

British Virgin Islands Financial Services Commission

Policy Regarding The Handling of Complaints



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Strategic Rationale

The British Virgin Islands Financial Services Commission (the “Commission”) strives to treat all customers with professionalism, transparency, efficiency, courtesy and fairness. Should any person be dissatisfied with the actions of Commission employees in performance of their duties, the procedures outlined and explained below describe the process of lodging or filing a complaint.

The Commission is a public body established by statute¹, for the supervision and regulation of the financial services sector in the British Virgin Islands. The Commission expects and requires a high standard of conduct of its employees in the discharge of their assigned duties and considers complaints by aggrieved persons as opportunities to examine and improve Commission procedural and operational weaknesses. Effective handling of complaints facilitates better industry and Territory wide appreciation and understanding of the Commission’s statutory remit and of the policies employed to discharge this remit.

The Commission’s Policy Regarding the Handling of Complaints is designed to ensure prompt handling of complaints from members of the public aggrieved by the actions of the Commission or its employees, and to facilitate effective resolution of complaints.

This policy is based on fundamental principles of critical importance to the Commission: accessibility, efficiency, timeliness, consistency, independence, fairness and confidentiality. The policy is in keeping with the Commission’s motto of Vigilance, Integrity and Accountability.

¹ BVI Financial Services Commission Act, 2001

Summary of Procedure

The Complaints Handling mechanism is orchestrated by the Managing Director, acting through a Complaints Steering Committee (CSC) comprised of the Managing Director as Chairman, the two Deputy Managing Directors, the Director, Legal and Enforcement and the Director, Policy, Research and Statistics.

- All complaints must be made in writing, identify the complainant and should be accompanied by a copy or copies of all relevant documentation and/or correspondence.
- Complaints will be investigated by a senior member of the Commission who is independent of the matter, and by other assigned Commission employees who are independent of the matter complained about.
- The Commission will normally investigate complaints raised within 12 months of the date of occurrence of the incident giving rise to the complaint. If the date of occurrence is at issue, the Commission will conduct an investigation into the matter and may require official written comment from all of the parties involved.
- Complaints received will be recorded electronically for internal monitoring purposes together with a summary of the outcome. A complaints handling report will be presented to the Board of Commissioners on a quarterly basis.

This Policy Regarding the Handling of Complaints is not applicable to regulatory decisions, i.e. licensing and supervisory decisions of the Licensing and Supervisory Committee (LSC) or enforcement decisions taken by the Enforcement Committee (EC), for which the Financial Services Appeal Board provides a separate statutory appeal mechanism. Specifically, this Policy Regarding the Handling of Complaints covers dissatisfaction with the manner in which Commission employees have carried out their duties.

This includes general complaints about unprofessional and or unacceptable conduct, incompetence or carelessness, unreasonable delays or biased treatment.

Procedures, Policies and Definitions

What is a complaint?

A complaint is a formal, written document, informing the Commission of an instance or a series of instances when Commission employees have not performed their duties sufficiently, professionally, transparently, efficiently, courteously or fairly.

What is not covered by this policy?

This policy does not apply to: complaints about regulatory decisions, other than about alleged procedural failings; complaints that are already being addressed by another public body; or complaints which involve matters that may be the subject of a civil claim against the Commission or its employees or of a statutory appeal, judicial review or other legal proceedings.

The Financial Services Appeal Board provides a separate statutory appeal mechanism for complaints about licensing and supervisory decisions.

Who can complain?

Any person dissatisfied with, and directly affected by, the actions of the Commission or its employees in performance of their duties may lodge a complaint.

How should complaints be made?

Complaints should be made **in writing** to the Managing Director of the Commission. Complaints concerning the actions of the Managing Director will be referred to the Chairman of the Board

of Commissioners for an official hearing on the merits. The complaint should be detailed and accompanied by a copy of all relevant documentation and/or correspondence.

There will be a time limit of 12 months after the issue occurred. If the date of the occurrence is at issue, the Commission, at its discretion, will commence an investigation to determine the date of occurrence. All parties to the matter may be required to present testimony and/or documentation to the Commission outlining their position.

How will the complaint be handled?

Complaints will be investigated by a senior employee of the Commission who is independent of the matter at hand, assisted by an independent employee of the same rank as the one identified in the complaint.

The Commission will send a written acknowledgement of the complaint within seven (7) business days of receipt. This will include the name, job title and contact details of the person handling the complaint.

The Commission will usually give a final response to the complaint within thirty (30) days of the acknowledgement. If a final response within thirty days is not possible, a holding response that explains the delay and indicates when a final response will be provided to the person who made the complaint will be issued.

The final response will indicate whether the Commission accepts the complaint and will offer a resolution or whether the Commission will offer resolution without accepting the complaint or reject the complaint. The response will set out reasons for the Commission's decision.

Deadline

The Commission will normally investigate complaints that are raised within 12 months of the date of the incident giving rise to the complaint.

What if the outcome is not satisfactory?

Complaints deemed not dealt with in a satisfactory manner may at the conclusion of the regular complaints handling process be directed to the Board of Commissioners through the Board Secretary.

STRATEGIC PRINCIPLES GUIDING POLICY

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1. Statement of Policy

This manual aims to provide detailed guidance to Commission employees and the general public on the Commission's policy for handling complaints.

2. Purpose of Complaints Policy

Having an effective policy for the handling of complaints will assist the Commission in improving communications and in dealing transparently with issues that arise. The policy will also help the Commission identify business areas for improvement and to implement corrective measures to reduce future complaints. It will improve the corporate culture of the organisation and enhance the quality of service that Commission employees provide to the industry.

Specifically, this policy aims to:

- improve the Commission's response time to complainants;

- build an internal knowledge base of problem areas so as to better serve the Commission's customers;
- promote a consistent level of professionalism within the Commission;
- improve the Commission's customer and other business relationships;
- improve the Commission's corporate image among the financial services community and general public; and
- provide a mechanism for reviewing adherence to corporate protocol and policy throughout the Commission.

3. General Principles of the Policy

To ensure a consistent and systematic response to complaints, all complaints must be formally logged by the Secretary of the Complaints Steering Committee (CSC). Each incident is to be properly and thoroughly investigated and resolved in a satisfactory manner.

The complaint handling system must at all times be:

- Comprehensive (i.e. acknowledging all complaints received);
- Transparent and accessible to all customers and employees;
- Impartial, fair and consistent in providing redress;
- Flexible, simple and prompt;

- Able to give complainants timely and appropriate feedback;
- Clearly communicated and published, both internally and externally; and
- Confidential (i.e. information in relation to the complaint is to be processed on a need-to-know basis).

4. Responsibility and Authority

Responsibility for the ultimate resolution of all formally lodged complaints lies with the Managing Director, working through the Steering Committee that includes the Deputy Managing Directors, the Director, Policy Research and Statistics and the Director, Legal and Enforcement.

The Steering Committee is tasked with:

- ensuring that complaints handling procedures are followed so as to minimise delays in resolution and further frustration to the affected parties;
- devising its own protocol to be approved by the Board (such procedures to include use of independent peer review);
- developing appropriate standardised reporting forms for analysing reports (and reporting to the Board);
- ensuring in conjunction with the relevant decision-makers that each Commission division providing an external service operates in a responsible, honest and professional manner;

- promoting and encouraging professional standards of conduct and best business practice;
- ensuring that all Commission policies and BVI laws are upheld and that any illegal, dishonourable or improper practice is denounced and made subject to appropriate disciplinary action;
- maintaining statistical information and reporting periodically to the Board of Commissioners on the timeliness of complaint resolutions, remedial action taken and failures to comply with the approved policy; and
- devising policies to reduce complaints in response to data received over time.

5. **Handling Complaints**

In each Division, the Head of Division is responsible for:

- Liaising with and reporting to the CSC;
- Responding to requests from the CSC;
- Deciding in conjunction with the CSC the appropriate method of investigation; and
- Working with the CSC to ensuring a prompt resolution of the complaint, which may include a formal apology or other appropriate redress suitable to the circumstances

A written acknowledgement of all complaints must be sent within seven (7) business days by the Secretary. This will include the name, job title and contact details of the person handling the complaint and a copy of the complaint handling procedures.

A final response to the complaint should normally be given within thirty (30) days of the acknowledgement. If a final response within thirty days is not possible, a holding response should be sent that gives reason for the delay and indicates a reasonable timeframe for when a final response will be provided.

The final response should indicate whether the Commission accepts the complaint and offers resolution, offers resolution without accepting the complaint or rejects the grounds of the complaint, giving a reason for its decision.

6. Monitoring and Audit

The CSC will monitor the complaints received and action taken to ensure that issues are being resolved in a timely manner. The CSC will provide a quarterly monitoring report to the Board of Commissioners for review. Information to be reported will include:

- A unique reference number to identify the complaint;
- The full name, company (if applicable) and contact details of the complainant;
- Date of receipt of the complaint by the Commission;
- Details of the nature and substance of the complaint;
- Date of acknowledgement of receipt of the complaint by the Commission (including the notification of the unique reference number assigned by the Commission);
- Confirmation that the appropriate senior manager was notified of the particulars of the complaint;

- Details of the investigation into the circumstances and claims of the complaint;
- Action taken to resolve the complaint;
- Complainant's satisfaction with the resolution of the issue;
- Whether repeat problems are being identified and ultimately corrected; and
- Details and particulars of any correspondence internal or external with regard to the complaint

7. Management Analysis and Review

The Commission is committed to annual reviews of this policy regarding the Handling of Complaints to ensure it continues to meet the stated objectives. Reviews will address:

- Internal changes such as changes to the Commission's organisational structure and policies administered by the Commission;
- External factors such as changes in legislation relevant to government policies and international best practices relevant to the work of the Commission; and
- The results of the audits of the complaints handling system

8. Statistics

To inform the Commission's annual reviews of the complaints handling procedures, the CSC will analyse reports and develop statistics showing:

- Number and type of complaints received;
- Number and type of complaints substantiated;
- Number and type of complaints acknowledged or resolved outside of the target time;
- Number and type of complaints not deemed or accepted as resolved;
- Number and type of complaints still being considered;
- Number and type of complaints requiring the involvement of legal counsel;
- Profiles of the complaints (area of service, type of client etc.);
- Suggestions recommended by complainants for resolution or process change to reduce reoccurrence; and.

9. **Record-Keeping and Retention**

The Commission is committed to recording and retaining a central record of all complaints received for a period of two years from the date of the complaint. The record will include:

- The name and contact details of the complainant and the substance of the complaint;
- The dates of receipt and of any resolution;
- Copies of any correspondence between the FSC and the complainant;
- Details of any resolution, including any redress offered by the FSC; and

- Whether any changes in internal policies or procedures were introduced or effected as a result of a complaint.