

## GRIEVANCE AND DISPUTE MANAGEMENT

### PREFACE

We aim to be a cohesive and effective organisation. We recognise that prompt, sensitive and appropriate resolution of all staff grievances is sound management practice.

This policy has been developed to promote the emotional well-being and high levels of performance of staff, and to encourage a harmonious, supportive and conflict-free workplace.

The policy and the procedures set out in this document recognise that staff have a right to express concern about work related issues and that the effective management of grievances and disputes will assist in the reduction of absenteeism, prevention of industrial disputation and encourage standards of behaviour consistent with the Code of Conduct.

Please direct any questions or concerns about these procedures to the Personnel Officer.

### PURPOSE

The purpose of this policy is to outline the process by which staff grievances and disputes are to be managed.

### RESPONSIBILITY

Supervisors and, in particular, the Manager Corporate Support have primary responsibilities under this policy.

### LEGISLATIVE FRAMEWORK

All grievances and disputes relating to the provisions of the Crown Employee (Public Service Conditions of Employment) Award 1997 are to be initially dealt with as close to the source as possible, with graduated steps for further attempts at resolution at higher levels of authority, if required. In some circumstances, the Manager Corporate Support may need to undertake the role of grievance handler.

The primary legislative basis of grievance and dispute handling procedures is the *Industrial Relations Act 1996*. The Act requires all industrial awards to contain procedures for the resolution of industrial disputes under the award. These procedures must include procedures for consultation at the workplace and the involvement of relevant industrial organisations (section 14). The Act also requires all enterprise agreements to contain such procedures (section 39). The Industrial Relations Commission may refuse to deal with an industrial dispute until it is satisfied that any relevant dispute resolution procedures in an industrial instrument have been followed as far as is reasonably practicable in the circumstances (section 131).

Other legislation that impact upon varying stages of the grievance and dispute resolution process are:

*Anti-Discrimination Act 1977*

*Freedom of Information Act 1989, Part 3*

*Industrial Relations Act 1996, sections 14, 39 and 131*

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NSW Ombudsman policy number:	6
Policy originally created:	7 September 1994
Last reviewed / updated:	25 November 2002
Version number:	1
Related policies:	Code of conduct, Harassment prevention policy

This policy supersedes all previous policies on grievance and dispute management.

*Occupational Health and Safety Act 2000, Part 2*  
*Public Sector Employment and Management Act 2002*  
*Government and Related Employees Tribunal Act 1980*

## **DEFINITIONS**

Not applicable.

## **POLICY STATEMENT**

### **1. What is a grievance?**

A grievance is:

- a clear statement by an individual staff member on a work related problem, concern or complaint
- a question, dispute or difficulty concerning the interpretation, application or operation of an award or agreement in relation to an individual staff member
- alleged discrimination under the *Anti-Discrimination Act 1977*

Examples include:

- unfair allocation of developmental opportunities such as special projects or acting in higher positions
- interpersonal conflicts including supervisor/staff conflicts
- co-worker conflicts or group victimisation of an individual
- lack of communication of work related information
- any form of harassment or discrimination
- inappropriate pressure (either explicit or implicit) from a supervisor regarding appeals or performance review processes.

### **2. What is a dispute?**

A dispute is a clear statement by more than one member of staff on a question, disagreement or difficulty concerning the interpretation, application or operation of an award or agreement.

Examples include disagreements over restructuring affecting more than one member of staff or the concurrent application or operation of the Crown Employees (Public Service Conditions of Employment) Award 1997 and the office's Co-lateral Flexible Working Hours Agreement.

### **3. How do I lodge a grievance or dispute?**

Notify your immediate supervisor or team manager that you have a grievance. Explain the substance of your grievance and request a bilateral meeting to state and discuss the remedy sought. This policy is intended to resolve grievances or disputes at the local level and you should pursue this avenue initially.

In circumstances where this is inappropriate (ie the grievance involves the supervisor), refer your grievance to the next management level (eg the team manager or statutory officer). The Personnel Officer will provide staff, managers and supervisors with advice regarding the handling of grievances and disputes.

Staff can also contact external agencies such as their union for advice and assistance about grievance and dispute resolution.

#### **4. Who do I lodge a grievance or dispute with?**

*Supervisors:*

Deputy Ombudsman

Assistant Ombudsman, Police

Assistant Ombudsman, General

Assistant Ombudsman, Children and Young People

Complaints Manager, Police

Complaints Manager, General

Manager Corporate Support

Senior Investigation Officers

Customer Service Manager

Senior Inquiries Officer

Personnel Officer

Senior Accounting Officer

*Alternative Grievance Handler:*

Manager Corporate Support

#### **5. If I lodge or receive a grievance or dispute, what procedures are to be followed?**

##### Step 1

Within two working days of a grievance being lodged, or as soon as practicable, the person to whom the grievance was made is to convene a meeting in order to resolve the grievance or dispute. The staff member may request to be represented by their union at this stage and at all successive stages of the process.

##### Step 2

If the grievance is not resolved in the first meeting, the staff member may request to meet the appropriate person at the next level of management in order to resolve the problem. The manager should respond within two working days, or as soon as possible.

##### Step 3

If the matter is still unresolved, the staff member may pursue the sequence of reference to successive levels of management until the matter is referred to the Ombudsman. This may include the involvement of the alternative grievance handler or a union workplace delegate, if the staff member so requests.

##### Step 4

The Ombudsman may refer the matter to the Public Employment Office for consideration. If the matter remains unresolved, the Ombudsman is to provide a written response to the staff member and any other party involved in the grievance concerning action to be taken, or the reason for not taking action, in relation to the matter.

##### Step 5

If the matter remains unresolved, the parties may agree to refer the grievance to a mutually acceptable, independent mediator.

The parties may also refer the matter to the Industrial Relations Commission at this stage. The parties shall agree to be bound by any order or determination by the Industrial Relations Commission in relation to the dispute.

As noted above, the Industrial Relations Commission may refuse to deal with an industrial dispute until it is satisfied that any relevant dispute resolution procedures in an industrial instrument have been followed as far as is reasonably practicable in the circumstances (section 131 Industrial Relations Act 1996).

#### Step 6

If the matter is resolved, there should be follow up consultation to ensure that everyone involved in the process is satisfied with the procedures followed and the outcome of the process. This should occur within one month of resolution.

### 6. *Grievances relating to alleged discrimination*

Allegations of discrimination as defined by the *Anti-Discrimination Act* may be dealt with under the provisions of either the *Industrial Relations Act* (ie the procedures set out in this policy) or the *Anti-Discrimination Act*.

Expert advice on discrimination matters is available to staff and managers from the Anti-Discrimination Board regardless of which avenue of complaint is to be pursued. Early advice from the Board is favoured as this is more likely to allow effective resolution of a complaint under the Ombudsman's own grievance procedures rather than necessitating a formal complaint under the *Anti-Discrimination Act*.

#### 7. *If I receive a grievance, what are my responsibilities?*

If a member of staff lodges a grievance with you, you must:

- (a) ensure that any employee raising a grievance/dispute understands the process,
- (b) provide fair and open access, in terms of time and effort, to the resolution process,
- (c) maintain confidentiality and privacy,
- (d) seek to facilitate a fair and mutual resolution between the parties concerned.

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#### 8. *If I lodge a grievance, what am I responsible for?*

If you lodge a grievance you must:

- (a) follow the procedures outlined in this policy for the lodgement of grievances/disputes,
- (b) if you do not understand the procedures, seek information and advice,
- (c) seek to reach a fair and mutual resolution (including compromising where necessary),
- (d) attempt to solve the problem as close to the organisational level or source as possible.
- (e) not allow any disruption to normal work as a result of the grievance or dispute, unless otherwise agreed between the parties involved in the grievance or, in a case involving occupational health and safety, a risk to the health and safety of any staff member or member of the public cannot be avoided.

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### 9. *Disciplinary action and appeals*

If the outcome of a grievance or dispute demonstrates the need for disciplinary action, the formal disciplinary procedures set out in the *Public Sector Management Act 1988* and the *Public Sector Management (General) Regulation 1996* will be used. The Personnel Handbook provides guidance about these formal disciplinary procedures and may be obtained from Corporate Support.

### 10. *Documentation*

All grievance/dispute documentation will be maintained by the Personnel Officer on a strictly confidential file. No documentation will be placed on staff files unless a disciplinary charge is proven.

**11. Minimal disruption to work**

The Crown Employee (Public Service Conditions of Employment) Award 1997 provides that while the grievance procedures outlined above are being followed, normal work undertaken prior to notification of the grievance shall continue unless otherwise agreed between the parties, or, in the case involving occupational health and safety, if practicable, normal work shall proceed in a manner which avoids any risk to the health and safety of any staff member or member of the public.

**12. Review and monitoring**

In addition to follow up consultation after the successful resolution of a grievance or dispute, the Personnel Officer will seek advice from the parties concerned on whether they consider these procedures effective, or if there are aspects which could be altered to permit more satisfactory or expedient resolution.

In any event, a review of these procedures will be conducted on an annual basis by the Personnel Officer.

**OMBUDSMAN APPROVAL**

A handwritten signature in black ink, appearing to read "B. A. Barbour". The signature is written in a cursive, flowing style.

Bruce Barbour  
OMBUDSMAN