

## COMPLAINTS POLICY

### Introduction

Complaints to the Prostitution Licensing Authority (PLA), whether about prostitution or about PLA operations, are a valuable source of information to the organisation and can be used to improve the regulation of prostitution in Queensland and the performance of the PLA. The PLA has established and maintained an effective complaint management system to receive, investigate and resolve complaints about prostitution, complaints about the operation of the PLA, PLA staff or the Authority itself.

Both the complainant and the subject of the complaint will be treated with respect and consideration. Regardless of the nature of the complaint, individuals will be treated seriously and their rights will be upheld. Individuals making a complaint, and those individuals who are the subject of a complaint, have the right to:

1. be heard
2. be informed about how the PLA will deal with the complaint
3. have the complaint dealt with fairly and objectively
4. have the complaint dealt with as promptly as possible
5. be provided with relevant and timely feedback on the outcome of the complaint
6. confidentiality, where requested.

Complaints will not be disregarded simply because they are made anonymously or because the complainant later withdraws the complaint.

Should a complaint be identified by the PLA as being of a vexatious or trivial nature or lacking in substance, the PLA may deal with the complaint in an appropriate manner.

If the complainant is not satisfied with the outcome of the complaint, depending on the nature of the complaint, they may complain to:

- a) the Ombudsman under the *Ombudsman Act 2001*
- b) the Crime and Misconduct Commission under the *Crime and Misconduct Act 2001*
- c) the Anti-Discrimination Commissioner under the *Anti-Discrimination Act 1991*
- d) the Information Commissioner under the *Information Privacy Act 2009*.

Grievances about the Authority may be pursued without fear of recriminations from the Authority. The PLA recognises that properly managed complaints are an important avenue to improve its business processes. The PLA inculcates a 'complaints friendly' attitude in its staff and encourages staff to not be defensive or negative about feedback and complaints. As the Authority is a small agency, all staff are made aware of the complaints policy as part of the induction process and all staff have access to the policy on their desktop.

## **Procedures**

Taking complaints about prostitution is an important function of the PLA, and the Authority is required to fulfil this function under section 101(f) of the *Prostitution Act 1999*. In general, complaints about prostitution include the following kinds of allegations:

- Complaints from sex workers, managers and licensees about the operation of legal brothels
- Suspected illegal prostitution activity
- Prostitution advertising that is not in the approved form
- Complaints from clients or others about sex workers or legal brothels.

Complaints may also be lodged with the PLA which express dissatisfaction about the service or actions of the PLA or its staff.

The PLA is determined to investigate complaints properly and to take action where appropriate.

The PLA will make use of information gained through the receipt and investigation of complaints to further the objectives of the legislation, to increase its understanding of the sex industry and to improve its own performance.

The procedures identified in this policy are designed to accommodate the number of complaints that are lodged with the PLA in recognition of the small number of staff employed at the PLA. Complaint management will be regularly reviewed by the Executive Director.

## **Taking complaints**

Complaints generally need not be in written form to be received by the PLA, but an officer of the PLA may request that a complainant detail their complaint in writing or supply documentary evidence to support their complaint.

Complaints lodged in writing will be acknowledged where possible, either in person or in writing, and information about the complaint process provided.

In those instances where the complainant has special needs (such as sight or hearing impaired people, those with a reading or mental disability or language difficulty), the PLA recognises the importance of using facilities to assist complainants in their communication of issues. Where PLA staff identify that a complainant requires assistance in communication of their issues then appropriate resources will be provided.

Complaints may be made in a variety of ways:

1. In person, by attending the PLA's office at Level 3, 5 Gardner Cl, Milton (please call first to make an appointment)
2. By telephoning the PLA on 07 3858 9500 (but complainants may be asked to put their complaint in writing)
3. By sending an email to [plaadmin@iprimus.com.au](mailto:plaadmin@iprimus.com.au)
4. By sending a fax to 07 3876 3641
5. By writing to the PLA at GPO Box 3196 Brisbane Qld 4001.

### **Initial responses to different types of complaints**

Complaints falling into the following categories will generally be dealt with as described below.

#### *Complaints about brothel operation*

If a complaint is about the operation of a brothel, the complainant should first have complained to the duty manager or licensee of the brothel. If the complainant has not done this, the PLA will inquire why. Complaints about brothel operation should include the following details:

- Brothel name
- Date, time and location of incident.
- Nature of incident (cleanliness, police entry, staff issues, workplace health and safety)
- Identify shift, manager/licensee present, other staff, any witnesses
- Was the issue addressed by the brothel? By whom, when, what was the outcome or advice?
- Is there a policy at the brothel to address this issue? Is the matter addressed in the 'deed of licence' or a similar contract?
- Record any advice or relevant information provided to the complainant at the time of taking the complaint.

Complaints taken by PLA staff will be referred to the compliance section who may need to make contact to discuss the matter further.

### *Complaints against licensees and managers*

If the complaint is about an individual licensee or manager, the following details should be supplied:

- Date, time, place
- Who else can substantiate the complaint, were any records made about the matter taken at the time? Would the matter be captured on camera?
- Have they discussed this with the licensee/manager or anyone else? What did they have to say about it?
- When did this take place and was anyone else there?
- Is this matter covered in their contract with the brothel or by any of the policies of the brothel? If no, can they check and get back to you?
- Are they agreeable for you to contact the person direct? Are they agreeable for you to disclose their name? Are they agreeable to make a formal complaint if it came to that?
- Record any advice or relevant information provided to the complainant at the time of taking the complaint.

The complaint will be referred to the compliance section.

### *Complaints alleging criminal behaviour*

All complaints relating to allegations of a criminal nature, including allegations about illegal prostitution and complaints relating to offences under the *Prostitution Act 1999*, will be referred to the Prostitution Enforcement Taskforce (PETF) of the Queensland Police Service. This can be done with or without the identifying particulars of the complainant, but a complainant has the right to request that his or her complaint be treated anonymously and the PLA will treat the complaint accordingly.

### *Advertising*

If the complaint relates to prostitution advertising, the following details should be given to the PLA:

- Name, address/contact details of the complainant
- Type of advertising – poster, brochure, flyer, newspaper, magazine, radio, video, etc
- Name of newspaper (or other medium), date of publication, page and column number
- What is objectionable about the advertisement?

- Have they contacted anyone else about the advertisement – the newspaper, police, etc?
- What response do they want from the PLA?
- Record any advice or relevant information provided to the complainant at the time of taking the complaint
- Samples or copies of the offending material should be obtained if possible.

Generally, advertising complaints will be dealt with in the following way:

- Contact the publication (or other medium) concerned, advise the details of the complaint, and ask what they do to ensure the validity of the advertisement and educate them about the requirements of the *Guidelines for Prostitution Advertising*
- Refer the complaint to the compliance section for further action and/or finalisation. If the complaint is about an offensive advertisement, details of the advertisement should be given if a copy cannot be provided
- Complaints about prostitution advertising which is not in conformity with the guidelines may be referred to PETF for investigation.

#### *Public interest disclosures*

Under the *Whistleblowers Protection Act 1994* and the *Crime and Misconduct Act 2001*, staff have a right to make a public interest disclosure. Any public interest disclosure made to the PLA will be reported immediately to the Crime and Misconduct Commission (CMC).

#### *Complaints against PLA staff or the Authority*

Any complaint where the subject of the complaint is an officer or member of the PLA will be referred to the Executive Director or in the case of a complaint about the Executive Director, the PLA Chair. Where appropriate, complaints may also be referred to a relevant complaint agency.

If the complainant is not satisfied with the outcome of the complaint they may complain to the:

1. Ombudsman under the *Ombudsman Act 2001*
2. CMC under the *Crime and Misconduct Act 2001*
3. Anti-Discrimination Commissioner under the *Anti-Discrimination Act 1991*.

Grievances about the Authority may be pursued without fear of recriminations from the Authority or its officers.

### *Misconduct and other complaints*

Any allegation that a public official is involved in misconduct will be reported to the Chair, who may in turn report the allegation to the CMC. Where, for any reason, complaints are not referred to the CMC for investigation the PLA may determine what further action, if any, is to be taken.

Any complaint about PLA processes or about individual PLA staff members should include:

- Date, time and place (if relevant)
- Name of any staff member involved
- Name and contact details of any witness to the event (if relevant)
- Detailed description of the incident or behaviour of concern.

### *Privacy*

The Authority is obligated to comply with the Information Privacy Principles set out in the *Information Privacy Act 2009*. If an individual believes that the PLA has not dealt with their personal information in accordance with the Information Privacy Principles, they are entitled under the Information Privacy Act to make a complaint to the Authority. 'Personal information' is defined under s. 12 of the Information Privacy Act to mean information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion. Complaints should be made in writing, addressed to the PLA Privacy Officer.

### **Complaint assessment**

It is the role of the compliance section, in conjunction with the Executive Director where necessary, to determine whether further action should be taken in response to complaints about brothel operation. If a disciplinary investigation<sup>1</sup> is required, direction for such an investigation will need to be made by the PLA.

Assessment of complaints referred to the Chair is a matter for the Chair and/or the PLA.

Unless otherwise stated, and where reasonably practicable, the Authority will attempt to resolve complaints within 20 business days.

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<sup>1</sup> A disciplinary investigation is an investigation which is designed to gather sufficient evidence to support disciplinary inquiries and subsequent action (refer sections 26 to 30 of the *Prostitution Act 1999*).

## **Finalising complaints**

Options for taking action to address a complaint are outlined below. It is intended that the outcomes of complaints will be fair, consistent and in the best interests of complainants, respondents to complaints and the PLA itself. In respect of a legitimate complainant, remedies will aim to restore that person to the position they would have been in had the complaint not been necessary (where relevant). Informal resolution and compromise will be attempted wherever possible. In cases where a remedy is provided to a complainant, steps will be taken to provide a remedy to others also affected, even if they have not made a complaint themselves.

## **Referral to the PLA for investigation and consideration of disciplinary procedure**

After investigating a complaint involving a licensed brothel, the PLA may consider disciplinary action against a licensee and/or approved manager, or some other appropriate action. Penalties that may be imposed as a result of disciplinary action are outlined in the Prostitution Act.

## **Referral to the PETF**

The PLA has limited capacity to investigate complaints about illegal prostitution or illegal advertising, or complaints alleging offences under the *Prostitution Act 1999*. The only appropriate option for complaints about illegal prostitution or illegal advertising for prostitution services is to refer the complaint to the PETF. Complaints can be referred to the PETF in their entirety, or without information identifying the complainant. The referral of identifying information about the complainant is a decision for the complainant to make. When a decision has been made to refer a complaint, the complaints will be subject to regular status updates from PETF to the PLA, until the complaint is finalised by PETF. Generally, once a complaint is referred to PETF the complainant will be advised to liaise direct with PETF until the complaint is finalised by PETF.

Note: Complaints referred to PETF will be recorded by the PLA as closed/finalised unless PETF formally request otherwise.

## **Referral to another appropriate agency**

Complainants may be referred to another agency. For example:

- Complaints about a sole operator can be referred to the local government authority to check if the premises is registered as a small business

- Complaints about health issues relating to prostitution could be referred to Queensland Health
- Complaints about noise could be referred to the Environmental Protection Agency
- Complaints about adult entertainment permits may be referred to the Office of Liquor, Gaming and Racing
- Complaints about development approval could be referred to the applicable local government authority
- Complaints about industrial relations issues could be referred to the Department of Justice and Attorney-General
- Complaints about worker injuries could be referred to WorkCover Queensland.

Once a complaint has been referred to another agency the complainant will be advised to liaise direct with the relevant agency to which the complaint was referred. Complaints referred to other agencies will be recorded by the PLA as closed/finalised.

### **Resolution of complaints made about PLA staff, the Executive Director or the PLA**

- Complaints made about a staff member will be referred to the Executive Director for investigation and remedy. The Executive Director may choose to refer the details of the complaints against a staff member to the Chair or the PLA for consideration and remedy.
- Complaints made about the Executive Director will be referred to the Chair of the PLA or to the CMC for investigation and remedy where relevant.
- Complaints made about the PLA may be referred to the CMC for investigation and remedy.
- The CMC may refer complaints to the PLA for appropriate action and remedy.
- The PLA may refer any complaint to the CMC for investigation and remedy.

If the complainant is not satisfied with the outcome of the complaint, they may complain to the:

1. Ombudsman under the Ombudsman Act 2001
2. Crime and Misconduct Commission under the Crime and Misconduct Act 2001
3. Anti-Discrimination Commissioner under the Anti-Discrimination Act 1991.

The nature and substance of the complaint will determine which of these three agencies has jurisdiction.

Grievances about the Authority may be pursued without fear of recriminations from the Authority.

### **Advice provided to complainant**

Sometimes a complaint about prostitution involves behaviour that is legitimate, or can be resolved by providing information about the prostitution laws in Queensland. In these cases, advice will be provided to the complainant which may also include sending the complainant written or web-based material.

### **Privacy complaints**

If an individual believes that the PLA has not dealt with their personal information in accordance with the Information Privacy Principles, they are entitled under the Information Privacy Act to make a complaint to the Authority.

A privacy complaint must:

1. Be in writing to the PLA Privacy Officer
2. Provide a contact address to which notices can be forwarded
3. Outline the basis for the complaint in as much detail as possible.

Complaints should be made as soon as possible after becoming aware of the suspected breach. They should be made to the PLA in the first instance and the PLA must be given reasonable time (45 days) to respond to the complaint. The complaint will be referred to the compliance section for investigation and the Privacy Officer will ensure the complaint is appropriately finalised.

If a complainant has not received a decision on the complaint within 45 days, or is not satisfied with the decision, they may complain to the Information Commissioner. The complaint will then be mediated, if deemed appropriate, or may be referred to the Queensland Civil and Administrative Tribunal (QCAT) upon commencement (from December 2009 or whenever QCAT commences).

### **Communication with the complainant**

Once a decision has been made about the action that will be taken in response to the complaint, the complainant will be advised. Complainants should be aware that the PLA has no power to award compensation or damages. If the complainant is not satisfied with the action proposed by the PLA to address the complaint, the complainant should advise the PLA what action they would prefer.

Where relevant, the consent of the complainant for their name to be used can be obtained to forward the complaint to another agency, or to resolve the complaint with an individual brothel licensee or manager. Where a complaint is referred to another agency, the complainant will be advised of the relevant contact details for that agency.

Complainants are entitled to reasonable progress reports. A plan may be established with the complainant for future communication. For example, the complainant may prefer to call the PLA within a specified period to seek information about any outcomes from the complaint. Alternatively, the PLA may establish a regular reporting plan until the complaint has been finalised. It should be noted, however, that the PLA has no capacity to continue any such arrangements with a complainant if the matter has been referred to another agency.

Complainants will be given reasons for negative decisions and have a right to external review of the way the PLA has dealt with their complaint. It will depend on the nature of the complaint as to which external agency will have jurisdiction to deal with the complaint. Relevant external agencies include the Queensland Ombudsman, the CMC, the Anti-Discrimination Commission Queensland, and the Office of the Information Commissioner. The PLA will inform complainants of their right to external review.

### **Complaint record-keeping**

Complaints will be assigned a unique reference number and relevant file notes will be made until the matter is finalised/referred to another agency.

Complaint details are filed securely at the Office of the PLA.

A complaints database is maintained for reporting purposes. The PLA will identify complaint trends and outcomes and will monitor the time taken to resolve complaints.

### **External complaints agencies**

*Queensland Ombudsman*

Level 17, 53 Albert St, Brisbane

GPO Box 3314  
Brisbane Qld 4001

Toll free (outside Brisbane): 1800 068 908

Tel: 07 3005 7000

Email: [ombudsman@ombudsman.qld.gov.au](mailto:ombudsman@ombudsman.qld.gov.au)

*Crime and Misconduct Commission*

Level 2, North Tower, Green Square  
515 St Pauls Tce, Fortitude Valley

GPO Box 3123  
Brisbane Qld 4001

Toll free (outside Brisbane): 1800 061 611

Tel: 07 3360 6333

Email: [mailbox@cmc.qld.gov.au](mailto:mailbox@cmc.qld.gov.au)

*Anti-Discrimination Commission Queensland*

Level 17, 53 Albert St, Brisbane

PO Box 15565  
City East Qld 4002

Toll free: 1300 130 670

Email: [info@adcq.qld.gov.au](mailto:info@adcq.qld.gov.au)

*Office of the Information Commissioner*

Level 4, 300 Adelaide St, Brisbane

PO Box 10143  
Adelaide St  
Brisbane Qld 4000

Tel: 07 3234 7373

Email: [enquiries@oic.qld.gov.au](mailto:enquiries@oic.qld.gov.au)