

Factsheet No.2

Police complaints



This factsheet provides information on making a complaint about NSW police.

What can I complain about?

You have a right to complain about any interactions with a police officer, an employee of the NSW Police Force, or the NSW Police Force as an organisation. Common issues that people complain about include:

- Police failing to investigate a report you made (especially in cases of domestic violence)
- Police using too much force or improper force (such as tasers, capsicum spray or batons)
- Police arresting you when they should not have
- Police searching you when they should not have
- Police strip-searching you when they should not have

There are other things that you can make a complaint about. If you want to know whether an incident with police is something you should complain about, contact Redfern Legal Centre (contact details below) or another lawyer for advice.

Who can I complain to?

You can submit your complaint to either:

- the NSW Police Force; or
- the Law Enforcement Conduct Commission (**LECC**), which is an independent body that can investigate complaints made about the NSW Police Force.

Complaints made directly to the LECC are usually sent to NSW Police for investigation. The LECC only take on a small number of complaints about very serious misconduct (e.g. serious assaults, soliciting or accepting bribes, planting evidence).

If you believe your complaint is serious, you should send your complaint directly to the LECC. Even if your complaint is sent back to NSW Police to investigate, the LECC may decide to monitor the investigation.

How do I make a complaint?

Your complaint must be made in writing.

- **LECC**

Post: Assessment Officer
Law Enforcement Conduct Commission
GPO Box 3880
Sydney NSW 2001

Email: contactus@lecc.nsw.gov.au

Online:

<https://www.lecc.nsw.gov.au/reporting-serious-misconduct/how-to-report/forms/make-a-complaint>

- **NSW Police**

Post: Customer Assistance Unit
NSW Police Force
PO Box 3427
Tuggerah NSW 2259

Email:

customerassistance@police.nsw.gov.au

Online:

https://www.police.nsw.gov.au/online_services/providing_feedback/lodge_a_complaint

If you are not able write your complaint, you can ask the LECC to help you put your complaint in writing.

Before making a complaint, it is a good idea to seek legal advice and, in most cases, to get a copy of the records police hold about the incident first. You can contact Redfern Legal Centre (contact details below) or another lawyer about this.

What should I write in my complaint?

In your complaint, you should say that it is a complaint made under *Part 8A* of the *Police Act 1990* (NSW).

You should also:

- describe the what happened in detail, including how you felt and how it has impacted you;
- include the names of any police officers and witnesses present;
- refer to any evidence that is available (for example, CCTV or other footage);
- let them know if you want to be contacted for further information, if required; and
- tell them about any specific outcome that you want for the police officers involved (for example, more training).

RLC has developed some resources to help you make a police complaint. You can access these resources here: <https://rlc.org.au/our-services/police-complaints/making-police-complaints/how-make-police-complaint>

What happens after I make a complaint?

Once NSW Police receive your complaint, they will put it through a 'triage' process where they decide whether to investigate your complaint or

not. NSW Police can decide not to investigate complaints for various reasons, including that it has been too long since the incident, it is frivolous or vexatious, or they have already taken action to fix the issues raised in the complaint.

If police do decide to investigate your complaint, it will be assigned to an independent police officer for investigation. Complaint investigations should take 90 days or less, though they can take longer.

You may be contacted to attend an interview or for more information. You should seek legal advice before participating in a formal interview.

What outcome can I expect?

When the investigation is finished, NSW Police will tell you whether the complaint was 'sustained' or 'not sustained'. If your complaint was sustained, they should also tell you if any action was taken against the officer(s) involved.

Most disciplinary action taken against the officer(s) is 'managerial', such as:

- further training and development
- increased supervision
- counselling
- reprimand or warning
- restricted duties
- recording of adverse findings.

For very serious complaints, action can be more significant such as a reduction in rank or seniority or removal from the NSW Police Force. The police may decide to refer the matter to the Director of Public Prosecution for consideration of criminal charges.

I'm unhappy with the outcome of my complaint, what can I do?

If you are unhappy with the outcome of your complaint, you can ask for your complaint to be reviewed by the LECC.

The LECC may decide that they are happy with the police investigation, or they may ask the police to investigate further or consider changing their decision. It is rare for the LECC to conduct their own investigation unless a complaint raises very serious issues. The LECC has the power to force the NSW Police to investigate your complaint but they cannot make their own findings of misconduct or force the NSW Police to change their decision about whether misconduct occurred.

If you think that police did not look into your complaint properly, this can also be the basis for a new (and more serious) complaint to the NSW Police or the LECC.

Is there a time limit for making a complaint?

Unless you have criminal matters or you have a need to gather evidence, it is a good idea to make a complaint as soon as possible after an incident to ensure that the officers involved recall the incident well and records that might be needed (such as CCTV) are not destroyed.

There is no strict time limit for making a complaint. However, Police can choose not to consider a complaint if the incident was too long ago. Generally, police will accept complaints made within 12 months of the incident.

If you have been charged with a criminal offence and you want to complain about something that happened, you should usually wait until your criminal matter is finished to do so, even if that means going beyond the recommended 12 months.

Are there any negative consequences for making a complaint?

You should not experience any negative police attention for making a complaint. If you do, this would be grounds for a further and more serious complaint.

Making a false complaint about the conduct of a police officer is an offence. Providing false or misleading information during the course of a complaint investigation is also an offence. Both offences carry a maximum penalty of a \$5500 fine, 12 months' imprisonment, or both.

Do I have to make a formal complaint?

No, you do not need to make a formal complaint. If the incident is less serious, such as those involving poor customer service or rudeness, you can make an informal complaint. You can do this by visiting your local police station, or by calling the NSWPF Customer Assistance Unit on **1800 622 571**.

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This factsheet is not a substitute for legal advice. If you have a problem, please seek legal advice from your local community legal centre.