

Title

Procurement Complaint Management Guideline

REMINDER: Charter of Human Rights and Responsibilities Act 2006 – All those involved in decisions based on a policy/ guideline have an obligation to ensure that all decisions and actions are compatible with relevant human rights and reflected within the policy document.

1. Context

This guideline sets out the process for relevant staff to manage complaints from suppliers regarding the procurement process at Eastern Health, in line with the Supplier Management Standard.

2. Definition of terms

| | |
|--------------------|--|
| Authorised officer | The person designated in an ‘Invitation to Supply’ document as the Eastern Health contact for information about the tender. |
| Modern Slavery | Modern Slavery has the same meaning as it has in the Modern Slavery Act 2018 (Cth) and includes trafficking in persons; slavery; servitude; forced marriage; forced labour; debt bondage; deceptive recruiting for labour or services; and the worst forms of child labour. The worst forms of child labour means situations where children are subjected to slavery or similar practices, or engaged in hazardous work. |
| Probity | Uprightness, honesty, proper and ethical conduct and propriety in dealings. Often used in government in a general sense, to mean good process. |

3. Name of Standard to which Guideline, Procedure or Protocol relates

Supplier Management Standard

4. Processes

A procurement complaint is an issue or concern expressed by a supplier in relation to the process and probity applied by Eastern Health when carrying out a procurement activity. Following this guideline will ensure an effective complaints management process is in place that demonstrates transparency and accountability. This guideline does not apply to Eastern Health or other public sector staff, or members of the public who wish to make a disclosure under the Protected Disclosure Act 2012. (Refer to the Protected Disclosures Procedure)

Any complaints or grievances relating to suspected Modern Slavery practices within Eastern Health or the Eastern Health supply chain will be handled in accordance with the guideline.

Complaints must be dealt with confidentially and suppliers who lodge a complaint must not be discriminated against in any way. Disputes related to a Tender or Contract Management issue are to be managed in accordance with any dispute resolution process documented in the agreement.

Eastern Health provides information for suppliers in ‘How to lodge a complaint about the Procurement Process at Eastern Health’ available on its website, along with a copy of this guideline and other procurement information provided to suppliers.

In the first instance, complainants should be encouraged to resolve the matter through the area managing the procurement process. This includes the authorised officer during a tender process. If this is unsuccessful or declined by the complainant, then suppliers wishing to lodge a complaint must be sent a copy of the Eastern Health Procurement Complaints process (refer to the 'How to lodge a complaint about the Procurement Process at Eastern Health' attachment), or directed to the relevant information located on the Eastern Health website. The complaint must be submitted in writing or via email to the Chief Procurement Officer (CPO).

1. The written complaint must set out:
 - the basis for the complaint (specifying the issues involved);
 - how the subject of the complaint (and the specific issues) affect the person or organisation making the complaint;
 - any relevant background information; and
 - the expected corrective outcome.
2. The CPO will:
 - allocate the complaint to an appropriate staff member for investigation. This will be someone who is not involved in the matter of the complaint and is independent of anyone directly involved;
 - ensure any complaints raising issues of improper conduct, including corruption or fraud, are managed with reference to other Eastern Health policies including (but not limited to):
 - Gifts, Benefits and Hospitality Guideline;
 - Conflict of Interest Standard;
 - Code of Conduct Standard;
 - Grievance Guideline;
 - Privacy Standard; and
 - Protected Disclosure Procedure.
 - forward the complaint to the Director Supply Chain, for lodgement in the Procurement Complaints database;
 - decide if complaints received during a tender process are to be referred to a probity officer; and
 - decide if Legal Counsel or the CEO needs to be notified of the complaint.
3. All complaints will be dealt with in a timely manner:
 - complaints must be entered in the complaints database managed by the Director Supply Chain and acknowledged by return email or letter, within 5 working days of receipt;
 - where possible, investigations are to be completed within 20 working days; and
 - if the investigation is anticipated to take longer than 20 days, the complainant is to be notified of the likely response date.
4. As a minimum, the following details must be entered in the database:
 - Complainant Details (name, company, address and contact details);
 - A concise statement of the nature of the complaint;
 - Details of any attempt by the complainant to address the matter within the 'invitation to supply' process;
 - Progress notes on the investigation, including recommended actions approved by the CPO; and
 - Outcome of the complaint.
5. The investigating staff member may, throughout the course of their investigation, seek to meet/contact the complainant to either clarify any issues or seek further information.

6. The outcome of the investigation, including recommended actions, will be recorded in the Procurement complaints database and emailed to the CPO and Director of Supply Chain. The CPO will decide what actions will be implemented as a result of the investigation, and assign implementation of the actions to an appropriate staff member. This may include:
 - Notifying the complainant that Eastern Health found the complaint was not justified;
 - Apologising for any errors/poor performance found in relation to the complaint;
 - Seeking to meet with the complainant to discuss any corrective outcome they are seeking;
 - Meeting with Legal Counsel to discuss the most appropriate course of action;
 - Implementing any agreed corrective actions negotiated with the complainant; and
 - Notifying the complainant that as the complaint could not be resolved, they can refer the matter to the Board of HPV - refer to point nine below for details.
7. Complainants must be notified in writing of the outcome of the investigation and any action Eastern Health will take.
8. Procurement complaints data will be analysed quarterly to identify any trends or recurring themes that provide an opportunity to improve processes, and reported to the Procurement Committee.
9. If the complaint cannot be resolved to the satisfaction of both parties, the CPO will ensure that Eastern Health notifies HPV within five working days that the complaint could not be resolved and will advise the complainant that:
 - a. the matter can be referred to the Board of Health Purchasing Victoria (HPV) for review at the following address:

The Chair
HPV Board
Health Purchasing Victoria
Level 34, 2 Lonsdale Street
Melbourne Victoria 3000
 - b. they have 10 working days from the date of receipt of the findings by Eastern Health to lodge their complaint with HPV; and
 - c. if they do choose to refer their complaint to HPV, they are required to provide the following documentation to HPV:
 - a. evidence that Eastern Health did not correctly apply Health Purchasing Policies in relation to a procurement activity;
 - b. evidence that Eastern Health's complaints management procedures were not applied correctly;
 - c. a copy of all relevant correspondence between the complainant and Eastern Health in relation to the nature of the complaint; and
 - d. any additional material requested by the HPV Board to assist in its findings.
10. Once the complaint is resolved, the Procurement database entry must be listed as "closed".
11. The following information must be reported annually to the Eastern Health Board in relation to each complaint received:
 - a. procurement activity to which the complaint relates; and
 - b. status of the complaint confirming whether it:
 - i. was resolved;
 - ii. is still under investigation; or
 - iii. could not be resolved.

5. Scope

All staff who are involved in procurement activities.

6. Tools & Techniques

Use of a Procurement Complaints database to record all procurement complaints and outcomes.

7. Level of Supporting Evidence Available (For Clinical Guidelines only – Level I –IV. Provide details.)

8. References

HealthShare Victoria – Health Purchasing Policy (HSV- HPP), and HSV guidelines and documents

9. Development History

New practice guideline February 2016

Reviewed February 2019- (minor changes only)

Reviewed July 2021

Reviewed May 2022

10. Attachments

Attachment 1: How to lodge a complaint about the Procurement Process at Eastern Health.