

## Feedback and Complaints Criteria for Complaint Manager or Incident Manager

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1. A Complaint Manager or Incident Manager should be impartial and free of actual or apprehended bias. The test for apprehended bias is whether a fair-minded observer might reasonably suspect that the Complaint Manager or Incident Manager is not impartial.
2. Apprehended bias can be inferred from a person's conduct, comments, associations or other relevant circumstances. Examples of apprehended bias can include situations in which a Complaint Manager or Incident Manager (or person conducting an inquiry):
  - (a) has a conflict of interest or personal stake in the matter to be resolved, or a relationship with one of the parties that casts doubt on the appearance of fairness;
  - (b) displayed hostility or favouritism to one of the parties involved in a matter;
  - (c) made comments that suggest the Complaint Manager or Incident Manager has prejudged a disputed issue and will not approach the evidence with an open mind;
  - (d) was involved at an earlier stage of the process, for example, in making the allegation to be investigated or providing a statement in support of one of the parties.
3. The actual or apprehended bias of a Complaint Manager or Incident Manager can undermine both the integrity and legal validity of the decision making process and outcome. The responsibility rests on the Complaint Manager or Incident Manager to ensure there is no actual or apprehended bias, and if necessary to withdraw from the process and assign the decision making responsibility to another person. If that is not practical (for example, it is a small organisation) another option is to outsource the inquiry/assessment role to an external professional to prepare a report for the Complaint Manager or Incident Manager. CDNI Care Pty Ltd in its capacity as an NDIS provider has flexibility in deciding how to deal with bias and conflict of interest concerns.
4. It is good practice to clarify bias and conflict of interest concerns before the process commences. It is open to the parties, once informed of a potential issue, to waive any objection and to allow the Complaint Manager or Incident Manager to continue. On the other hand, a Complaint Manager or Incident Manager should not be chosen or withdraw merely because one of the parties raises a bias objection: the test of the 'fair-minded observer' should be followed. It is common that decision makers will know or work with one or other of the parties, have some familiarity with the issues to be decided, or have expressed a preliminary view on or more of those issues.
5. If a bias issue arises during the course of an inquiry after evidence and submissions have already been collected, these can generally be made available to the new inquirer/decision maker, subject to ensuring procedural fairness. It is good practice to consult the parties about this option before doing so.

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