

GRIEVANCE RESOLUTION – GROUP HR STANDARD 13

DATE:

TABLE OF CONTENTS

1.	PURPOSE	1
2.	SCOPE	1
3.	DEFINITIONS	1
4.	LEGISLATION	2
5.	RESPONSIBILITIES	2
6.	PROCEDURAL FAIRNESS	3
6.1	Impartiality	3
6.2	Confidentiality	3
6.3	Timeliness	3
6.4	Record Keeping	3
6.5	Transparency	3
6.6	Support and Assistance	4
7.	PROCEDURE	4
7.1	Preliminary Action – Attempt to resolve the grievance personally.	5
7.2	Informal/Initial Procedure - Resolving a Grievance by Mediation/Conciliation	5
7.3	Formal/Independent Procedure - Resolving a Grievance by Arbitrated Resolution	6
7.4	Substantiated and Unsubstantiated Claims	7
7.5	Illegal Grievances	7
7.6	Vexatious Claims	7
7.7	External Advice	8
7.8	Procedural Flow Chart	8
8.	REFERENCE DOCUMENTS	9
9.	ASSOCIATED FORMS	9

1. PURPOSE

(The “Company”) recognises the right of its employees to voice their grievances and seek a solution to disagreements arising from conflicting workplace relationships, conditions, employment practices and differences in interpretation of policies or procedures. [The Company] is committed to accountable, timely and transparent decision making processes and providing fair and impartial dispute resolution procedures.

The overarching aims of [The Company's] Grievance Resolution Procedure are to;

- Ensure there is a consistent approach to the resolution of grievances;
- Ensure that grievances are resolved promptly, confidentially and objectively;
- Ensure the views of complainants and respondents are respected, where no party is the target of discrimination or victimisation; and
- Develop a culture that views workplace disputes as opportunities to improve policies, procedures, and work practices.

This document provides a mechanism for lodging and resolving disputes that [The Company's] employees, (including contactors and consultants) may experience within the course of their employment.

2. SCOPE

This procedure applies to all [Company] employees.

3. DEFINITIONS

“Complainant” is the employee lodging the complaint/dispute pursuant to this policy.

“Grievance” is defined as any real or perceived problem or any significant question, dispute, claim, complaint or concern, raised by one or more employees, in relation to their work or work environment.

“Investigator” is an impartial person conducting an investigation into the validity of the grievance. The investigator may be either internal or external to [the Company]. If the investigation is being conducted internally, a senior manager, not employed in the same department/workplace of either the complainant or the respondent, may be nominated as the investigator.

“Manager Once Removed (MOR)” means the Manager that manages an employee's Manager.

“Mediation” means the formal process of attempting to resolve a conflict.

“Respondent” is the employee or employees against whom the complaint has been lodged.

“Party” means the complainant and/or the respondent.

4. LEGISLATION

Fair Work Act 2009 (Cth)

Occupational Safety and Health Act (WA)

5. RESPONSIBILITIES

Employees

Responsibilities include:

- To conduct themselves in a manner which respects the rights and wellbeing of other employees and to show competence, care and compliance with instructions, policies and procedures in the performance of their duties;
- To ensure their own compliance with this Procedure;
- To disclose their identity in lodging a grievance (except in cases of child abuse or corruption, where [the Company] will act on anonymous allegations as required by law), and
- To participate in the dispute resolution process fully, truthfully and in good faith.

Managers/Supervisors

Responsibilities include:

- To implement and administer this Procedure in their department;
- To ensure employee compliance and understanding of this Procedure;
- To ensure that, as soon as practical after an employee has raised a matter with them, that they explain when and how they will address the matter; and
- To ensure that they deal with all matters seriously, thoroughly, confidentially and without bias.

Human Resource Manager

Responsibilities include:

- To provide assistance to, or advice to, employees and Managers with regard to this Procedure;
- To participate in the investigation procedure where required; and
- To ensure storage of all documentation in a confidential manner.

Site Administration Manager (where applicable)

Responsibilities include:

- To store and maintain documentation in a confidential manner.

Managing Director/Chief Executive Officer

Responsibilities include:

- To act as the final level decision maker within [the Company] in the grievance resolution process.

6. PROCEDURAL FAIRNESS

There are a number of key elements that each grievance resolution process must address:

6.1 Impartiality

The grievance process must be fair and impartial, where everyone involved is given a fair hearing to state their case.

Any individual in the organisation who has been approached to conduct grievance handling, mediation or arbitration, and who is concerned that he or she may have a conflict of interest with the grievance or with the parties involved, must openly declare this. A decision will then be made as to who conducts the investigation.

6.2 Confidentiality

All parties, including the Complainant, Respondent, grievance handler and witnesses, must act to keep the details of the Grievance confidential.

The Complainant's identity will be made clear to the respondent at the appropriate time and anonymous complaints will not be acted on unless they involve criminal actions.

6.3 Timeliness

It is the policy of [the Company] to treat every Grievance as important and to strive to resolve complaints in a timely manner.

All parties will be kept informed about the progress of the grievance investigation throughout the course of the process.

Each grievance will be dealt with in the most efficient and effective way with emphasis on timeliness and thoroughness. There may be certain circumstances in the handling of a complaint that will result in the grievance process requiring further resources and where further time may be required in order to produce a successful resolution. If this occurs, the relevant parties will be notified.

6.4 Record Keeping

The person handling the complaint will keep records of all meetings, records of complaints, documentation that forms evidence, witness interviews and statements, investigations and records of action.

Only grievances found to be substantiated will be kept on an employee's file. Following the resolution of a grievance all records will be sent to the Human Resources Department to be retained on the employee's personnel file.

6.5 Transparency

Parties to the grievance process will be made aware of the resolution procedure and will be given clear explanations with regard to the decisions and actions taken.

6.6 Support and Assistance

Any party involved in the grievance process has the right to seek support and have a support person present at all meetings and investigations conducted. The support person may be anyone e.g. a colleague, manager, friend, interpreter, legal representative etc. The support person is also bound by confidentiality.

The support person's role will be clarified at the outset of the grievance resolution process. Commonly, a support person will:

- Observe the process and provide emotional support to the Complainant; and
- Debrief with the relevant party at any point during the process and maintain confidentiality.

At no time is the support person entitled to comment or act on behalf of their relevant party.

[The Company] may refuse to allow a party's nominated support person if the support person fails to act in an appropriate manner or poses a risk to the grievance handling process or resolution. If this occurs the relevant party will be given sufficient time to appoint a new support person.

7.

PROCEDURE

A grievance may be between multiple parties including:

- The complainant(s);
- The respondent(s);
- The employer; and /or
- Multiple employees.

Grievances can relate to actions or decisions, systems, processes, the physical environment, safety issues or personal treatment and may include (but are not limited to):

Decisions arising from the application of workplace policies, practices and employment conditions;

- Discrimination;
- Harassment; and
- Bullying.

(Definitions of Discrimination, Harassment and Bullying can be found in the "[Company] Discrimination, Harassment and Bullying Procedure").

There are four stages in the Grievance Procedure. Generally, these stages will be undertaken in progression unless the nature of the individual grievance is of a criminal nature, is of a serious or extremely complex nature or involves a Senior Manager. Progress to a further stage occurs only if resolution is not achieved and the complainant wishes to proceed with the internal grievance process. The complainant may withdraw the grievance or discontinue the process at any time.

7.1 Preliminary Action – Attempt to resolve the grievance personally.

The Complainant should raise their grievance with the respondent as early as is possible.

Wherever possible the Complainant should attempt to resolve their grievance themselves by initiating discussions with the individual concerned. If this does not resolve the matter, or if the Complainant are not comfortable with this course of action, the Complainant can seek assistance from other parties.

Whilst trying to settle the complaint, the Complainant or Respondent may consult with anyone they choose including their Supervisor or Manager and may seek advice from the Human Resources Department. The party being consulted is bound by the confidentiality requirements of this Procedure.

7.2 Informal/Initial Procedure - Resolving a Grievance by Mediation/Conciliation

A Manager/Supervisor who is supervising the employee's immediate work environment can help to resolve problems at that level. If a complaint relates directly to their Manager/Supervisor, the complainant may take their complaint to their Manager Once Removed (MOR).

All complaints taken to a Manager will remain confidential. To initiate the Informal Procedure phase the complainant must provide in writing a notification of the grievance to their Manager/Supervisor.

This includes:

- A clear statement of the grievance, including who is involved in the grievance, dates, times and places of the event (Employee Grievance Form);
- An outline of any policies or procedures that the complainant believes have been violated; and
- A proposed solution to the issue(s) raised in the grievance from the complainant. (NOTE: This is a suggested solution. After hearing the facts of the grievance the investigator will determine a solution for the grievance).

As soon as possible after receiving the complaint, the Manager/Supervisor will discuss the grievance with the Complainant to ensure they have all the facts and details of the employee's concerns. The Manager/Supervisor will then determine whether the alleged grievance falls within the definition of a grievance.

If the subject matter is substantiated and is found to fall within the definition of a grievance, the Manager/Supervisor will:

- Gather all other information that will help assist with the resolution of the grievance, including speaking with any witnesses identified and reviewing any appropriate documents or records; and
- Meet with the respondent, discuss the grievance and provide the respondent with the opportunity to respond.

As part of the grievance handling process, the Manager/Supervisor will:

- Explain the grievance handling process and resolution options;
- Obtain detailed information in an interview and in writing from the complainant and details regarding their preferred method of resolution;
- Obtain detailed information in an interview and in writing from the respondent or any other subjects of the grievance in regards to the matter or allegations;
- If an investigation is required, speak confidentially to witnesses; and
- Determine the best means of resolution and the actions required having reviewed all of the findings of the investigation.

If the subject matter of the grievance is found to fall outside of the definition of grievance, or there is not enough evidence to be able to act, the Manager/Supervisor will advise the complainant accordingly. In these cases disciplinary action will not be taken. [The Company] will, if appropriate, closely monitor the situation.

Once the investigation is completed by the Manager/Supervisor, all parties involved in the grievance will meet and must attempt to resolve the matter. If required, the Human Resources Manager will participate in this meeting to oversee the progress of the matters resolution.

At the completion of the process, the Manager/Supervisor will communicate with both the complainant and respondent indicating the outcome of the meeting and outlining any actions that have been agreed by the parties as part of the grievance process.

Where a satisfactory conclusion is not achieved through this process and/or the parties, or party, are unwilling to attempt mediation, an arbitrated resolution will take place (outlined in Formal Procedure).

7.3 Formal/Independent Procedure - Resolving a Grievance by Arbitrated Resolution

If a grievance settlement cannot be achieved under the Informal/Initial Procedure phase for any reason, the concerned party, or parties, may seek settlement of the grievance through the Formal/Independent Procedure.

The Formal/Independent Procedure will begin after the Manager/Supervisor has notified the parties of the grievance outcome of the Informal Procedure or from the date unsuccessful mediation and/or conciliation was attempted and concluded.

A Formal/Independent Procedure may commence only when the Employee Grievance Form is completed and lodged with the Senior Manager for the area. An independent investigator will then be appointed.

A grievance that is of a very serious nature, is complex or is related to a Senior Manager, may omit the Preliminary Action and Informal Procedure stages and be directly implemented through the Formal Procedure. These cases require consultation with the Managing Director or Human Resources Manager for definition particularly where the services of an independent investigator (external to the Company) may be engaged.

The Manager/Supervisor must provide the investigator with all the relevant documents and information relating to the particular grievance.

The appointed investigator will:

- Interview both the Complainant and the Respondent or any other persons involved, i.e. witnesses;
- Seek any further information, not provided and considered necessary in investigating the grievance; and
- Determine the facts of the grievance and provide a report about the key findings.

Once complete, the investigator will submit their report to the Manager/Supervisor. From the Investigator's report, the Manager/Supervisor will:

- Take such action as they deem appropriate from the report, and
- Notify both the complainant and respondent in writing of the outcome of the process, the reasons for the decision, and specify, if any, the action to be taken.

The Manager/Supervisor determines the most appropriate solution for the grievance. A judgement will be made based on the facts of the matter and both parties to the grievance are bound by the judgement of the Manager/Supervisor.

The final step in the Grievance Handling Procedure is to ensure that the situation and any identified outcomes are monitored after implementation to ensure the resolution has been carried out, or that there is no repeat of unacceptable behaviour, victimisation, or ongoing workplace issues.

If the Investigator views the grievance as ill-advised, misguided, frivolous, malicious or vexatious, the Manager/Supervisor will advise the complainant and take action against them as discussed in Informal Procedure (7.2.4).

The final point of appeal within the Company is the Managing Director.

7.4 Substantiated and Unsubstantiated Claims

The judgement concerning all grievances will be that the allegation(s) are either:

- Substantiated; that is the allegation(s) are found to be true. It is not necessary to have absolute proof that the allegations are true; rather, decisions will be made on the 'balance of probability'. Counselling or disciplinary action may result dependent upon the nature of the claim/breach; or
- Unsubstantiated; that is there is not enough proof to be able to act. Disciplinary action will not occur, although [the Company] may decide to closely monitor the situation.

7.5 Illegal Grievances

If a grievance relates to or concerns illegal activities under Australian law, [the Company] will, as soon as practicable, conduct an investigation into the validity of the claim as soon as the claim is brought to the Manager/Supervisor attention. Areas such as child abuse, corruption, discrimination or sexual harassment are classified as an illegal grievance. In some cases, [the Company] may be obliged to notify the Police or appropriate authorities, who will then conduct an investigation of their own.

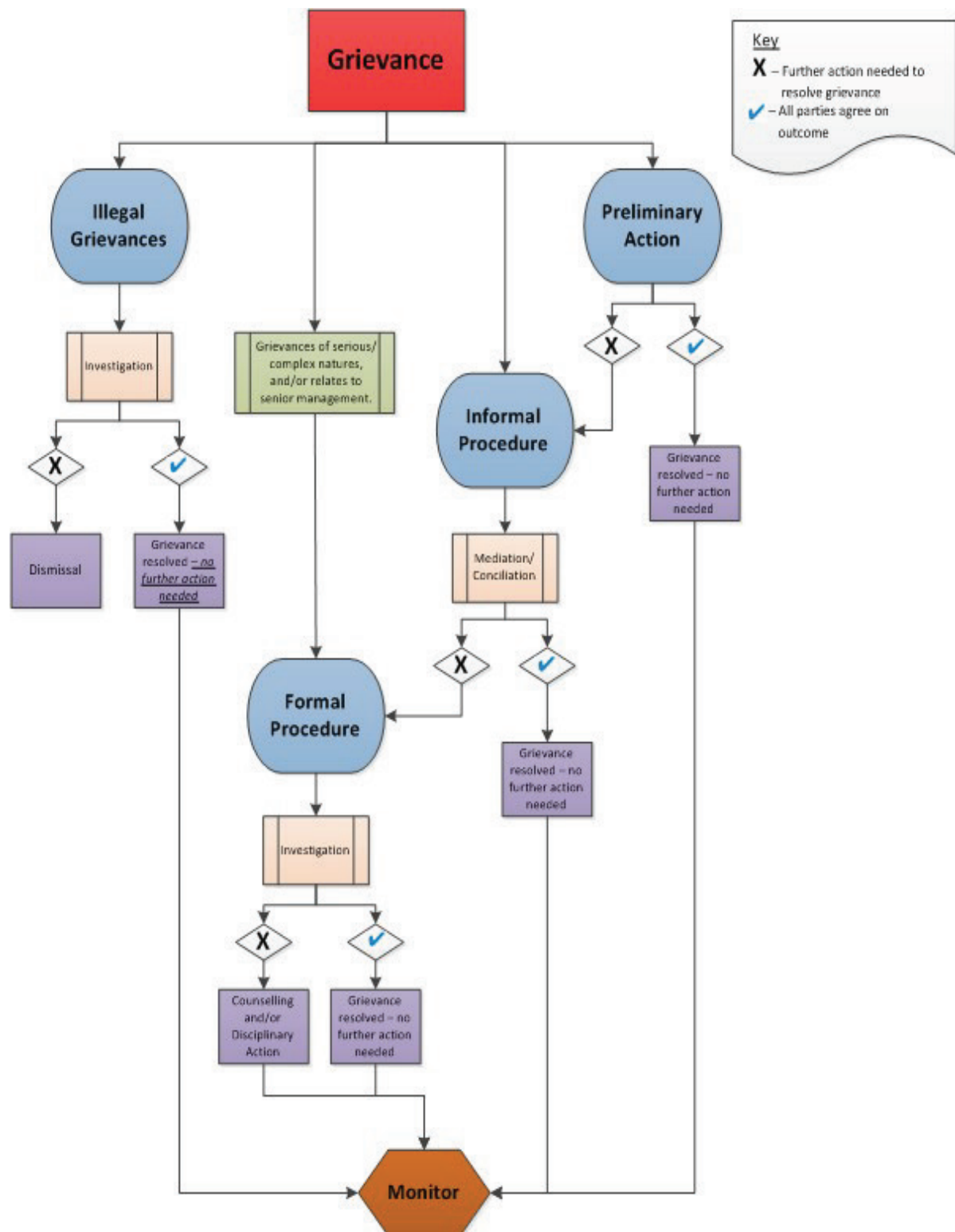
7.6 Vexatious Claims

If it is discovered that a Complainant has raised a fictitious grievance or a frivolous or vexatious claim, the disciplinary process will be initiated.

7.7 External Advice

At any stage of the grievance process, employees may contact the Managing Director or Company Secretary, the relevant state Equal Opportunity or Australian Human Rights Commission or the Fair Work Commission of WorkSafe for independent advice.

7.8 Procedural Flow Chart



8. REFERENCE DOCUMENTS

Nil

9. ASSOCIATED FORMS

Employee Grievance Form