

OIA-CE-2025-02874

16 April 2025

s9(2)(a)

Tēnā koe s9(2)(a)

Thank you for your email, received on 4 April 2025, to Oranga Tamariki—Ministry for Children (Oranga Tamariki) requesting information relating to formal disciplinary investigations into staff. Your request has been considered under the Official Information Act 1982 (the Act).

I have responded to each of your questions below.

What obligations Oranga Tamariki has and what support it provided its employees under a formal disciplinary investigation?

Please find attached as Appendices One and Two the Oranga Tamariki Disciplinary Policy and its supporting guidelines. These provide information on disciplinary action at Oranga Tamariki, and support managers to ensure disciplinary processes are fair, transparent and impartial. These documents also outline our obligations to employees who are subject to formal investigations.

A comprehensive and accessible Employee and Assistance Programme (EAP) is offered at Oranga Tamariki.

What obligations Oranga Tamariki has and what support it provided complainants under a formal disciplinary investigation?

Please find attached as Appendix Three the Oranga Tamariki Feedback Policy and Guidelines. This document outlines in detail our process for handling feedback, and our obligations to complainants who have submitted feedback.

If a complaint about our social work practice is made by someone external to Oranga Tamariki, Complaints advisors from our Feedback and Complaints team provide support and advice to resolve and respond to complaints. This may involve the resolution of complaints through the Centralised Complaints Pathway. The Feedback and Complaints pathway provides a way for complaints to be assessed and reviewed independently from the start of the complaints process.

In what circumstances an external investigator will be used

IN-CONFIDENCE

Under the heading “Investigation” in Appendix Three is a list of circumstances under which an external investigator could be used. An external investigator could also be used to investigate a protected disclosure.

Oranga Tamariki may make the information contained in this letter available to the public by publishing this on our website with your personal details removed.

I trust you find this information useful. Should you have any concerns with this response, I would encourage you to raise them with Oranga Tamariki. Alternatively, you are advised of your right to also raise any concerns with the Office of the Ombudsman. Information about this is available at www.ombudsman.parliament.nz or by contacting them on 0800 802 602.

Nāku noa, nā

A handwritten signature in blue ink, appearing to read 'Elizabeth Blanchfield'.

Elizabeth Blanchfield
General Manager People and High Performance
People Culture and Enabling Services

DISCIPLINARY POLICY

At Oranga Tamariki we're committed to ensuring that our work and work environments demonstrate a genuine commitment to our values and that all employees are empowered to behave and choose to undertake our work consistently with our policies and values.

We believe that the best way to resolve issues is to deal with them when they arise to avoid escalation, and to enable low level resolution as quickly as possible, where appropriate. The disciplinary process is used where there are concerns regarding an employee's conduct or performance in circumstances where low level or informal resolution is not appropriate.

Policy Statements

This policy must be read in conjunction with the provisions of your employment agreement.

The policy statements or must do's related to disciplinary action at Oranga Tamariki are:

- ▶ We will enter a disciplinary process where there are concerns over an employee's conduct or performance and action needs to be taken, and where informal resolution is not appropriate or has been unable to provide a successful outcome.
- ▶ We will treat employees fairly and respectfully, and provide a clear "rationale" in writing for any disciplinary decisions taken by Oranga Tamariki.
- ▶ We will support and communicate with those involved, and acknowledge that there may be times when it might not be appropriate for those involved in the matter to be in the workplace while we look into the matter.
- ▶ Our aim is to ensure that the relationship between the employee and their manager can remain professional and constructive throughout and following the conclusion of any disciplinary process where employment continues.

- ▶ We will support those who may be adversely affected by the behaviour, or conduct, of an individual. However, any false or vexatious complaints will be taken seriously and may themselves result in disciplinary action.
- ▶ Managers, who wish to investigate an issue, or address inappropriate conduct or poor performance, should involve their Senior HR Advisor before taking any action.
- ▶ We will report any serious misconduct allegations to the relevant professional body.

Key Definitions

In this policy, the definitions and guiding principles have been developed by Oranga Tamariki and reflect operational best practice based on a range of sources, including the SSC Model Standards on Creating a Positive and Productive Workplace Culture.

Poor Performance

Whilst not misconduct in and of itself, continued poor performance is not acceptable and can result in the imposition of disciplinary processes and sanctions in accordance with this Policy.

Please refer to the Managing Poor Performance Policy for further guidance.

Investigation

When a manager is made aware of an issue or matter that may amount to misconduct or serious misconduct they will need to determine whether and what type of investigation is required before deciding what to do next. This will depend on the circumstances and potential seriousness of the issue. An investigation is a broad term and the process can take a number of forms but in all cases, must be conducted thoroughly, objectively and fairly.

Please refer to the Disciplinary Guidelines for more information.

Misconduct

Misconduct is unacceptable conduct that does not meet Oranga Tamariki expectations as set out in the Code of Conduct, or any other relevant document, policy or procedure, but which is not immediately destructive of trust and confidence.

Please refer to the Guiding Principles below for non-exhaustive examples of misconduct.

Serious Misconduct

Serious Misconduct is unacceptable conduct that undermines, damages or destroys the trust and confidence that Oranga Tamariki must have in an employee to enable the employment relationship to continue.

Where an allegation of serious misconduct relates to an employee of Oranga Tamariki's action towards a child in our care, it is likely the Child Protection Protocol will be enacted. Please refer to the Child Protection policy and Child Protection protocol.

Please refer to the Guiding Principles below for non-exhaustive examples of serious misconduct.

Suspension

Suspension is in itself a serious step. However, in certain circumstances, it may be necessary that the employee is suspended from work while an appropriate investigation into an allegation of serious misconduct is undertaken.

Reasonable alternatives to suspension may also be considered. Suspension should only be implemented as a last resort.

Please refer to the Disciplinary Guidelines for more information.

Disciplinary Outcomes

The disciplinary outcome will be appropriate to the circumstances and seriousness of the issue. Any disciplinary action will be:

Non punitive: The primary focus is on changing behaviour and upholding standards not punishment or revenge.

Consistent: Disciplinary outcomes should be consistent across similar situations unless there are reasonable grounds for taking a different approach in particular circumstances.

Proportional: Disciplinary outcomes will be in proportion to the disciplinary issue, taking into account the circumstances and any mitigating factors.

The following disciplinary outcomes are possible:

- ▶ No further action (other than formally closing the investigation)
- ▶ Letter clarifying expectations
- ▶ Performance Improvement Plan (PIP). Please refer to the Managing Performance Policy for more information
- ▶ First written warning
- ▶ Final written warning
- ▶ Dismissal with notice
- ▶ Summary dismissal (without notice)

Guiding Principles

To support good decision making and ensure this policy is read and applied appropriately, we have included a 'guiding principles' section which is unique to the Disciplinary Policy. The Disciplinary Policy Guidelines are separate and should be read in conjunction with this policy to gain a good understanding of the obligations of both the employee and manager through a disciplinary process.

We will undertake any disciplinary process fairly, transparently, and impartially and in accordance with the following principles:

Good Faith

Good faith obligations are mutual and include the following elements:

- ▶ engaging openly, honestly and respectfully
- ▶ being responsive and communicative
- ▶ being active and constructive in maintaining a productive employment relationship

Natural Justice

The principles of natural justice include the following:

- ▶ the matter is raised with the employee as soon as practicable after identifying or being made aware of an issue
- ▶ all relevant information and material relating to the matter is provided to the employee
- ▶ the employee is provided with reasonable opportunity to respond to any allegations and intended actions, before a final decision is made
- ▶ all issues are investigated thoroughly, objectively and fairly

Procedural Fairness

The principles of procedural fairness are:

- ▶ the standards of conduct, behaviour and job performance required are reasonable, achievable and made clear to the employee
- ▶ the employee is made aware of the likely or possible next steps in the event that satisfactory behaviour is not maintained
- ▶ the employee has the right to be accompanied by a support person or representative at meetings at any stage of a disciplinary process
- ▶ allegations received from another person are usually verified through investigation before any disciplinary process is commenced or any disciplinary decision is made

Examples of Misconduct

Actions which are usually treated as misconduct include:

- ▶ Unauthorised absence from the workplace
- ▶ Failure to follow a lawful and reasonable instruction
- ▶ Lateness and/or absenteeism
- ▶ Abuse of sick leave
- ▶ Failure to notify the manager of absence
- ▶ Improper or unauthorised use of the Oranga Tamariki equipment, property, or resource
- ▶ Use of obscene or abusive language
- ▶ Breach of policy or procedure

Note: the above list is not exhaustive and other actions may also constitute misconduct or, in the case of poor performance, may result in disciplinary processes and outcomes. Equally, in some circumstances, misconduct may amount to potential serious misconduct.

Examples of Serious Misconduct

Actions which are treated as serious misconduct include:

- ▶ Any action or inaction that results in, or may have resulted in, harm to a child or young person in our care
- ▶ Any action that could amount to fraud or other significant misuse of Oranga Tamariki resources
- ▶ Impairment by drugs or alcohol at work or being under the influence of drugs or alcohol while driving a work vehicle
- ▶ Unauthorised removal or possession of Oranga Tamariki property or the property of others
- ▶ Serious breach of policy or procedure
- ▶ Any form of dishonesty
- ▶ Conduct or behaviour that results in, or may have resulted in, personal injury to others
- ▶ Failure to comply with a lawful and reasonable instruction
- ▶ Bullying, harassment, discrimination or other unreasonable behaviour

- ▶ Any action that could amount to assault, threatening or intimidating behaviour in the workplace or in the course of carrying out duties
- ▶ Deliberately falsifying or destroying, or inappropriate use of, Oranga Tamariki information or documentation
- ▶ Acts of serious negligence or gross incompetence
- ▶ Conduct that brings or has the potential to bring Oranga Tamariki into disrepute
- ▶ Inappropriate accessing or use of client's records
- ▶ Serious breach of confidentiality or privacy

Note: the above list is not exhaustive and other actions may constitute serious misconduct.

Guidance and Templates

- ▶ Refer to Disciplinary guidelines
- ▶ Refer to Managing Poor Performance policy
- ▶ [SSC Model Standards on Creating a Positive and Productive Workplace Culture](#)

Policy owned by GM, People and Leadership

Last updated: January 2020

Due for review: May 2022

Disciplinary - Supporting Guidelines

These guidelines supplement the Disciplinary Policy and give managers guidance on how to ensure disciplinary processes are fair, transparent and impartial. Where an informal resolution process is not considered appropriate, or has been undertaken without achieving the required outcome, a formal (disciplinary) process will likely follow. There is no 'one size fits all' approach to disciplinary processes or outcomes, however, the core principles for any disciplinary process are:

- ▶ Concerns regarding potential poor performance, misconduct or serious misconduct will be taken seriously and dealt with appropriately, and those who have concerns should feel comfortable and able to raise them.
- ▶ We will raise concerns with the employee and provide the employee with information relevant to the process.
- ▶ We will investigate what is alleged to have happened, and decide if and when disciplinary action is appropriate.
- ▶ The employee will have a reasonable opportunity to respond to the allegations and proposed disciplinary action before decisions are made.
- ▶ We will genuinely consider the employee's explanation before making any final decision.
- ▶ The employee is entitled to obtain support, advice and representation throughout.

Complaints

Allegations of misconduct or serious misconduct will sometimes be brought to the manager's attention by way of a complaint from another individual or organisation. The manager will need to consider whether they need further information from the complainant, for example about what happened, when, where, and who was involved, before deciding on the appropriate next steps. It is best practice for any complaint to be recorded in writing (preferably by the complainant themselves if possible, or if that is not possible, for any written summary of the complaint to be confirmed as accurate by the complainant). Unless there are genuine and significant concerns that justify a different approach (for example about the complainant's personal safety), a copy of the full complaint will be provided to the employee who the allegations are about. The complainant should be made aware of this as early as possible to enable any concerns regarding safety or retaliation to be considered and addressed.

The Ministry needs to ensure that they are addressing matters raised in an appropriate way in the particular circumstances. Furthermore, complainants need to have confidence in the Ministry and should be given reasonable feedback about the investigation process and whether their complaint is ultimately upheld.

First steps

When faced with a potential disciplinary issue, managers will need to consider the circumstances carefully, and decide what steps are required in the first instance. In some cases, for example where serious concerns are raised, a formal preliminary investigation may be necessary before a decision can be made about the need for a disciplinary process. In other instances, for example in situations where the allegations lack detail or can be easily

verified in some way, some less formal background enquiries might be undertaken before formal allegations are made. In other situations, for example where the employee has admitted the conduct or where it otherwise appears on the face of the information received that the conduct has occurred, it may be that no preliminary investigation is needed before raising the concerns in a disciplinary context. Other relevant considerations at this stage may include:

- ▶ whether the alleged conduct could (if substantiated) amount to misconduct or serious misconduct;
- ▶ whether the issue should be treated as poor performance (and the appropriate processes followed);
- ▶ the potential outcomes if it is established the alleged conduct has occurred;
- ▶ what type of investigation is required;
- ▶ who should be involved in investigating the matter and who the decision maker is;
- ▶ whether suspension or any other interim measures should be considered.

Managers should seek advice and support from HR as early as possible.

Initiating a formal process

If the manager believes there is sufficient information to begin a formal process, they should contact their Senior HR Advisor and once next steps are identified, write to the employee including;

- ▶ setting out the nature of the allegation, concern or complaint and (in general) who the complaint is from;
- ▶ explaining why the issue is of potential concern;
- ▶ including the relevant information currently available;
- ▶ referring to the relevant parts of the Code of Conduct, and any employment agreement, policy, or other requirement that may have been breached;
- ▶ advising of the possible consequences (i.e. the potential disciplinary outcomes) that the employee may ultimately face;
- ▶ Advising the employee that they are entitled to seek support and representation, and have free and confidential access to EAP as an employee.

Suspension

Suspension is in itself a serious step and should only be taken in a small number of sufficiently serious cases. However, in certain circumstances, it may be necessary that the employee is suspended from work while an appropriate investigation into an allegation of serious misconduct is completed. Such circumstances include, but are not limited to:

- ▶ A child or young person was harmed or potentially harmed as a result of the alleged employee actions.
- ▶ The employee or others are or may be at real risk.
- ▶ There is a risk of significant interference with the investigation.

In the first instance, reasonable alternatives to suspension should be considered such as working at an alternative location, restricting duties or putting additional monitoring in place. Suspension is a last resort if there are no suitable alternative options to mitigate the risk. In some cases, alternative actions will require agreement and cannot simply be imposed.

If you wish to suspend an employee you will need to engage with your Senior HR Advisor and your DCE for approval before proposing suspension. In most cases, the employee must be given the opportunity to respond to a proposal to suspend and to provide their view on whether the suspension is warranted, the duration is reasonable and to give any mitigating

factors the employee thinks should be considered. Generally, the employee will remain on full pay during the suspension. The key steps will usually involve the following steps:

- ▶ The employee is advised that suspension is being considered and why, and that they are entitled to seek advice and representation;
- ▶ The employee has the opportunity to comment on whether the suspension is warranted, and to provide any mitigating factors the employee thinks should be considered;
- ▶ The employee's response and reasonable alternatives are considered before a decision is made. If the decision is made to suspend, this should be followed up in writing.

In extremely rare cases, there may be real or immediate concerns regarding health, safety or investigation integrity which require immediate resolution. You must engage with your Senior HR Advisor and your DCE immediately in these situations.

Investigation

When a manager is made aware of an issue or matter that may amount to misconduct or serious misconduct they will need to determine whether and what type of investigation is required before deciding what to do next. This will depend on the circumstances:

- ▶ including the nature and extent of the misconduct that has been alleged;
- ▶ the amount of information already available, and any initial response from the employee concerned (or admission in which case a full preliminary investigation may not be necessary);
- ▶ the number of people involved; and
- ▶ the complexity of the issues involved.

Generally the more serious the allegations (and therefore the potential disciplinary outcome), the more the Ministry will need to do by way of investigation to satisfy itself that the misconduct has in fact occurred as alleged. An investigation is a broad term and can take a number of forms but in all cases must be conducted thoroughly, objectively and fairly in the circumstances, and will include gathering the necessary information, considering the facts of the matter, and determining next steps as appropriate.

Investigator

In complex or serious matters, the investigator and decision maker tend to be different people. In this instance, the investigator could be the employee's manager, another manager, or someone else (internal or external to the organisation) with the skills, experience and independence impartiality to investigate the matter. Internal delegations should be checked to ensure that the investigator and decision maker hold the necessary delegated authority to act.

Terms of Reference

In some cases (and in all cases where an external investigator is to be appointed), it will be appropriate to draft terms of reference, which would usually include the following:

- ▶ Brief background notes including activity to date
- ▶ Allegations
- ▶ Process for investigation including potential witnesses to be interviewed and timeframes
- ▶ Clear guidance as to the extent of the investigator's task, including any restrictions in this regard.

Ideally, the employee (and any complainant) should be given the opportunity to comment on

any terms of reference, and provide feedback on the investigation process and the intended investigator. However, it is not mandatory to have agreement from parties on the terms of reference for the investigation to get underway.

Investigation process

The investigator's role is to investigate the alleged conduct by gathering, considering, and testing the evidence, and making findings about what has occurred to the 'balance of probability' (i.e. more likely than not) standard of proof.

The scope and nature of an investigation will depend on the circumstances but generally involves:

- ▶ keeping the investigation as confidential as practicable;
- ▶ interviewing the complainant and relevant witnesses and producing accurate and reliable records of those interviews;
- ▶ reviewing relevant documentation and other evidence;
- ▶ providing all material and interview notes to the employee whose conduct is the subject of the investigation;
- ▶ providing others involved with material and interview notes to the extent this is necessary or appropriate;
- ▶ seeking the employee's response to the material gathered during the investigation, including any new information that comes to light during the investigation, prior to drawing conclusions;
- ▶ re-interviewing people where there is new information that they need to respond to or where there are conflicts in the evidence that need to be explored and resolved; and
- ▶ keeping the parties as informed of progress as practicable throughout, and ensuring support is offered.

Interviews may be recorded, and transcripts produced from those recordings. Alternatively, accurate notes of any interview should be kept. In either case the person being interviewed should have the opportunity to review the transcript or notes and confirm that they are comfortable that the content is an accurate reflection of the information provided. Interviewees should be advised ahead of the interview commencing that their confirmed transcript or notes will be made available to the employee who is the subject of the disciplinary investigation for them to comment on, and all or parts may be provided to others as necessary.

If there is a dispute about the material facts the investigator should analyse the competing evidence using the balance of probability standard and make decisions on that basis. The more serious the allegation, the more convincing the evidence needs to be to uphold it.

Investigation Report

Once the investigation is complete, the investigator should prepare a report that summarises the information gathered and set out the investigation's findings. The report should draw conclusions about the facts and the employee's conduct in light of the information gathered during the investigation, and outline the reasons why those conclusions have been reached (i.e. how the evidence has been assessed and weighted, and why). Unless the terms of reference provide otherwise, the report will not make recommendations as to what, if any further action should or could be taken.

The investigation report and the information the investigator considered should be provided to

the employee and all or portions of it will also usually be provided to the complainant. Both parties should generally be given the opportunity to comment on the report and its findings (to the extent those may be provided to the complainant) in draft before it is finalised.

Having considered the report, the decision maker will need to decide whether to accept the report's findings, whether potential misconduct or serious misconduct has occurred, and if so, whether disciplinary action may be warranted.

Disciplinary process

A disciplinary process may be undertaken where allegations of misconduct or serious misconduct are identified, or in cases of continued poor performance if informal efforts to resolve the issue have not been successful (see Managing Poor Performance Policy and Guidelines for further information).

Before making any final decisions, and before any disciplinary outcome can be imposed, the decision maker needs to put the specific allegations (of misconduct, serious misconduct or continued poor performance) to the employee and advise the employee of the potential disciplinary outcomes that might result. This is important so the employee is fully and fairly informed of the potential consequences and has the opportunity to speak directly to, and be heard by, the decision-maker.

The employee must be given the opportunity to respond before any disciplinary decisions are made. The decision maker should invite the employee to a meeting to discuss the disciplinary allegations, the decision maker's view of the employee's conduct or performance and the potential disciplinary consequences. The employee should be provided with the opportunity to bring a support person or representative to any meeting.

If the decision maker does not accept the employee's response, they should advise the employee of this and the reasons why, and invite any further response from the employee. There needs to be genuine engagement in this regard. If further investigation or information gathering is required before the decision maker reaches a decision, they will need to follow this up. Any new information uncovered or any new conclusions the decision maker might come to should be put to the employee for comment before a final decision is made.

If the employee refuses to answer the disciplinary allegations or a question in relation to them, the decision will need to make a decision in the absence of the employee's response. The employee should be advised of this, and given a further opportunity to provide any relevant information if they wish to do so.

Preliminary and final decision

Once the decision maker has all the relevant information to hand, and has considered the employee's response, they will generally reach a preliminary view on whether the conduct is in breach of the Code of Conduct or any other relevant document, policy or procedure. They will also generally form a preliminary view on whether or not the employee's conduct amounts or may amount to misconduct or serious misconduct. They must then consider what proposed disciplinary outcome, if any, is or may be appropriate in the circumstances. When determining the appropriate disciplinary outcome, any mitigating factors should be taken into account, such as the employee's service (length and record) and any personal or other factors that might be relevant.

In cases of continued poor performance, the decision-maker's preliminary view has already been provided ahead of each formal review meeting and does not need to be provided again.

The employee must be advised of any preliminary decision that is made and given the opportunity to comment on it before a final decision is made. Depending on the circumstances, and usually where the matter is less serious or complex, the investigation findings, preliminary decision and proposed disciplinary outcome might be discussed (with appropriate adjournments taken), and a final decision made and communicated in the one meeting. When the matter is more serious or complex, the decision maker should present the preliminary decision to the employee in writing and give the employee time to consider and respond to it before making and communicating a final decision.

The decision maker should take sufficient time, in the circumstances, to consider what the employee has said and to consider any issues that arise from this. It is also important for the employee to have confidence that his or her view have been genuinely and fairly considered.

The decision maker will then reach a final decision on the matter, communicate this to the employee, and confirm in writing.

Possible outcomes

The disciplinary outcome will be appropriate to the circumstances and seriousness of the issue. Any disciplinary action will be:

Non punitive: The primary focus is on changing behaviour and upholding standards, not exacting punishment or revenge.

Consistent: Disciplinary outcomes should be consistent across similar situations unless there are reasonable grounds for taking a different approach in particular circumstances.

Proportionate: Disciplinary outcomes will be proportionate to the disciplinary issue, taking into account the circumstances and any mitigating factors.

The following disciplinary outcomes are possible:

- ▶ No further action (other than formally closing the investigation)
- ▶ Letter clarifying expectations
- ▶ Performance Improvement Plan (PIP). Please refer to the Managing Performance Policy for more information
- ▶ First written warning
- ▶ Final written warning
- ▶ Dismissal with notice
- ▶ Summary dismissal (without notice).

Warnings

A first warning may be appropriate where the employee has engaged in misconduct or unsatisfactory performance whereas a final warning may be appropriate in cases of serious misconduct where extenuating circumstances mean a lesser outcome than dismissal is appropriate. A final warning may also be appropriate where the employee is already under a warning for similar conduct.

The warning should remain active for a period that reflects the severity of the issue, but will usually be for a period of 6 to 12 months. The ability to rely on a warning to justify further, more serious disciplinary action will diminish over time. Warnings need to be confirmed in

writing and will be held of the employee's personal file indefinitely.

Dismissal

Dismissal will only be appropriate where the employee has engaged in serious misconduct (in which case dismissal will generally be without notice or payment in lieu), or where an employee has engaged in further misconduct while subject to a final warning (in which case dismissal will be on notice or payment in lieu). The circumstances must justify the very serious step of terminating an employee's employment.

Police involvement

In cases where a child or young person has allegedly been harmed by the employee, a CPP (Child Protection Protocol) process will need to be initiated which includes referring the matter to the Police. The manager will need to work closely with their Senior HR Advisor to determine the next steps in relation to any investigation or disciplinary process as a referral may impact on any concurrent employment process in some cases.

In the event the matter at hand suggests possible criminal activity of another type, the manager should seek advice from HR and Legal on whether, and if so when, the matter should be referred to the Police.

Advising Professional Bodies

In circumstances where the conduct is serious, Oranga Tamariki may be obligated to notify the relevant professional body. The employee should be advised of this potential action at an early stage in the process and provided with a copy of any communication.

Stakeholders

Depending on the nature of the circumstances, it may be necessary to inform other stakeholders within Oranga Tamariki. For instance, the fraud team should be consulted in cases of conduct that could amount to fraud. Likewise if there is a potential privacy breach, advice from the privacy team should be sought. This should be done early on in the process to enable the relevant stakeholders to offer specialist advice accordingly. In all other instances, individual privacy and confidentiality should be maintained.

Rebuilding the relationship

If the outcome is not dismissal, it is important to put actions in place to rebuild or repair any impacted relationships within the workplace. While the emphasis may be that the employee's behaviour/conduct needs to improve, it is equally important to make them feel that this is possible and support them constructively through this. This may include:

- ▶ More regular meetings
- ▶ Further training or re-training if appropriate
- ▶ Arranging meetings with other parties potentially impacted by any behaviour or conduct to build an agreed or expected way forward
- ▶ Reminding parties of their ability to seek support and assistance through EAP
- ▶ Working through any actions or expectations set as part of the process
- ▶ Checking in and monitoring how relationships are working and providing additional assistance where appropriate.

IN-CONFIDENCE

Last updated: February 2022
Due for review: February 2023

Feedback and Complaints Policy and Guidance

February 2021

Introduction

As an organisation we are committed to practice and service provision that reflects our organisational values. We put tamariki first by challenging and changing things when situations aren't right for them. We engage with tamariki, their whānau, wider family and caregivers, in genuine, trustworthy and caring ways.

This includes respecting and restoring the mana of tamariki and advocating for their rights. We work with others in the community who care for and support tamariki and we listen to people, even when we do not agree with them or when their views do not reflect positively on us personally. Our focus is not to assume, but to create solutions with others. We are committed to working effectively with Māori and people from Pacific and LGBTI communities, and all other diverse groups.

This policy and guidance document should be used when managing and responding to feedback and complaints from an external party.



Legislation Overview

In the Oranga Tamariki Act (1989) there are two sections which relate specifically to complaints.

The first **section 7(2) (bad)** states we need to *establish, amend, or replace, after consulting the Public Service Commissioner, 1 or more complaints mechanisms to enable children and young persons, their parents, whānau, families, and caregivers—*

(i) to complain about actions or omissions under this Act or regulations made under this Act in relation to those children and young persons by the chief executive, the chief executive's delegates, and employees of the department; and

(ii) to receive responses to those complaints that are—

(A) timely and fair; and

(B) centred on the child or young person:

The second **Section 7(2) (bae)** relates to continuous improvement and states we need to *ensure that the policies and services provided by the department are informed by the outcomes of cases considered by the complaints process and the reviews of those outcomes undertaken in accordance with regulations made under section 447(1)(fb).*

Having these sections stated in legislation means that we should all be working to ensure that the feedback and complaints process is fair, focused on the child and complaints are responded to in timely manner. In addition, we need to ensure that as an organisation we are learning from the information gained through the complaint reviews, and using this to improve our services.

What is Feedback?

Feedback is the provision of information about an action, event or process, this can be either positive or negative. In Oranga Tamariki we receive and record all types of feedback, whether this is a complaint or a compliment on our service, or a suggestion to do something in a different way.

We need to be open to receiving feedback and take the time to listen properly when people provide it, this is the only way we can understand their experience of dealing with Oranga Tamariki. We can then use this opportunity to try and sort out issues quickly and make any changes required, so that problems or misunderstandings don't occur again. Being responsive and acting on concerns is central to quality relationship building with tamariki and whānau.

However, not all issues can be dealt with through the Oranga Tamariki Feedback and Complaints policy. The information below shows what is in and out of scope.

Feedback (including both complaints and compliments) which is in scope includes:

- The standard of service someone has received from the Oranga Tamariki and our staff
- The service someone has accessed, or wishes to access, from Oranga Tamariki
- Whether we have followed our own policies and practice standards
- The behaviour of Oranga Tamariki staff (this may overlap with Human Resources processes)
- The accuracy of information released under Privacy and Official Information (POI) requests

Feedback (including both complaints and compliments) which is out of scope includes:

- Reports of concern for a child's safety or wellbeing
- Feedback from Oranga Tamariki staff relating to their employment
- Court decisions
- Historic claims (these should be referred to the Ministry of Social Development) if they are about abuse that occurred prior to 1 April 2017, or to the Feedback and Complaints Team if they are about abuse after 1 April 2017
- Feedback that does not relate to our core work/service delivery



What to do with Feedback

One of the most valuable ways we can assess our own performance is through feedback provided by tamariki, whānau, caregivers and other community members. Throughout our day-to-day work we keep in mind that every opportunity to learn, reflect and improve is a step towards achieving our vision and ensuring that all tamariki are in loving whānau and communities where Oranga Tamariki can be realised. We will show we value the feedback people give us through acknowledgement and, when needed, action and follow through with those concerned.

There are several different ways people can provide feedback, the information below talks about the different avenues and what to do when you receive feedback.

IN PERSON

If someone presents in person to provide feedback, Oranga Tamariki staff can submit this on their behalf using the CCS Feedback Form.

Access the form from the 'Quick Links' tab on the right hand side of the Te Pae home page.

This will be followed up by the Feedback and Complaints team.

Example:

Tane (14) has come into his local site to share some concerns he has with his Social Worker, Anna. Tane believes Anna is dismissive to his needs/wants and he wants a new Social Worker.

Can I take information on Tane's behalf?
Yes, we have an internal form available on Te Pae that you can complete on behalf of Tane. The data will be automatically entered into the CCS IT System.

ONLINE

Feedback can be submitted online via our website. The form is accessible from the link at the bottom of each page (www.orangatamariki.govt.nz/about-us/contact-us/feedback).

There is also a child-friendly version of the form on our website.

Example:

Mel (30) has had her children temporarily placed with wider whānau by Oranga Tamariki, she is very upset and wants to provide feedback to the site regarding the way the uplift happened. She feels like she cannot talk to the Social Worker or any Oranga Tamariki staff as she is so wound up.

What can Mel do?

In this situation, Mel can consider completing an external feedback form that can be accessed via www.ot.govt.nz – once this form is completed it will be submitted to the Feedback and Complaints Team.

OVER THE PHONE

Feedback can be provided over the phone.

The Feedback Team can be reached on 0508 326 459 which will direct the caller to the National Contact Centre where a representative will transfer to Feedback Team

Example:

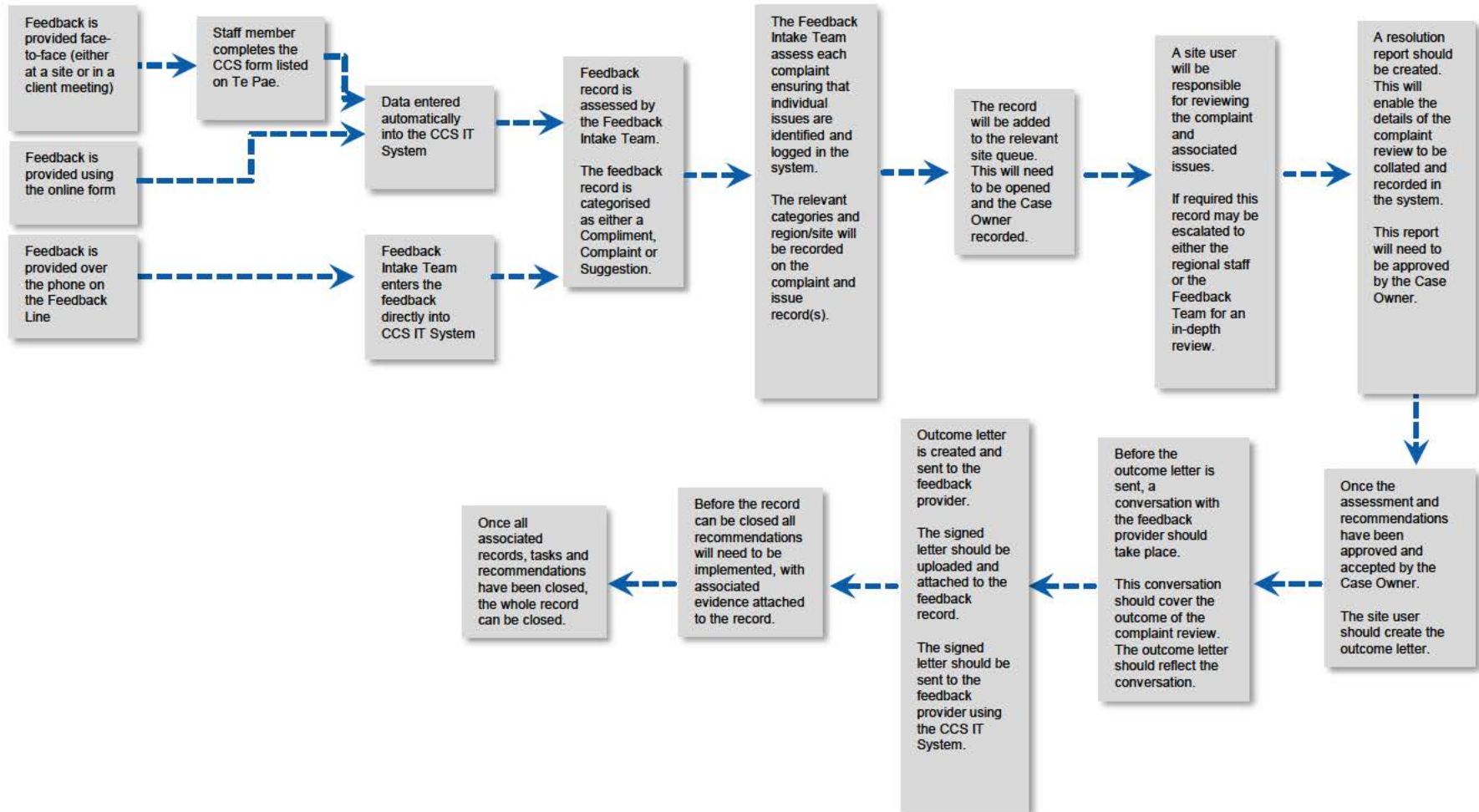
Will (50) is concerned about his granddaughter Amanda (6) being uplifted from her parents. Will has no way to contact the site directly, so he calls the National Contact Centre on 0508 326 459 who then transfer him through to the Feedback and Complaints Line.

What will happen with Will's concerns?

A Feedback Intake Advisor will gather the relevant information enter it directly into the CCS IT System.



What happens to a complaint once submitted



Feedback Principles

To ensure that we are engaging with people regarding their complaint in a consistent and appropriate manner a set of feedback principles have been developed which should be used to guide how we manage a complaint.

Principle	Applying the Principles
Tamariki Focussed	<p>We must:</p> <ul style="list-style-type: none"> • Take tamariki and rangatahi concerns seriously; act to keep them safe and improve their wellbeing. • Ensure that the work we do has regard to the principles of mana tamaiti, whakapapa and whanaungatanga. • Consider the best interests of tamariki and rangatahi when responding to feedback from adults.
Accessibility	<p>We must:</p> <ul style="list-style-type: none"> • Be approachable and genuine when receiving feedback. • Provide Māori with pathways to support them in raising feedback in a culturally respectful way. • Support those who want or need support to escalate their feedback (internally or externally).
Natural Justice	<p>We must:</p> <ul style="list-style-type: none"> • Be free of bias throughout the complaint assessment and resolution process and ensure everyone's rights are met. • Ensure our practice incorporates the principles of mana tamaiti, whakapapa and whanaungatanga. • Always act to the purpose and principles of the legislation we work under.
Resolution Focussed	<p>We must:</p> <ul style="list-style-type: none"> • Understand what resolution the feedback provider is seeking. • Always try and resolve feedback at the earliest possible opportunity. • Think about culturally informed resolution and what may be an appropriate outcome for the individual. • Strengthen relationships between Oranga Tamariki and children and whānau.
Learning Focussed	<p>We must:</p> <ul style="list-style-type: none"> • Consider receiving feedback as a core component of reflective practice. • Look for opportunities to do something differently when receiving feedback (regardless of 'right or wrong'). • Ensure the right information gets to the right people so we can learn from feedback and improve practice.



How long do we have to respond?

In July 2020, the policy timeframes for responding to and resolving complaints was amended to 35 working days (7 working weeks) across the organisation.

It is expected that complaints are responded and resolved much quicker than 35 working days. Where possible complaints should be aimed to be assessed, resolved and responded to as soon as possible.

If the complaint is complex, it has been agreed that we have the option to extend the policy timeframe to beyond 35 working days. If an extension is required, we must be in regular contact with the individual regarding progress of their complaint, and aim to complete the review as soon as possible.

Generally these complex complaints will be undertaken by the Feedback Team. However, in some cases these complex complaints may still sit within a site for management. In these cases the Feedback Team will be in contact with the relevant site regarding any complaint which is older than 35 working days, and help support the management of this complaint.

What help is there for repeat feedback provider?

A repeat feedback provider is a person who after a comprehensive review of their complaint has been completed, and continues to contact Oranga Tamariki regularly about the same issues raised in the complaint.

A comprehensive review is defined as the complaint has been reviewed by the Feedback and Complaints Team (or CE Panel or Ombudsman). Continued contact is defined as at least 3 contacts are made regarding the same issues.

If a person meets the above criteria, the site may request help from the Site Support Team to support them with undertaking a comms plan to manage the complaint (not the person).

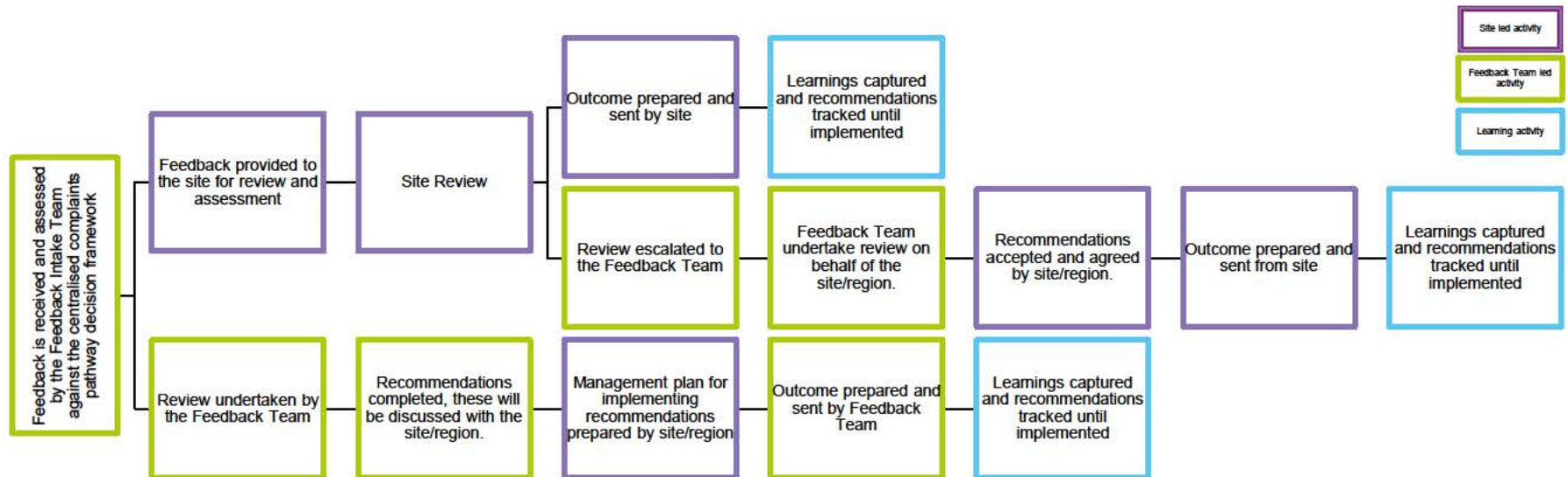
If the person continues to contact Oranga Tamariki regarding a complaint, which has not had a comprehensive review, this complaint should be escalated to the Feedback Team. A decision will be made on the most appropriate avenue for review and resolution.

Who reviews complaints?

There are three different ways in which a complaint can be managed:

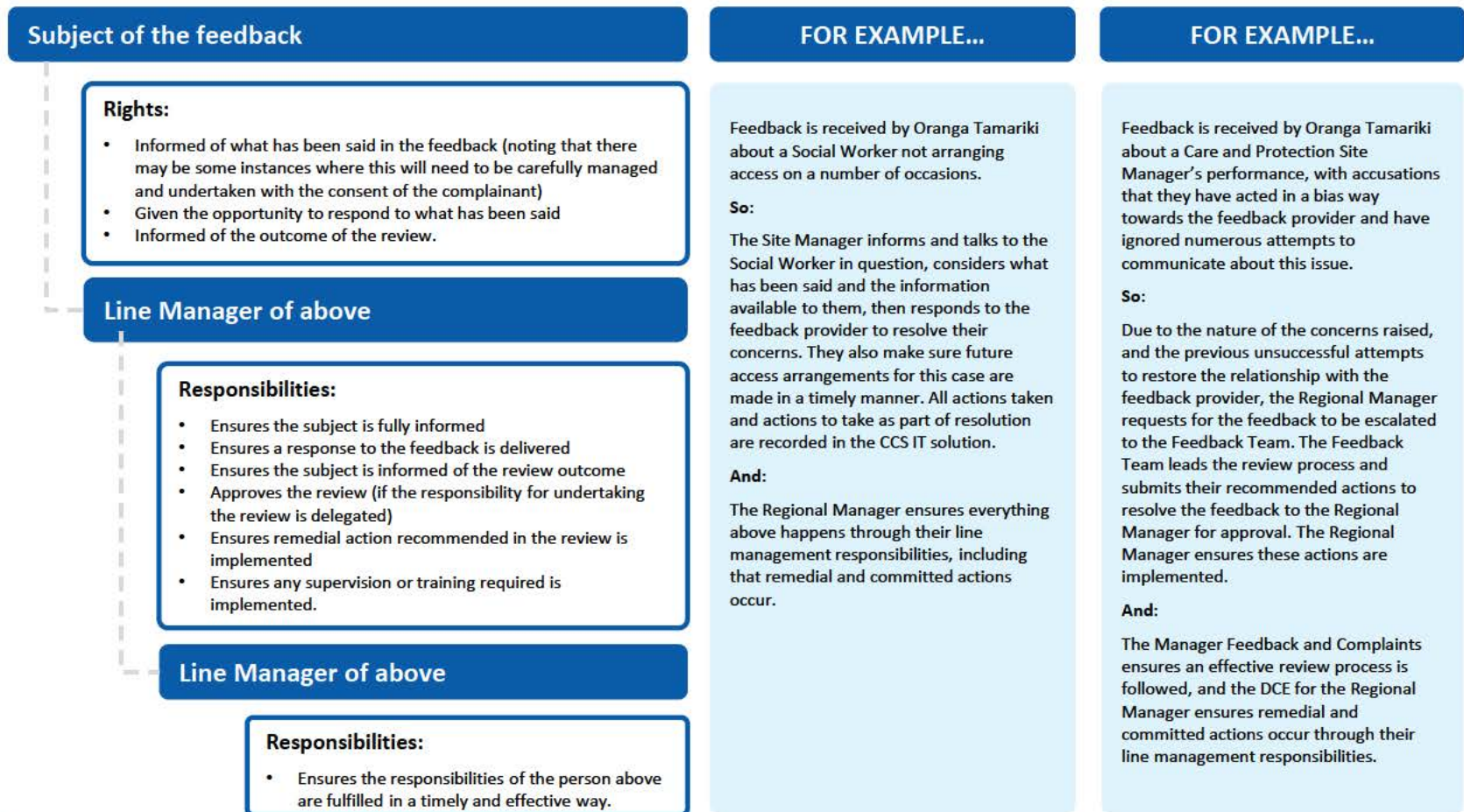
1. By site
2. By the Feedback Team on behalf of a site (known as an escalated review)
3. By the feedback Team as a centralised complaint.

The flowchart below shows the high-level summary of the resolution process, including who is responsible for responding to and owning the feedback.



Site Led Reviews - responsibilities

The diagram below will help you determine who is responsible for what tasks when feedback is received by Oranga Tamariki and **a site led review is undertaken**. The level of responsibility for each role in Oranga Tamariki moves up and down the management line depending of who or what team is the subject of the feedback (i.e., the feedback is about them).



What is a centralised complaint?

The centralised complaints process is an internal pathway within our existing complaints process that provides a pathway for complaints to be assessed and reviewed independently from site from the start of the complaints process. The impact and oversight of decisions made during the case will be assessed by the Feedback Team to determine if the investigation into the complaint will be led by the feedback team or the site.

- **Impact** is defined as the level of impact on the child and/or complainant involved in the situation that led to the complaint being made.
- **Oversight** is defined as the level of assurance and confidence that our actions leading to the complaint were undertaken with due process and appropriate supervision.

If the assessment results in a decision for the Feedback Team to review the complaint, this will be allocated to the Complaint Management Team. At this point the Feedback Team will contact the relevant Executive and Site Managers to let them know a complaint has been received and will be managed centrally.

The advisor will work with sites and relevant staff to understand the complaint and use this information along with information from the whanau, to reach an outcome. A draft report will be provided to the Executive and Site Managers for their consideration and feedback, however the responsibility for the findings and responding to the complainant would sit with the Manager Feedback and Complaints. Responsibility for ensuring appropriate action is taken in response to the recommendations would sit with the Site Manager.

Centralised complaints workflow

The workflow below gives the end-to-end view of the way in which a centralised complaint is managed. More information on each of these steps, as well as the assessment criteria can be found in the Centralised Complaints Workflow document.



Centralised Led Reviews - responsibilities

The diagram below shows who is responsible for what tasks when feedback is received by Oranga Tamariki and a **centralised led review** is undertaken.

Feedback Team Assessment and Review

Role / Responsibilities:

- Initial review of the feedback received, against the centralised pathway decision making framework. If impact on the child and/or complainant involved in the situation that led to the complaint being made is determined to be high a review of the feedback will be undertaken by the centralised Feedback Team.
- Responsibility for undertaking the review, making findings and recommendations sit with the Feedback Team.

Consultation with Relevant Parties

Roles / Responsibilities

- A preliminary review plan will be developed and provided to relevant parties (including operational teams, legal, PPG) for feedback. The plan will include proposed dates to speak with staff.
- Site interviews occur with information from original complaint and any additional information that has been provided. Interview notes to be provided to staff to confirm accuracy, if accuracy is questioned this must be reflected in the complaint record. Preference is to have an agreed record rather than two versions.
- If any significant matters arise in the interviews or record reviews these are to be escalated to Ops support/EM/Feedback manager as soon as practicable
- The draft report will be shared with relevant parties and feedback invited before the feedback provider is advised of any findings and recommendations. Recommendations must be discussed with the Site Manager/EM
- Sites and Regions will be responsible for developing a management plan to enable the recommendations to be implemented.

Responding to the Feedback Provider

Responsibilities:

- The Feedback Team will be responsible for providing the outcome to the feedback provider. This will be undertaken where possible face-to-face, with a follow up in writing.

What does resolution look like?

In Oranga Tamariki we place a strong emphasis on resolving feedback as close to the source of the issue as possible and as soon as possible after it has been raised. When undertaking any review it's really important to think about what may be an appropriate outcome and how we can deliver this in an appropriate cultural way. This could be how or where the conversations occur and who the individual may want there to support them. We need to ensure the individual feels safe and comfortable in the situation.

Early Resolution

Assess what has been raised and attempt to resolve at point of receipt or very soon after

Can immediate action be taken to resolve the issues raised, for example is the resolution to satisfy a service request or a commitment to do something?

If you have the authority to do so, undertake this action and provide a response to the person providing the feedback. If you do not have the authority to action, ensure the information is provided to the person who has the authority to take action.

In this situation the focus should be on finding a resolution, this does not necessarily mean Oranga Tamariki made a mistake, the most important factor is that an outcome is provided that is relevant to the situation.

Site Led Review

The site or region assess and review the feedback to provide a resolution as close to the source as possible.

If early resolution is not able to be achieved, a review would be required. Steps to take include:

- Assess and review the situation and speak with the people involved
- Look at the policy and legislation and see if the matters raised can be addressed through these channels.
- If the issues raised are subjective, ensure that you understand all sides and are assessing against practice and policy before coming to a conclusion.
- Once you have assessed and reached a conclusion record this outcome, along with your reasoning, in the system, as well as in the response to the person who provided the feedback.

An outcome may be something we need to do to fix the situation immediately, an action that is taken over a longer term or the identification of a systemic change that is needed (e.g. policy or practice based).

Centralised Review

The Feedback Team assess and reviews the feedback received in order to provide a response. This may either be undertaken independently of the site or on behalf of the site.

In some incidences the Feedback Team will undertake a review of feedback received independently of the site or region. This may result in an outcome and recommendations being proposed. The recommendations will be discussed with the relevant site, and a management plan for implementation will need to be agreed.

Alternatively, if resolution at the site level cannot be reached, you may seek to escalate the matter to the Feedback Team. An Escalated Review will be undertaken if the following criteria is met:

- Reasonable attempts at resolution have been unsuccessful
- The issues raised relate to more than one site or team
- There is a conflict of interest between the manager and the parties who provided the feedback
- The concerns are complex and require support from Feedback Team to enable matters to be resolved in a timely manner.



Effective Resolutions

Effective resolutions should be based on a restorative approach to resolution, this is a way two or more parties to close the door on past issues and build new relationships. All actions which form a component of the resolution delivered to a feedback provider must be made and delivered considering the best interests of the tamariki related to the feedback.

When looking at any resolution its really important to think about what may be an appropriate outcome and how we can deliver this in an appropriate cultural way. This could be how or where the conversations occur and who the individual may want there to support them. We need to ensure the individual feels safe and comfortable in the situation.

Action to Fix the Issue

Action to fix the issue must be a component of an effective resolution to a feedback provider, regardless of whether or not the feedback is regarding good practice. Action may include:

- **Communicate** – e.g.: provide an explanation, reason for what's happened, sufficient information regarding their case, an apology, or reach an acceptable agreement of what remedial action needs to be taken.
- **Fix the issue** – e.g.: Consider employee conduct and take appropriate action, stop an action that should not have started, cancel an intended action or correcting records.
- **Mitigate** (reduce adverse consequences) – e.g.: Taking action to prevent unnecessary, unreasonable or inappropriate detriment, correcting records that are misleading or providing appropriate assistance or support (including arranging internal or external service provision).
- **Satisfy the concerns** – e.g.: Provide an admission of fault, apology, undertake an HR process or, if appropriate, satisfy the resolution sought by the feedback provider.
- **Compensation** – ALWAYS seek advice from the Feedback Team and Legal Services before resolving feedback through compensation.

Committed Action

WHEN APPROPRIATE, action may be committed to as part of effective resolution process. Committed action may include:

- Any of the suggested actions in the box above.
- Action that must occur at a date later than when the resolution is delivered to the feedback provider, for example:
 - Arranging provision of an Oranga Tamariki service (e.g., Transition Support) or external service (e.g., universal or targeted service)
 - Reviewing or amend access, care or custody arrangements
 - Organising targeted supervision for an employee
 - Organising a future action in the interests of the feedback provider and associated tamariki.

Service Improvement Action

WHEN APPROPRIATE, action that would strengthen practice, process or policy for Oranga Tamariki may be a component of an effective resolution. A service improvement action may include identifying any opportunity to implement a change (or develop) guidance, policy, approach to practice etc. based on what has been learnt through resolving feedback.

An identified service improvement action is recorded as part of a resolution as a recommendation which is analysed and, if appropriate, shared with the System Enhancement Board (or other appropriate team) to approve its implementation. The purpose for this process is to ensure opportunities to strengthen practice are considered in the context of Oranga Tamariki and shared with the right people, teams and service lines.



What happens if you can't resolve?

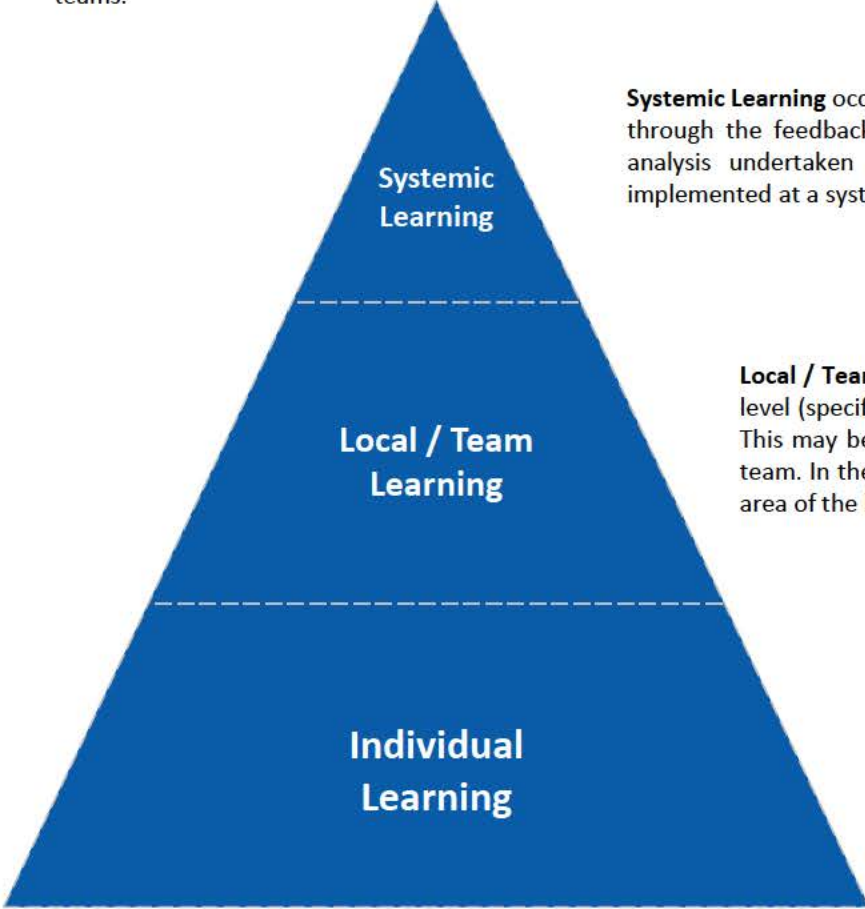
Resolution is a tricky issue, and sometimes, despite best efforts, you will be unable to resolve an issue. In this case there are several different avenues a feedback provider can seek resolution through, some are internal and some are external.

If a complaint hasn't been reviewed by the Feedback Team, you may seek a review by the Complaints Management Team. If this avenue has already been accessed, the Feedback Team would be able to advise on the next steps.

Depending on the complaint next steps may include a contacting the CE Advisory Panel, the Office of the Ombudsman, the Privacy Commissioner of the Social Work Registration Board.

How do we learn from complaints?

Within the Oranga Tamariki legislation we have a requirement to use the information gained from complaints to improve our policies and processes. There are three different levels of learning which occur from the feedback resolution process. The diagram below describes these levels and the impact on teams.



Systemic Learning occurs when an Oranga Tamariki practice, policy or process gap or weakness is identified through the feedback resolution process. Systemic Learning opportunities may be identified through analysis undertaken by the Feedback Team. Recommendations are analysed and, if appropriate, implemented at a systemic level.

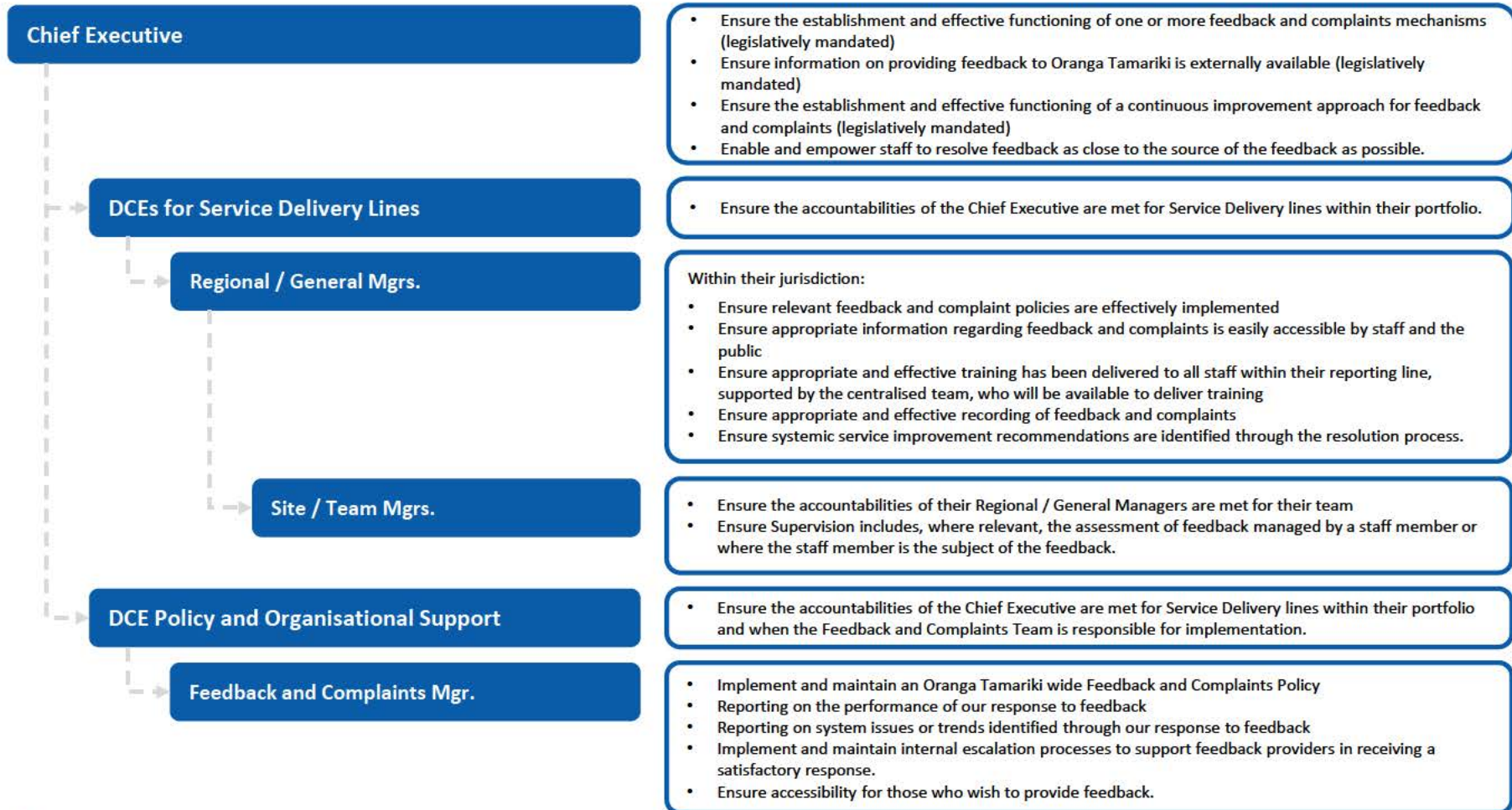
Local / Team Learning occurs when a practice, policy or process weakness is identified at a local level (specific to a site / team / jurisdiction / unit etc.) through the feedback resolution process. This may be because of insufficient training or support in a particular policy area for that local team. In these cases, targeted training or other types of support will be delivered to ensure that area of the business continuously improves.

Individual Learning sets the foundation for continuous improvement and should be the most common type of learning that occurs when staff receive and respond to feedback. Individual learning includes:

- Having a growth mind-set and being open to seeking feedback to strengthen our practice and how we work with others
- Looking for opportunities to do things differently when receiving feedback (even if good practice was followed)
- Identifying trends and reoccurring issues and proactively addressing them to support strong relationships between Oranga Tamariki and children and whānau.

Who is accountable for complaints?

The chart below provides an overview of who is responsible for what with regards to managing complaints.



How to contact the Feedback Team

The first point of contact for anything regarding complaints is the Feedback and Complaints Team. You can contact either your regional Senior Advisor Site Support or more generally the Feedback Team through feedback@ot.govt.nz.