

## Procurement Complaints Management Process

Procedure code: OP-GO4.1.7

Effective date: February 2017

Last review date: September 2011

Next review date: February 2020

Section: Governance



Std 15: Corporate Systems & Safety

Sub-section: External Services

### 1. Overview

The Procurement Complaints Management Procedure will outline how to manage complaints related to procurement activities across Western Health.

### 2. Applicability

The procedure applies to all Western Health Divisions undertaking procurement activities.

### 3. Responsibility

The Chief Procurement Officer (CPO) and the Manager of Contract Management and Procurement Services (CMPS) are responsible for monitoring compliance to this procedure.

Staff responsible for the operational facilitation of procurement activities and contract management are required to understand the procurement framework and their responsibilities. Management are responsible for ensuring that staff responsible for the management of procurement activities are aware of and comply with this procedure.

### 4. Authority

The CPO and Contract Management and Procurement Services in conjunction with relevant Management, are responsible for implementation of this procedure.

### 5. Associated Documentation

In support of this procedure, the following Policies, Procedures, Information Sources and/or Forms apply:

Code	Name
	Health Service Act 1988 (Vic)
	Financial Management Act 1994
	WH Delegations of Authority
HPV policies:	Procurement Governance
	Procurement Strategic Analysis
	Market Approach
	Contract Management and Asset Disposal
	Collective Purchasing
OP-SE2.2.6	Management of Products or Equipment Alerts
OP-GO4.2.1	Medical Company Representative Visitors to Western Health
P-G02.7	Gifts Benefits and Hospitality Policy
OP-IM2.2.1	Corporate Document Management Procedure
OP-GO2.1.3	Conflict of Interest
	e-PACE Initiation Contract Approval Forms
	CMPS Intranet Page

### 6. Credentialing Requirements

NIL

### 7. Definitions and Abbreviations

For purposes of this procedure, unless otherwise stated, the following definitions shall apply:

Procurement Terminology	Definition
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Authorised Representative	The person that is entitled or delegated to commit the organisation to a contractual position, that is make an agreement with a third party that Western Health is obligated to fulfil. This may be the use or purchase goods or services or an obligation to perform a service. Note that a purchase order is a contract. The delegation entitles the person to not only enter into the contract but also to approve payment on invoices subsequently received. Also referred to as Delegated Authority.
(Category) Analysis	The analysis conducted to understand the category (or an individual procurement) in terms of the demand profile, total cost, business needs, specification of requirements for the goods or services, market dynamics, in particular the number of potential suppliers and level of market competitiveness, the social, technological, political, legal and economic environment of the category, the complexity and risks.
Capability	Competence, skills and capacity are often used interchangeably to describe an individual's or organisation's ability to perform tasks or activities effectively. In the context of managing procurement activity, the term 'capability' is increasingly used to describe the combination of an organisation's expertise, resourcing, systems, policies and processes to execute and manage specific procurement tasks and activities.
Chief Procurement Officer (CPO) e-PACE	A role required by HPV to which the Executive Director responsible for procurement is assigned. IT platform that contains approvals forms and access to the contract and related information in the documents management system (DMS)
Invitation to Supply / Approach to Market	The process involved in engaging the market to provide a proposal(s) to supply the good or services to be procured. This includes the process of evaluating responses and recommending one or more suppliers to negotiate a final agreement or contract.
Operational Contracts Manger (OCM)	Is responsible for managing the contract requirements operationally
Probity	Uprightness, honesty, proper and ethical conduct and propriety in dealings. It is often also used in government in a general sense to mean good process.
Sustainable Procurement	A process whereby organisations meet their needs for goods, services, works and utilities in a way that achieves value for money on a whole-of-life basis in terms of generating benefits not only for the organisation, but also to society and the economy, whilst minimising damage to the environment.

## 7.2 Abbreviations

For purposes of this procedure, unless otherwise stated, the following abbreviations shall apply:

HPV	Health Purchasing Victoria
CMPS	Contracts Management and Procurement Service
WH	Western Health
e-PACE	Electronic Procurement and Contracts Environment

## 8. Procedure Detail

### 8.1 Complaints Management Overview

This complaints management process mandates the steps for a supplier to follow if the supplier feels the need to make a formal complaint regarding the handling of a procurement activity between themselves and Western Health.

### 8.2 General Conditions of Lodging a Complaint

- 8.2.1 A supplier who considers that the awarding of a purchasing contract violated ethical practice or the conditions of the advertised invitation to supply may lodge a formal written complaint directly with the health service or through HPV
- 8.2.2 Complaints made directly to the health service may be emailed to the Manager of the Contracts and Procurement Services department or to the Chief Procurement Officer (CPO). The respective email addresses are [cmops@wh.org.au](mailto:cmops@wh.org.au) or [CPO@wh.org.au](mailto:CPO@wh.org.au).
- 8.2.3 Complaints made directly to HPV refer to 8.4
- 8.2.3 Complaints should give as much detail as possible but there is no mandated scope or format
- 8.2.4 Complainants are requested to provide contact details so that a response can be made to the Complainant as well as requests for additional information if required.
- 8.2.4 Anonymous complaints will be investigated but results may not be published.
- 8.2.5 Confidentiality will be maintained at all times and the complainant will not be victimised or harassed as a result of any complaint.
- 8.2.6 The complaints handling process is provided free of charge to the complainant.

### 8.3 Complaint Management Process

- 8.3.1 In the first instance, complainants are encouraged to resolve the matter with the department managing the procurement such as the Operational Contract Manager (OCM) as per the contract terms or the procurement procedures. Direct contact with the area handling the procurement, where possible, is the most effective and appropriate response
- 8.3.2 If a resolution cannot be achieved by the Operational Contract Manager (OCM) then the complainant should follow the Procurement Complaint Management Process as outlined below:
1. **Complaint Received** – The complaint is communicated by the complainant to the Manager CMPS or directly to the CPO. An acknowledgement of the complaint will be made in writing to the complainant within 5 business days of the complaint being lodged.
  2. **Understanding the Complaint** - A review of policies and procedures relevant to the procurement will be undertaken. An assessment of the complaint and the desired outcome will be made to ensure the situation is completely understood. Further information will be gathered to determine the facts and whether the desired outcome can be achieved.
  3. **Engage Stakeholders** - Key contacts to assist with the complaints management process i.e. Probity Advisor will be established. CPO, legal Services or external expert involvement may be required. If the complaint is of a particularly serious nature an external independent review may occur. The result of the investigation will be discussed with the CPO to determine the most appropriate response to the Complainant.
  4. **Develop action plan** – Action items including timeframes required to achieve the desired outcome will be documented. All parties involved will be informed, in writing, of the agreed action plan. This correspondence should also advise the complainant of the review and escalation process. WH aims where possible to have an action plan developed within 28 days of receipt of the complaint, unless the complaint is particularly urgent, in which case this process will be escalated as quickly as possible.
  5. **Implement action plan** - Progress in implementing the action plan will be tracked and communicated to the stakeholders at regular intervals.
  6. **Report Outcome** -Stakeholders will be informed when the action plan has been completed. Reasons for upholding or rejecting the complaint will be recorded.

### 8.4 Unresolved complaints or Complaints directly to HPV

A complainant can refer a complaint to the HPV Board for review if not satisfied with the actions of Western Health. This could be related to the management of the complaint or the application of procurement policy and procedures.

Western Health will inform the HPV Board within five (5) working days of any complaint that could not be resolved to the satisfaction of both parties.

Complaints submitted to the HPV Board may be lodged by letter, email or fax and must be lodged within 10 working days of the receipt of the findings by Western Health, to:

The Chair  
HPV Board  
Health Purchasing Victoria  
Level 34, 2 Lonsdale Street  
Melbourne Victoria 3000

The information required is:

- a clear written statement regarding what was considered unsatisfactory in the procurement process.
- evidence that Western Health did not correctly apply the procurement policy and procedures in relation to a procurement activity
- copies of, or references to, other information to support the complaint
- a statement regarding what the complainant wishes to achieve as an outcome from the complaint process

If further information is required, the supplier will be given no less than 15 working days to respond to any communication from Western Health unless the matter is urgent

The HPV Board:

- will inform Western Health and the complainant of its findings and any further action it intends to take in relation to the matter
- can require the CEO to audit its application of procurement policy and procedures in relation to the procurement activity
- can inform the Minister of Health of its review of a complaint and advise the Minister of further action that could be taken
- may note the outcome of a review in relation to any complaint in its annual report to Parliament

## 8.5 Official misconduct

The Chief Executive Officer (CEO) has a statutory obligation to report any matters concerning allegations of corrupt conduct in relation to procurement and may need to refer the matter to the following Australian Government organisations that also deal with complaints about procurement:

1. Australian Competition and Consumer Commission, regarding contraventions of the Competition and Consumer Act 2010 (Cwlth)
2. Australian Securities and Investment Commission, regarding contraventions of the Corporations Act 2001 (Cwlth).

Official misconduct will also, as a matter of course, be reported to the Western Health Board, the Department of Health and Human Services and the Department of Treasury and Finance.

## 8.6 Record keeping

8.6.1 A database will be kept by CMPS to assist in recording information and outcomes regarding complaints. Information that will be retained about complaints includes:

- Details (name, company, postal address and email address etc.)
- A concise statement regarding the nature of the complaint
- Details of the complainant's attempt to address the matter
- Action in progress
- Outcome.

8.6.2 CMPS will conduct an analysis of trends related to recurring complaints which usually indicates the need for remedial action and may be useful in developing better procurement systems.

- Reasons for upholding or rejecting the complaint will be recorded
- A tracking system with time frames will be developed to monitor the progress of the complaint.
- Regular reporting to an appropriate officer is required as outlined in the Action Plan regarding the status of complaints

## 8.7 Reporting complaints

Western Health will disclose in its annual report the following information in relation to each complaint received:

- a) procurement activity to which the complaint relates
- b) status of the complaint confirming whether it:
  - was resolved
  - is still under investigation
  - could not be resolved

## 9. References

### Legislative

Financial Management Act 1994 (Vic)  
Financial Management Act (Regulations) 2004 (Vic)

Western Health Policies / Procedures (available on intranet)  
Western Health Strategic Procurement and Contract Management Manual

### Instructions

Ministerial Directions – Financial Management Act (1994) / Financial Management Act Regulations (2004)

### Guidelines

Victorian Government Procurement Board Guidelines  
Victorian Auditor General's Office, Managing Risk Across the Public Sector, June 2007  
Victorian Auditor General's Office, Public Sector Procurement: Turning Principles into Practice, October 2007

## 10. Document History

Number of previous revisions: new document

Previous issue dates: not applicable

**11. Sponsor**

Executive Director of Finance, Capital and Contracts

**12. Approval Authority**

Executive Director of Finance, Capital and Contracts