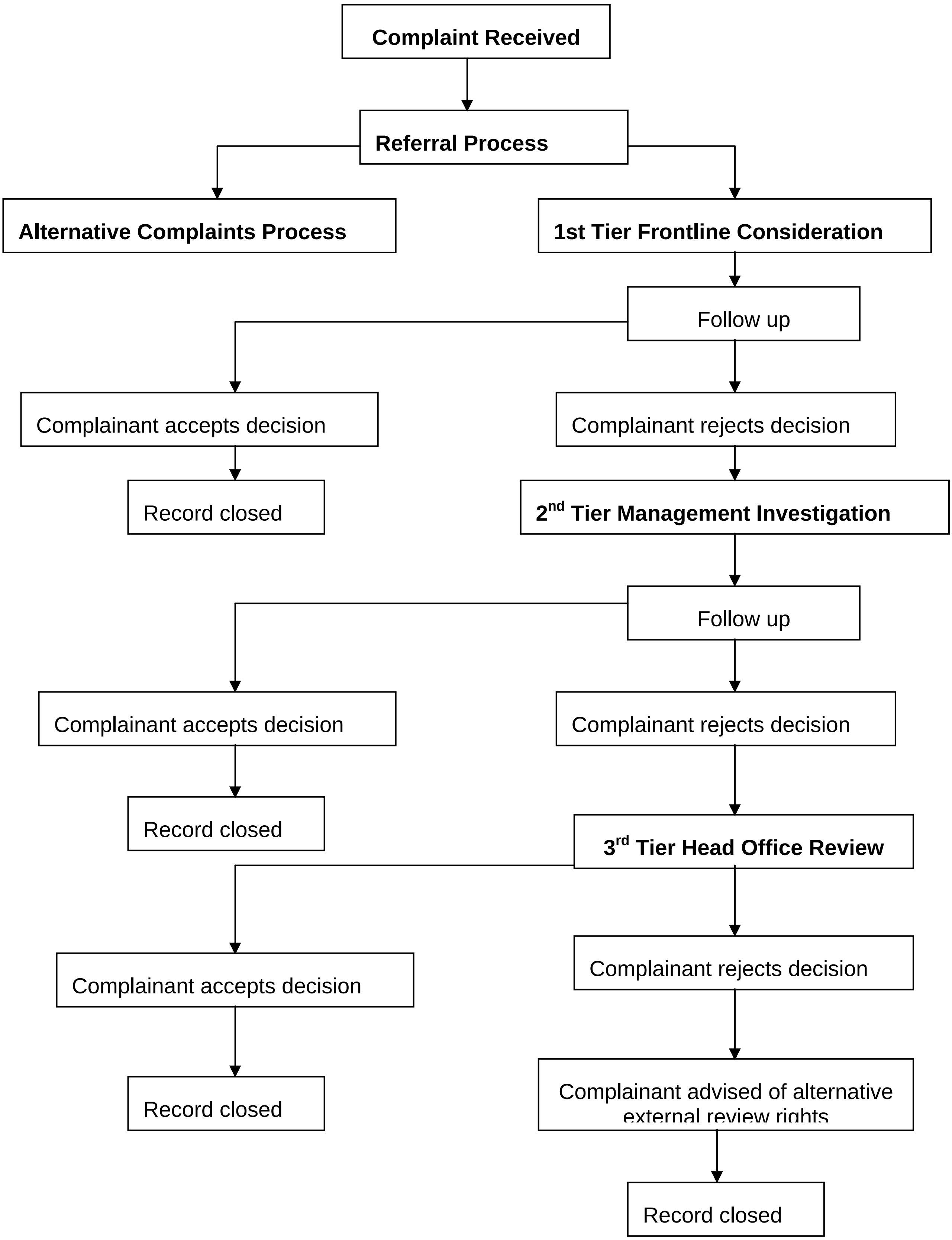
3. The important consideration here is that complainants are kept informed of the progress of their complaint. If the investigation is complex and lengthy, the complainant should be given progress reports every **10** working days.

Remedies

1. One of the key characteristics of a justified complaint is the possibility of follow-up action by the Agency to remedy the complaint. What action is taken will depend on the nature of the complaint, but as a general guide, the complainant should, as far as possible, be put in the situation he or she would have been in had matter complained of not arisen.

2. Wherever possible, the complainant will be asked to state what they believe to be the appropriate remedy for their complaint, and the Agency will endeavour to deliver that remedy in the event that the complaint is found to be justified.

Complaint Handling Procedures – summary



Transition policy and procedures

When this procedure is used

The grants officer uses this procedure to determine how to manage files during the transition to the provisions of the Legal Services Amendment Act 2006.

Legislation

The key sections of the Legal Services Amendment Act 2006 are:

- S47 *Applications for legal aid and grants of legal aid made before commencement of this Act.*
- S48 *Transitional provisions in relation to providers of legal services, etc*

The key sections of the Legal Services Regulations 2006 are:

- Regulation 2 *Commencement – this states that these regulations come into force on 1 March 2007.*
- Regulation 4 *Application – this regulation applies to applications for legal aid made on or after 1 March 2007.*

Legal aid applications

Policy

Commencement date is 1 March 2007.

When an application for legal aid is received by the Agency before the commencement date, all decisions on the application will be under the provisions existing prior to the Legal Services Amendment Act 2006. This includes applications received before the commencement date but not determined until after that date.

All subsequent decisions on any grant of aid received before the commencement date will be under the provisions existing prior to the Legal Services Amendment Act 2006. This includes all decisions relating to conditions on the grant.

An application is made on the day it is received by the Agency.

Steps

Step 1. The Grants Officer determines whether the 2006 Amendment Act covers the legal aid application or not.

If …	**then….**
an application for a grant of legal aid is received on or **after** the commencement date of the Legal Services Amendment Act 2006,	the provisions in the Legal Services Amendment Act 2006 apply to all decisions relating to the grant of aid. Go to Step 2
an application for a grant of legal aid is received **before** the commencement date of the Legal Services Amendment Act 2006,	the provisions of the Legal Services Act 2000 prior to 2006 amendment applies to all decisions relating to the grant of aid. This includes all amendments requests received after the commencement date. Go to Step 2

Step 2. The Grants Officer determines when an application has been made.

If…	**then…**
an application is received at the Legal Aid Office or any fax machine in the Office before or on 28 February 2007	the application is made before the commencement date and the 2000 Act provisions apply. Refer to the Listed provider manual. End of process.
an application is received after close of business at 5.00 pm on 28 February 2007 **or** an application is received on or after 1 March 2007	the application is made after the commencement date and the 2006 amendment act provisions apply, regardless of ▪ the date the applicant and/or provider signed the form ▪ the date the application was put in the post or handed to a courier

Reconsiderations, costs and other applications

Step 3. The Grants Officer determines whether the Legal Services Amendment Act 2006 applies for other applications, reconsiderations, costs or submissions on other matters.

If …	**then….**
an application for a reconsideration of a decision on a grant of aid made prior to 1 March 2007, including a decision about a contribution or a charge	the reconsideration will apply the provisions of the Legal Services Act 2000 prior to the 2006 amendment.
a decision is being reviewed by LARP on a grant of aid made prior to 1 March 2007,	the submission to LARP will apply the provisions of the Legal Services Act 2000 prior to the 2006 amendment.
an application for payment of a costs award against and aided person in a civil/family proceedings	s28 of the Legal Services Amendment Act 2006 applies, regardless of when the grant was approved.

Application to amend a grant for a new but related matter

In certain circumstances, an application to amend the grant to cover a new matter will be decided under the provisions of the Legal Services Act 2000.

Civil/family matters

Step 4. The Grants Officer determines whether the Legal Services Amendment Act will apply if a request for an amendment to the grant in civil/family matters is received.

If …	**then….**
the break between matters is less than six months, **and** the request for amendment is directly relevant to the existing matter, **and** the lead provider is the same	the request to amend the grant is to be determined under the provisions of Legal Services Act 2000 prior to the 2006 amendment

If …	**then….**
the request for amendment is for an interlocutory appeal (i.e. an appeal on one issue or aspect but not the substantive issue) **and** meets the above requirements	the request to amend the grant is to be determined under the provisions of Legal Services Act 2000 prior to the 2006 amendment
If the amendment does not meet these requirements	The request to amend the grant for the new matter is not accepted and the application is managed as an application for a new grant of aid

Criminal matters

Step 5. The Grants Officer determines whether the Legal Services Amendment Act 2006 applies if a request for an amendment to the grant for additional criminal matters is received.

<table>
<tr><th>If …</th><th>then….</th></tr>
<tr><td>the request for amendment is directly relevant to the existing matter, and

the same court will hear the matter at the same time, and

the lead provider is the same</td><td rowspan="2">the request to amend the grant is to be determined under the Legal Services Act 2000 prior to the 2006 amendment</td></tr>
<tr><td>the request for amendment is for an interlocutory appeal (i.e. an appeal on one issue or aspect but not the substantive issue) and

the application meets the above requirements</td></tr>
<tr><td>If the request for amendment does not meet the above criteria</td><td>The request to amend the grant for the new matter is not accepted and the application is managed as an application for a new grant of aid</td></tr>
</table>

Applications for appeals

A legal aid application for an appeal received after the commencement of the Legal Services Amendment Act 2006 is to be treated as a separate grant of aid.

The only exceptions are applications for interlocutory matters.

Such applications also include, but are not limited to, the following courts or tribunals:

- Employment Court
- ACC Review Tribunal and
- Refugee Status Branch hearing.

Step 6. The Grants Officer determines whether a separate grant is required.

A separate grant of aid is required under the provisions of the Legal Services Amendment Act 2006 if the application is:

- for legal aid for a review or appeal, and
- is ***after*** the commencement date of 1 March 2007.

New forms

The new forms for legal aid applications, amendments and invoices are to be used from 1 March 2007. There will be a transition period during which old forms will be accepted.

Step 7. The Grants Officer determines whether an old form will be accepted.

If …	**then….**
an old form is received during March 2007 for ▪ an application for legal aid ▪ amendment to a grant ▪ invoice	the Grants Officer will accept the form and ▪ make the decision on the information provided ▪ request additional information from the applicant or provider only if they are unable to make a decision ▪ advise the provider that the new form should be used for future applications
An old form is received on or after 1 April 2007 for ▪ an application for legal aid and the matter is not urgent	the Grants Officer will not accept the form, and will: ▪ return the date-stamped form to the provider ▪ enclose a new form on which the questions that need to be completed have been highlighted. ▪ advise the provider that the new form should be used for future applications

If …	**then….**
An old form is received on or after 1 April 2007 for ▪ an application for legal aid and the matter is urgent An urgent matter is one for which there is a critical date in a court (tribunal, authority) timetable which may not be met if the normal office procedures and timeliness standards are followed – refer to section 2 of this manual.	the Grants Officer will accept the form ▪ make a decision for an interim grant ▪ enclose a new form on which the questions that need to be completed have been highlighted. ▪ advise the provider that a decision on further aid will be made when the remaining information has been provided ▪ advise the provider that the new form should be used for future applications