



Australian Government
Department of Industry,
Innovation and Science

**National
Measurement
Institute**

Trade Measurement Complaint Handling Policy

Legal Metrology Branch

March 2019

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First edition: March 2019

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Document History

Version	Date	Approved by
1.0	08/03/2019	Bill Loizides – General Manager Legal Metrology

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1. Background

NMI receives around 700 telephone and email complaints a year, mostly from consumers, alleging breaches of trade measurement law.

A complaint is defined as an expression of dissatisfaction or concern that falls within the scope of Australia's trade measurement laws. For a matter to be deemed a complaint, it must be specific in its intention and able to be investigated if required.

Where a consumer or business contacts NMI with general concerns about trade measurement issues without making a direct statement against another named party, this is considered to be an enquiry rather than a complaint.

NMI's service standard to date (March 2019) is for every complaint received to be investigated by a trade measurement officer within 21 days. However, on average, only 16 per cent of complaints are found to be justified when investigated.

This document outlines a risk-based approach to prioritising the handling of trade measurement complaints. This risk-based approach to complaint investigation:

- follows recommendations from two recent independent reviews of NMI
- will allow better targeting of resources to areas of greater potential harm
- is in line with current regulatory best practice.

2. Principles for risk assessment

Complaints received about potential breaches of trade measurement law will be subject to risk assessment based on the following factors:

- extent of likely potential harm from breach identified in complaint
- how the complainant has identified the alleged breach
- complaint justification rate for industry sector of trader and/or instrument type
- whether industry sector of trader is subject of current NMI targeted compliance program
- previous non-compliance history of trader
- whether trader has been inspected in past 24 months
- whether trader is subject of multiple complaints
- accessibility of trader from an NMI location.

Some of the factors used to determine the extent of potential harm include:

- impact on confidence in the measurement system
- extent of financial detriment to consumers or industry (individually and/or in aggregate)
- impact on maintaining a level playing field for business competition
- ability of consumers to make informed purchasing decisions.

Based on the risk assessment each complaint will be assigned to one of the following categories:

- investigate within 21 days
- investigate within 60 days
- investigate when next in area (or via remote access)
- noted for intelligence purposes and subject to random follow up.

3. Complaint risk assessment and case allocation

Once a complaint has been received by email or telephone and recorded in the Trade Measurement Activity and Reporting System (TMARS) database it will be referred to the region where the subject trader is based within one business day.

The person responsible for allocating complaints within the region (the assessment officer) will then undertake a risk assessment of the complaint and assign a priority using the guide outlined below. A complaint will generally fulfil multiple criteria in a given priority band but not necessarily all of them.

Where any complaint is to be actioned the assessment officer will consider the expertise required and the applicable service standard and refer it to the most suitable officer within two business days.

Priority 1: Investigate within 21 days

- The likely potential harm is high.
- The complaint falls within an industry and/or instrument type with a high rate of justified complaints.
- The trader is in an industry sector subject to a current NMI targeted compliance program.
- The trader has a significant previous history of non-compliance.
- The complainant provides credible evidence to support their allegation.
- The trader has not been inspected for 24 months.
- Multiple complaints about the same trader have been received.
- The trader is readily accessible from an NMI location.

Priority 2: Investigate within 60 days

- The likely potential harm is medium to high.
- The complaint falls within an industry and/or instrument type with a high rate of justified complaints.
- The trader is in an industry sector subject to a current NMI targeted compliance program.
- The trader has a significant previous history of non-compliance.
- The trader may be located at some distance from an NMI location.

Priority 3: Investigate when next in area (or via remote access)

- The likely potential harm is low.
- The complaint falls within an industry and/or instrument type with a low rate of justified complaints.
- The trader has had a recent inspection and been found to be compliant.
- The complaint is in relation to instrument accuracy and evidence of a calibration check, such as a recent verification by a servicing licensee, is available.
- The potential non-compliance could be solved without a physical visit – e.g. a minor labelling issue that could be discussed over the phone, confirmed in writing and corrective action confirmed with a photograph.
- The trader may be in a remote location.

Priority 4: Noted and closed

- The complaint does not relate to an NMI regulatory activity or there is no apparent breach of applicable trade measurement law.
- It is highly unlikely that the complaint would be justified.
- There are reasonable grounds for suspecting a vexatious complaint.

4. Complaint investigation

While the most common form of investigation is to conduct compliance activities during a physical site visit, this is not the only available option.

If a complaint has been classified as Priority 3 (e.g. minor labelling issues or missing segments on a fuel dispenser) it may be considered appropriate to approach the trader with a phone call or email to discuss the complaint and ask for any corrective action required to be undertaken. Confirmation of this action should be obtained where possible (e.g. photos, site maintenance visit sheets, notification of instrument verification). Other surveillance techniques could also be used if the assessment officer considers they are suitable.

If a site visit is considered necessary but it is unlikely to be achieved for some time (for example, the location of the trader's premises may be difficult to access) then it is acceptable to contact the trader to discuss the issue. Some confirmation of any required corrective action must be obtained. In these instances the complaint will be closed but the assessment officer will ensure that a future trader audit has been scheduled, to carry out a physical check on the issue at a later date.

An inspector will seek consent from the trader to release details of the investigation outcome to the complainant.

5. Case audit and closure

Once an inspector has completed their investigation, they must ensure that all relevant documents have been attached to the complaint and trader audit and the complaint is re-assigned to the assessment officer.

The assessment officer will check each complaint for the following:

1. The complaint has been logged against the correct trader and the right categories chosen.
2. All relevant documents and case notes have been attached/recorded.
3. The complaint has been properly investigated and actioned in accordance with the National Compliance Policy.
4. The trader has been asked for permission to disclose the investigation results.
5. The correct justification code has been used.
6. The relevant service standard has been adhered to.

6. Complaint analysis

Each quarter the complaints received will be analysed to identify any trends for particular non-compliance issues or traders.

Where such trends are identified, consideration will be given to alternative means to reduce the complaint/enquiry levels, apart from investigation. Examples of strategies that could be employed are:

- Individual meetings with individual traders or industry representative bodies to discuss perceived higher risk of breaches and gain agreement on steps to be taken to address non-compliance.
- Increased use of targeted guidance to inform market segments and/or traders of their regulatory obligations.
- An increased presence of inspectors or targeted program work in a given industry sector or location.
- Media releases or other advice to raise awareness.