

# Procedural fairness

This factsheet provides guidance on the ACT Ombudsman's procedural fairness process, the role of agencies and how we will manage the information we receive.

## What is procedural fairness?

Procedural fairness is about acting fairly in administrative decision-making to those affected by the decision.

Section 9(6) of the [Ombudsman Act 1989](#) requires that if the ACT Ombudsman intends to make a report that includes opinions that are either expressly or impliedly critical of a person or agency, we must first give the person or agency a reasonable opportunity to respond.<sup>1</sup>

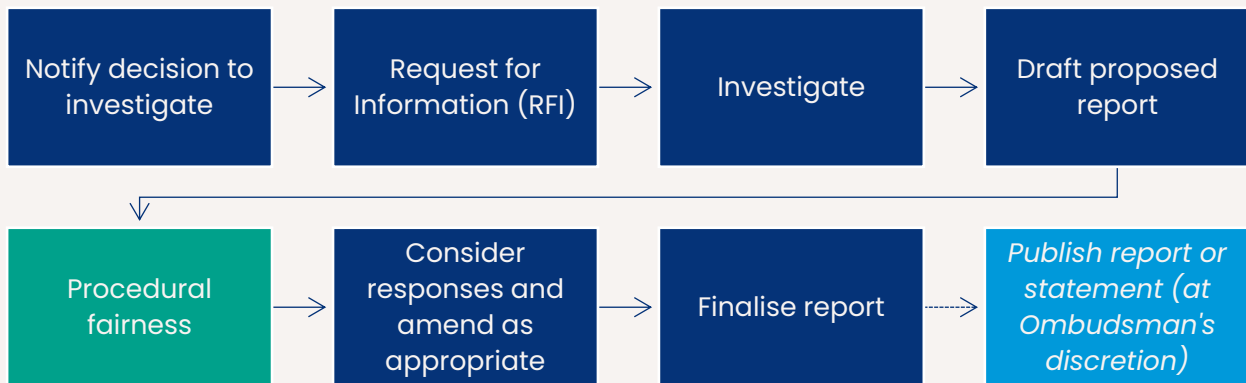
It is also an opportunity to identify any errors of fact that you believe are in the draft. It is not an opportunity to suggest editorial changes to the wording of the draft report.

Throughout the procedural fairness process, we will engage with agencies in line with our [Statement of Commitments](#) and expect agencies to respond as per our [Statement of Expectations](#).<sup>1</sup>

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<sup>1</sup> The ACT Ombudsman has inquiry and investigation functions under a number of different acts, including the *Ombudsman Act 1989*, *Freedom of Information Act 2016*, *Integrity Commission Act 2018*, *Monitoring of Places of Detention (Optional Protocol to the Convention Against Torture) Act 2018*, and *Public Interest Disclosure Act 2012*. Each piece of legislation includes provisions that enshrine a similar procedural fairness obligation.

# When will we undertake procedural fairness?



## What happens during procedural fairness?

The Ombudsman will write to the agency head (or designated contact) to provide a copy of the draft proposed report and advise of our intention to finalise it.

You will be invited to review the draft report and identify any apparent errors or omissions of fact. We can also meet with you to talk through the draft report and findings.

We will ask you to provide a formal response to the draft report, including whether the agency accepts (or does not accept) each recommendation or suggestion and, where accepted, the proposed action and estimated timeframes. If the report touches on more than one agency, we may ask that the lead agency coordinate a whole-of-government response to the report.

# What do we do with the information?

We will carefully consider all information we receive during procedural fairness. The Ombudsman may make changes to the draft report before finalising it, to correct any errors of fact or material omissions.

The agency response will generally be included as an appendix to any published version of the report. We ask that your response identify any sensitive information you believe should not be made public (either in our proposed report or your response) and provide clear reasons for this request.

If you do not engage in the process, the Ombudsman will finalise (and may publish) the report based on the information we have available. The final report will indicate that the agency did not respond.

For more information visit [ombudsman.act.gov.au](https://ombudsman.act.gov.au) or call 02 5117 3650.

