

## **WOOLWORTHS FOOD & GROCERY CODE MEDIATOR'S COMPLAINTS HANDLING PROCEDURES**

There are two avenues open to suppliers to raise concerns or complaints that Woolworths has not complied with its obligations under the Food & Grocery Code of Conduct (**Code**) with the Code Mediator:

(i) a supplier may make a formal complaint by following the Code Mediator's Complaints Handling Procedure, described in section 1 below; or

(ii) a supplier may raise a concern, issue or complaint under the informal procedure, described in section 2 below.

### **SECTION 1: FORMAL COMPLAINT UNDER THE CODE**

#### **Application of the Code Mediator's Complaints Handling Procedure**

This Complaints Handling Procedure (**Procedure**) has been developed by the Code Mediator appointed by Woolworths in accordance with the requirements of the Code. The Procedure applies to a formal complaint that is referred to the Code Mediator by a supplier relating to conduct by Woolworths towards the supplier, to the extent that the conduct is regulated by the Code. The Procedure explains:

- a) the role of the Code Mediator in relation to complaints relating to conduct covered by the Code;
- b) how a supplier can make a valid complaint to the Code Mediator;
- c) how the Code Mediator will investigate and resolve the complaint; and
- d) the options available to a supplier if they are not satisfied with the resolution of the complaint proposed by the Code Mediator.

The Procedure is intended to be consistent with the Code. To the extent of any inconsistency with the Code, the Code will prevail.

In this Procedure, 'Woolworths' means Woolworths Retail (including Supermarkets and Metro) any other business unit within the Woolworths Group to which the Grocery Code applies.

#### **The role of the Code Mediator**

The Code Mediator has been appointed by Woolworths as required by the Code. The Code Mediator is independent of Woolworths and will exercise their functions in accordance with the Code. It is an express requirement of the Code that Woolworths not unduly influence or attempt to unduly influence the Code Mediator in the performance of the Code Mediator's functions.

A key function of the Code Mediator is to deal with complaints referred to them by a supplier where the complaint concerns conduct by Woolworths towards the supplier that is regulated by the Code.

### **Confidentiality requirements**

In dealing with a complaint under this Procedure, the Code Mediator will not disclose to Woolworths the identity of a supplier who has made a complaint except with the express consent of the supplier or if the disclosure relates to a complaint the supplier has against Woolworths and the supplier and Woolworths have each notified the Code Mediator in accordance with the Code that they agree to a proposed remedy for dealing with the complaint.

The Code Mediator will also observe any confidentiality requirements relating to information disclosed or obtained in dealing with or resolving a complaint.

### **The Code Complaint Procedure**

#### **Step 1: Referral of complaint to the Code Mediator**

A supplier may direct a complaint to the Code Mediator about a matter that is covered by the Code. In order for a formal complaint to be dealt with by the Code Mediator, the complaint must be made in writing and sent to the Code Mediator at:

[codemediator@wowgrocerycode.com.au](mailto:codemediator@wowgrocerycode.com.au)

A formal written complaint must include the following information:

- a) the supplier's identification details, including business or trading name;
- b) the supplier's contact details or the contact details of any person who is dealing with the complaint on behalf of the supplier, including that person's name, title and telephone number;
- c) details of the conduct giving rise to the complaint, including the particular provisions of the Code that the supplier considers are relevant to the complaint; and
- d) any documents or other information that will assist the Code Mediator to investigate the complaint.

#### **Step 2: Investigation by the Code Mediator**

The Code Mediator will take all reasonable steps to investigate a formal complaint and to conclude their investigation within 20 business days from receipt of the written complaint or, with the written agreement of the supplier, within a longer specified period.

If after investigation, the Code Mediator is satisfied that a complaint is vexatious, trivial, misconceived or lacking in substance, the Code Mediator will:

a) notify the complainant and set out the Code Mediator's reasons for being satisfied that the complaint is vexatious, trivial, misconceived or lacking in substance and the options available if the supplier wishes to take further action in relation to the complaint; and

b) give Woolworths a copy of the notice, having first redacted any information that would disclose the identity of the supplier, unless the supplier has consented to the disclosure of that information.

The Code Mediator will take no further action in relation to a complaint that the Code Mediator has determined is vexatious, trivial, misconceived or lacking in substance.

A complaint that has not been determined to be vexatious, trivial, misconceived or lacking in substance will be investigated by the Code Mediator.

In the course of investigating a complaint, the Code Mediator:

a) will give consideration to Woolworths' obligations to deal with the supplier lawfully and in good faith, as set out in section 16 of the Code; and

b) may consider whether Woolworths has acted fairly in dealing with the supplier. This may include consideration of:

i) whether Woolworths' conduct denied the supplier the benefits of the grocery supply agreement between the supplier and Woolworths, or undermined those benefits for the supplier;

ii) whether Woolworths acted in accordance with the supplier's legitimate and reasonable expectations; and

iii) whether Woolworths had due regard to the nature of its relationship with the supplier and the individual characteristics of the supplier that were known, or ought to have been known, by Woolworths.

Under the Code, Woolworths is required to provide the Code Mediator with access to:

a) all documentation held by Woolworths in relation to any complaint or dispute with a supplier relating to the large grocery business' obligations under the Code; and

b) Woolworths' buying team for the purpose of discussing issues relating to Woolworths' obligations under this Code.

### **Step 3: Determination of the complaint and proposed remedy**

After investigating the complaint, the Code Mediator will determine what (if any) action should be taken by Woolworths in response to the complaint.

The Code Mediator may propose a remedy (**proposed remedy**) that involves Woolworths paying an amount of compensation or, after consultation with the supplier and/or Woolworths, varying a grocery supply agreement with the supplier.

Within 5 business days after the conclusion of the investigation, the Code Mediator will notify the supplier in writing:

- a) whether the Code Mediator has decided to make any recommendations under subsection 54(1) of the Code and, if so, the content of the recommendations (including the details of any proposed remedy);
- b) the Code Mediator's reasons for making that decision;
- c) that the supplier may take further action available to the supplier under the Code in relation to the matter (by way of independent review by the Code Supervisor or mediation or arbitration) and
- d) for each proposed remedy (if any), the process by which the supplier and Woolworths may agree to the proposed remedy in accordance with the Code.

The Code Mediator will provide a copy of the notice to Woolworths within 5 business days after concluding the investigation with any information that is reasonably capable of being used to identify the supplier redacted unless the supplier has consented to the disclosure of their identity.

The acceptance period for the proposed remedy lapses 20 business days from the date of the Code Mediator's notification to the supplier unless the supplier has requested a review of the Code Mediator's process for handling the complaint by the Code Supervisor (see section "Dissatisfaction with the complaints handling process" below for further details on review process).

#### **Step 4: Implementing the proposed remedy**

If the supplier and Woolworths notify the Code Mediator at any time before the remedy lapses that they agree to the proposed remedy, Woolworths and the supplier will enter into a written agreement that gives effect to the proposed remedy and Woolworths will comply with that agreement.

#### **Dissatisfaction with the complaint handling process**

If a supplier is dissatisfied with the Code Mediator's handling of a complaint, the supplier may request in writing that the Code Mediator's process in dealing with the complaint be independently reviewed by the Code Supervisor appointed by the Minister. We expect that the Treasury's Food and Grocery Secretariat will shortly announce the appointment of the Code Supervisor. This procedure will be updated with their details when that occurs.

The Code Supervisor must also observe confidentiality requirements.

If the Code Supervisor decides to conduct a review, they may make one or more recommendations to the Code Mediator, including that the Code Mediator reconsider the complaint.

If the Code Supervisor recommends that the Code Mediator reconsider a complaint, the Code Mediator will, within 10 business days of the recommendation:

- a) reconsider the complaint. This may involve the Code Mediator making further inquiries of the supplier and Woolworths;
- b) decide whether to make one or more recommendations for dealing with the complaint (including any proposed remedy); and
- c) notify the supplier and Woolworths in writing of the determination.

The acceptance period for a proposed remedy which is the result of the Code Mediator reconsidering a complaint is 10 business days from the date of the Code Mediator's notification to the supplier.

### **Alternative dispute resolution avenues**

A supplier may seek mediation or arbitration of a complaint or dispute relating to a matter covered by the Code. However, if a supplier has referred a complaint to the Code Mediator, the supplier cannot seek mediation or arbitration in relation to the complaint or dispute until the Code Mediator's complaint handling process has been completed or should have been completed.

The Code Mediator is also able to mediate disputes between suppliers and Woolworths if the dispute relates to matters covered by the Code, and the mediation is not under Subdivision C of the Code.

## **2. INFORMAL ISSUE, CONCERN OR COMPLAINT**

The Code Mediator is available to discuss any issues or concerns suppliers may have and receive and respond to informal complaints or requests for assistance from suppliers in relation to Code matters.

Informal complaints or requests do not need to be put in writing. The Code Mediator can be contacted at [codemediator@wowgrocerycode.com.au](mailto:codemediator@wowgrocerycode.com.au) or on **0460 827 590**.

The Code Mediator will talk to or meet with any supplier who wishes to raise concerns on an informal and confidential basis, including to report concerns about inappropriate Code-related behaviour or conduct by Woolworths.

The Code Mediator will keep confidential any information provided by a supplier, but may use this information (appropriately de-identified and aggregated) to conduct inquiries, request information from Woolworths and provide Woolworths with feedback on conduct or practices by Woolworths.

This informal complaints procedure will assist the Code Mediator to proactively raise and resolve issues with Woolworths in a general way without identifying a particular supplier.

By raising matters informally with the Code Mediator, suppliers can assist the Code Mediator to identify systemic practices or processes adopted by Woolworths in relation to suppliers that may be unfair or unreasonable.

Where appropriate, the Code Mediator may recommend Woolworths change practices or conduct which are not consistent with the spirit or letter of the Code, even where no formal complaint has been made.

Raising concerns informally with the Code Mediator is in addition to the avenues already available to suppliers to raise issues directly with Woolworths' buying teams or Woolworths' senior management, or through the Woolworths Supplier Speak Up channel.