



Dispute Resolution Policy - DRAFT

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Glossary of terms

Term	Means
Certification Agreement	Openly Certification Agreement 2020 – the contractual agreement between an Openly Certified Entity and Openly Australia Pty Ltd duly entered into.
Complaint	An expression of dissatisfaction made where a response or resolution is expected (either explicitly or implicitly). The expression of dissatisfaction may be related to products, services, policies, procedures or the complaints management process. It is to be differentiated from an ‘Enquiry’.
Dissatisfaction	The customer expresses displeasure, disappointment, unhappiness, anger or frustration regarding their experience.
Enquiry	A request for information about products or services that does not reflect dissatisfaction and is generally any question or concern that is resolved through the customer’s initial contact after being provided with appropriate information which satisfies the customer.
Entity	An entity refers to a business, whether that be a sole trader, partnership, company, corporation, trust, individual or otherwise.
Openly	Openly Australia (Win3 Pty Ltd trading as Openly Australia)
Openly Code (the Code)	Privacy (Openly Australia) Code 2020
Certification Register	The Openly Certification Register as created and maintained by Openly and available on Openly’s website.

1. Introduction

Openly recognises the value of complaints as an important tool in monitoring and responding to customer and community expectations. In order for Openly to respond appropriately to complaints, all complaints are recorded and assessed as part of an on-going complaints management process.

Maintaining transparency throughout all of Openly's business is imperative.

Openly believes in the *no wrong door* policy – that is, that individuals can approach us with enquiries, complaints and concerns and we will action those queries with respect and try to remedy the matter, even if that means providing referrals to a more appropriate agency or body.

This policy outlines what Openly can consider when a complaint has been lodged and provides information about the process. Openly invites businesses and individuals alike to provide feedback.

While we value this feedback, this policy does not replace the valuable roles of other entities.

The Office of the Australian Information (OAIC) is the appropriate contact for businesses and individuals to raise concerns about notifiable data breaches, to apply for FOI reviews and to make privacy complaints. The OAIC website is located at oaic.gov.au.

Should a business have a complaint about the Openly Certified application process, or a decision made by Openly to grant or to refuse certification, a complaint should initially be raised with Openly.

Similarly, individuals who hold a grievance about Openly's performance or Openly's content, should also raise their concerns directly with Openly.

2. Purpose

The purpose of the Dispute Resolution Policy is to:

- Recognise, promote, and protect consumers' and business' rights to complain about their dealings with Openly (for business complaints please refer to section 6, and for individuals, please refer to section 8);
- Ensure that an accessible complaints management process is in place;
- Take relevant and appropriate action to resolve complaints as required;
- Provide a mechanism for resolving complaints in a timely, efficient and courteous manner;
- Outline how Openly resolves disputes through internal investigations and referrals to approved third-party dispute resolution bodies;
- Summarise how Openly records, assesses and reviews complaints on an ongoing basis in order to improve Openly's products and services; and
- Ensure that Openly Certified Entities are complying with the requirements of the *Privacy (Openly Australia) Code 2021* (the Code) and provide instructions and guidance for how Openly may handle issues of non-compliance with the Code.

3. Objectives

The objective of this Dispute Resolution Policy is to outline and embed an effective and efficient complaints management process that is aligned with Openly's business values, core vision and strategic objectives.

This Policy applies to:

- Complaints about Openly;
- Complaints about an Openly Certified Entity;
- An Openly Certified Entity who wants to make a complaint about Openly; and
- An applicant seeking Openly certification who wants to make a complaint about Openly.

In developing this Policy, Openly has adopted industry best practice by ensuring that the Openly Executive team attempt to resolve issues quickly and fairly, and by ensuring that complaints and feedback are handled sensitively¹.

This Policy is supported by other Openly policies including but not limited to:

- Privacy (Openly Australia) Code;
- Certification Agreement; and
- Certification Guidelines.

¹ Openly has referred to the Fair Work Ombudsman's Effective Resolution located [here](#) in ensuring that best practice dispute resolution processes are implemented.

4. Policy statement

Openly recognises that all individuals have the right to complain, have their complaint heard and to be treated with dignity and respect.

Any individual or business that makes a complaint will not be discriminated against as a result of making the complaint. This means entities and individuals will not be treated unfavourably, including in the way Openly communicates and provides services both during its consideration of the complaint and once the complaint is finalised.

Openly recognises that complaints may highlight gaps in our processes and encourages entities and individuals to raise issues so that they can be addressed.

Openly works toward successful finalisation of complaints through:

- Commitment – Openly’s Executive team are committed to providing and utilising an effective and transparent dispute resolution system through a robust complaint reporting procedure.
- Resources – Openly has deployed the necessary resources to ensure that our Dispute Resolution process operates effectively and efficiently, and by ensuring that complaints are managed by staff who have received sufficient training to competently handle complaints that are received.
- Visibility – Openly informs Openly Certified Entities of this Dispute Resolution Policy and complaints management process through its Certification Agreement. Further, this Dispute Resolution Policy is publicly available at all times on the Openly website. Openly’s Executive team and other staff who receive and/or manage complaints have a thorough understanding of Openly’s complaints management process and can provide further clarification to entities and individuals upon request.
- Accessibility – All entities and individuals have the right to make a complaint to Openly in writing (e.g. email and online submissions). In circumstances where a person has a disability and is unable to correspond in writing, Openly will facilitate requests for phone contact.
- Responsiveness – Openly commits to deal with and respond to complaints in a prompt manner and keep complainants informed of the process and the progress of their complaint.
- Objectivity – Each complaint is addressed in an equitable, objective and unbiased manner. Openly recognises the requirement to remain fair in its correspondence with the complainant in the handling of the complaint.
- Charges – Openly does not charge for the lodgement and processing of complaints. However, where an entity chooses to approach an approved third-party dispute resolution body following an internal review, any costs associated will be liable to that entity who initiated the external review. In the event the approved third-party dispute resolution body determines in favour of the business, Openly will be liable to pay its costs.

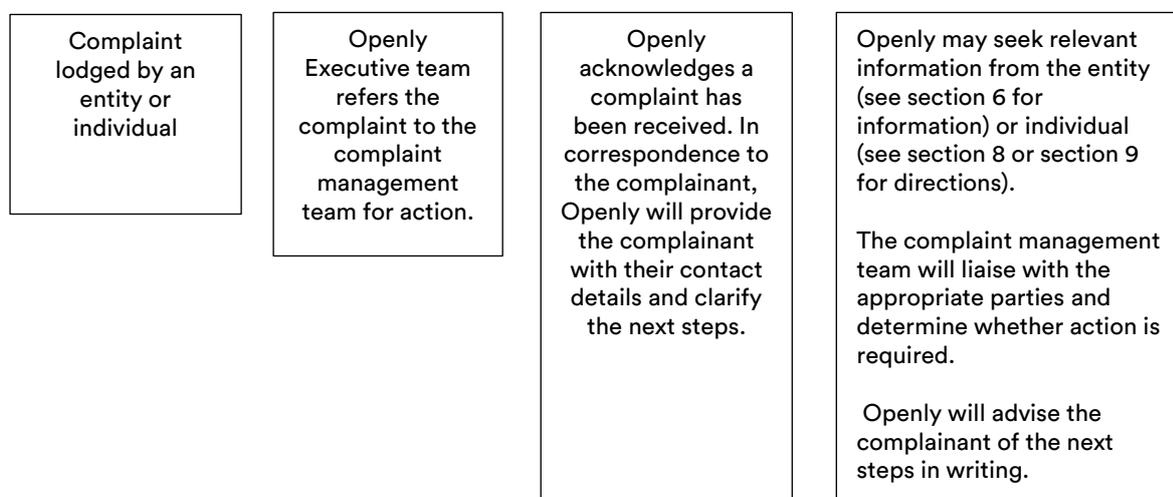
- Confidentiality – All complaints are recorded and dealt with in the strictest confidence. Personal information is accessed only as necessary, and only for the purposes of addressing the complaint. All personal information is treated by Openly consistent with its obligations under the *Australian Privacy Act* (Cth) (1988) and the Code.
- Individual-focused approach – Openly is committed to the efficient and equitable resolution of complaints. Further, we acknowledge the right to complain and encourage comments from all stakeholders so that we can be better.
- Accountability – Complaints are reported to Openly’s Executive team who will then refer the matter to the complaint management team in the first instance. An overview of complaints statistics is regularly reported to the Openly Executive team.
- Continual Improvement – Openly has established a complaint tracking system to ensure that systemic problems are identified, grouped and analysed more broadly. The Dispute Resolution Policy and its competency is reviewed on an annual basis to ensure it is delivering effective outcomes.

5. What happens when a complaint is made?

Openly's Dispute Resolution Policy should be read in conjunction with the Certification Guidelines and the Code.

1. Openly will accurately record the details of the complaint as part of Openly's complaint management process, give it fair and genuine consideration, request further information as required and seek to achieve a fair outcome.
2. The complaint is referred to Openly's Executive team and then allocated to an individual complaint handling officer.
3. Openly will acknowledge receipt of the complaint and advise of its referral to an individual officer. Further, Openly will advise the complainant of our requirement to handle that complaint in accordance with this Dispute Resolution Policy which is accessible on the Openly website and may provide a copy of this policy to the complainant upon request.
4. The officer will consider the complaint within a reasonable timeframe (generally within 30 days), having regard to the nature and complexity of the complaint and keep the complainant informed of any progress.

Where it starts



5. Openly will treat the complainant respectfully and handle all personal information in accordance with the Privacy Act and the Code.
6. Following an investigation (whether simple or complex), the complaint officer will advise the complainant in writing of the outcome. The decision will include reasons for that outcome and will outline what information was considered in Openly's assessment of the complaint.
7. Where appropriate, Openly will take action to assist in remedying the complainant's concerns to prevent the situation reoccurring.

For clarity, Openly notes that different complaint avenues exist depending on the subject matter of the complaint. Where a complaint relates to the certification process or the certification outcome, section 6 applies. In instances where individuals have concerns or complaints about Openly's conduct or a privacy issue, section 8 will apply.

6. Complaints by an entity about Openly Certification

Complaints about the certification process or a certification outcome should be raised directly with Openly in the first instance. Entities should complete the Complaint Form available on the Openly website.

Following the steps outlined in section 5, where Openly's complaint officer assesses the complaint, following allocation by the Openly Executive Team, and makes contact with the complainant, the internal review process will commence.

6.1 Internal review

An internal review can be requested by an entity if:

1. they are dissatisfied with the application process; and/or
2. they object to the outcome of a certification decision; and/or
3. they object to Openly's decision to caution or direct remediation; and/or
4. they object to Openly's decision to take immediate action; and/or
5. they object to Openly's decision to revoke certification.

Openly will advise in writing whether upon initial consideration, it considers the complaint to require a simple investigation, a complex investigation or an investigation that requires an immediate action.

An internal review may include a review of any or all of the following:

1. the initial application form;
2. the eligibility attestation;
3. the Certification Agreement;
4. the self-assessment; or
5. the audit.

At any time, Openly may request further information to assist in assessing the complaint.

A request for further information may be made to the complainant in writing, by phone, by email or other electronic means. Any such request must be actioned upon within 14 unless an extension of time has been requested and accepted by Openly.

Should no information, or no relevant information be provided to Openly within the timeframe agreed, the matter may be finalised without further action after 30 days.

Openly may also seek further information from third-party sources.

6.2 Simple investigation

A simple investigation is generally considered to be appropriate when sufficient information has been provided that allows Openly to adequately address the issues raised within a short timeframe.

An outcome of a simple investigation may be that an entity may be offered a period of time to remedy their process or system so that it aligns with the requirements of the Code, the Certification Guidelines and/or the Certification Agreement.

For the matter to be finalised, Openly may decide to:

- a) Explain in greater detail, the reason for Openly's decision;
- b) Reassess the entire application, or parts of the application manually;
- c) Change its decision with regard to placing the entity into review, or to revoke certification;
- d) Refer the matter for a complex investigation and/or immediate action;
- e) Affirm its decision;
- f) Take no further action;
- g) Any other action considered reasonable in the circumstances.

Should Openly need to change its process/decision as a result of the simple investigation, this will be implemented within 30 days.

Should the entity remain dissatisfied with the outcome of the simple investigation, the entity may choose to apply for an external review.

6.3 Complex investigation

A complex investigation is generally required where insufficient information is provided by the entity, where the matter has been referred to complex investigation because of its nature or complexity, or where it is likely that there will be detailed correspondence between the entity and Openly to remedy the complaint.

For the matter to be finalised, Openly may decide to:

- a) Explain in greater detail, the reason for Openly's decision;
- b) Reassess the entire application, or parts of the application manually;
- c) Change its decision with regard to placing the entity into review, or to revoke certification;
- d) Refer the matter for immediate action;

- e) Affirm its decision;
- f) Take no further action;
- g) Any other action considered reasonable in the circumstances.

Should Openly need to change its process/decision as a result of the complex investigation, this will be implemented within 30 days.

Should the entity remain dissatisfied with the outcome of the complex investigation, the entity may choose to apply for external review.

6.4 Immediate action

Openly may take immediate action in the event of serious breaches.

Where Openly has elected to take immediate action, an entity may dispute this course of action. However, the complaint process is accelerated in that Openly requires an entity to respond within two business days (instead of 14 days) to requests for information.

Further, it is at Openly's discretion as to whether immediate action will be ceased and at what point.

To take immediate action, Openly must reasonably believe that it would be detrimental to Openly, an entity or an individual to:

- a) Continue to list the entity on the Certification Register because certification was granted on the basis of misleading or deceptive conduct or representations, or that the certification was improperly obtained;
- b) Continue to assess an application because there has been evidence of misleading or deceptive conduct;
- c) Continue to list the entity on the Certification Register or assess an application because the entity has contravened a law, or Openly has reason to believe that the entity may have contravened a law;
- d) Continue to list the entity on the Certification Register or assess an application because a certified entity has contravened the Certification Agreement, the Certification Guidelines or the Code; or
- e) Openly reasonably believes that it would be detrimental to the health, safety, security, privacy, or reputation of Openly, an Entity or an individual to not revoke certification; or
- f) Openly is directed to revoke certification by the OAIC or the Australian Competition and Consumer Commission (ACCC).

7. External review

An entity may apply to an approved third-party dispute resolution body for an external review on any question of law arising out of a decision of Openly's internal review.

That external review is only concerned with the legality of a decision, for example, whether Openly had the authority to make the decision, whether it has considered an irrelevant fact or failed to consider a relevant fact, or whether the decision was so unreasonable that no reasonable decision maker could have made it.

That is, an appeal to an approved third-party dispute resolution body is not a full merits review. There is no appeal to the third-party dispute resolution body in relation to decisions on whether certification has or has not been granted.

Instead, the third-party dispute resolution body can only consider Openly's assessment of the certification application was lawful with reference to the Privacy Act, Certification Agreement, the Certification Guidelines and the Code.

The initiating of an external review is at the cost of the applicant and must be conducted by an approved third-party dispute resolution body.

However, should the approved third-party dispute resolution body determine in favour of the entity, Openly will cover the costs of initiating the external review to the maximum amount of \$5,000.

Approved third-party bodies and their contact details will be listed by Openly on its website when the Code comes into effect.

If an individual or entity believes that a different entity (including Openly Certified Entities) has breached their privacy, the OAIC should be contacted. More information about what OAIC can consider can be located at oaic.gov.au.

8. Complaints by individuals about Openly

We want to understand and resolve your complaint as quickly as we can.

We welcome your feedback and suggestions about our standards of service as well as on feedback about our performance.

If you are dissatisfied with our service, our actions, or our content, these concerns should first be directed to Openly for consideration.

Individuals should complete the Complaint Form available on the Openly website.

We will give careful attention to your complaint and treat you with respect.

If your complaint raises a matter that we can and should investigate, we will do so as soon as is practicable. If the complaint is justifiable, Openly will take action to assist in remedying the complainant's concerns to prevent the situation reoccurring.

For clarity, we will only consider complaints that require investigating by matters covered by the Code, the Certification Guidelines and the Certification Agreement and not issues that are better dealt by the certified entity.

At all times, we will be polite, respectful and courteous, and aim to communicate with you in a way you can understand.

If the matter is more appropriately dealt with by another body (for example: complaints about financial institutions may be more appropriately handled by the Financial Ombudsman, the Australian Financial Security Authority or the Australian Financial Complaints Authority), we will refer you to that body and not just close the door on you.

In return, we ask that you treat us with respect and to keep communication lines open. Let us know if you have any special requirements to access our services, give us complete and accurate information and respond to our requests for information as quickly as you are able.

9. Complaints by individuals about an Openly Certified entity

Complaints about an Openly Certified Entity should be raised directly with that entity in the first instance.

If you are not satisfied with the entity's response, or if there has been an unreasonable delay, an individual should complete the Complaint Form available on the Openly website.

Following the steps outlined in section 5, where Openly's complaint officer initially assesses the complaint and makes contact with the complainant, the investigation process will commence.

If your complaint raises a matter that we can and should investigate, we will do so as soon as is practicable. If the complaint is justifiable, Openly will take action to assist in remedying the complainant's concerns to prevent the situation reoccurring.

Openly may take any of the following action:

1. No further action – If Openly believes the complaint is not justifiable or does not relate to a breach of the Code, the Certification Guidelines or the Certification Agreement, Openly may elect to take no further action. Complainants will be notified of this outcome.
2. Caution and remediation – If Openly believes the complaint is justifiable, and relates to a breach of the Code, the Certification Guidelines or the Certification Agreement, Openly may elect to caution the entity and direct them to remedy the breach within a specific period of time. Complainants will be notified of this outcome.
3. Immediate action – If Openly believes the complaint is justifiable, and relates to a severe breach of the Code, the Certification Guidelines and/or the Certification Agreement, Openly may elect to take immediate action against the entity. The threshold for Openly to take immediate action is high. To take immediate action, Openly must reasonably believe that it would be detrimental to Openly, an entity or an individual to:
 - a. Continue to list the entity on the Certification Register because certification was granted on the basis of misleading or deceptive conduct or representations, or that the certification was improperly obtained;
 - b. Continue to list the entity on the Certification Register because the entity has contravened a law, or Openly has reason to believe that the entity may have contravened a law; or
 - c. Continue to list the entity on the Certification Register because a certified entity has contravened the Certification Agreement, the Certification Guidelines or the Code.

Complainants will be notified of this outcome, together with reasons and the evidence considered in making the decision.

4. Revocation - If Openly believes the complaint is justifiable, and relates to a severe or repeated breach of the Code, the Certification Guidelines or the Certification Agreement, Openly may elect to revoke certification from the entity. The threshold to revoke certification from an entity occurs only in the event of serious breaches. The decision to revoke certification from an entity is made by the Openly Executive team. Complainants will be notified of this outcome.

If an individual is not satisfied with the outcome of an investigation, the individual should contact OAIC. They can be contacted [via their website](#).

10. Review

This Dispute Resolution Policy will be reviewed on a regular basis by the Openly Executive team.