

Grievance Resolution in the NSW Department of Health, User Guide for Staff & Managers

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Functional Sub group Personnel/Workforce - Industrial and Employee Relations
Personnel/Workforce - Conduct and ethics
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Summary This is not a policy. It is a guide that is to be used in conjunction with Grievance Resolution (Workplace): for the Department of Health and Public Health Organisations (PD2005_584) and is designed as a user friendly guide to assist Managers and staff to resolve workplace grievances within the NSW Department of Health.

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Resolving Grievances in the NSW Health Department

User Guide for Staff and Managers

The Department is committed to maintaining a harmonious work environment that is reflective of our values and free from all forms of discrimination and unprofessional conduct of any kind.

From time to time, disagreements arise in most workplaces and it is necessary to have a robust, fair and sensible process for dealing with these disagreements.

The process that we use for responding to and resolving grievances is flexible and focused on early resolution and can be found in our policy directive –

Grievance Resolution (Workplace): for the Department of Health and Public Health Organisations (PD 2005_584)

- that is available on the Department's intranet and internet site.

The Department provides support to our staff when they raise concerns and we provide training to our managers who deal with grievances because we believe that it is absolutely essential that our staff feel safe in raising their concerns and confident that their concerns will be dealt with promptly and professionally.

This Users Guide reflects the key points in our grievance resolution policy but is not a substitute for the policy itself as it is mandatory that we all follow the process set out in the policy document.

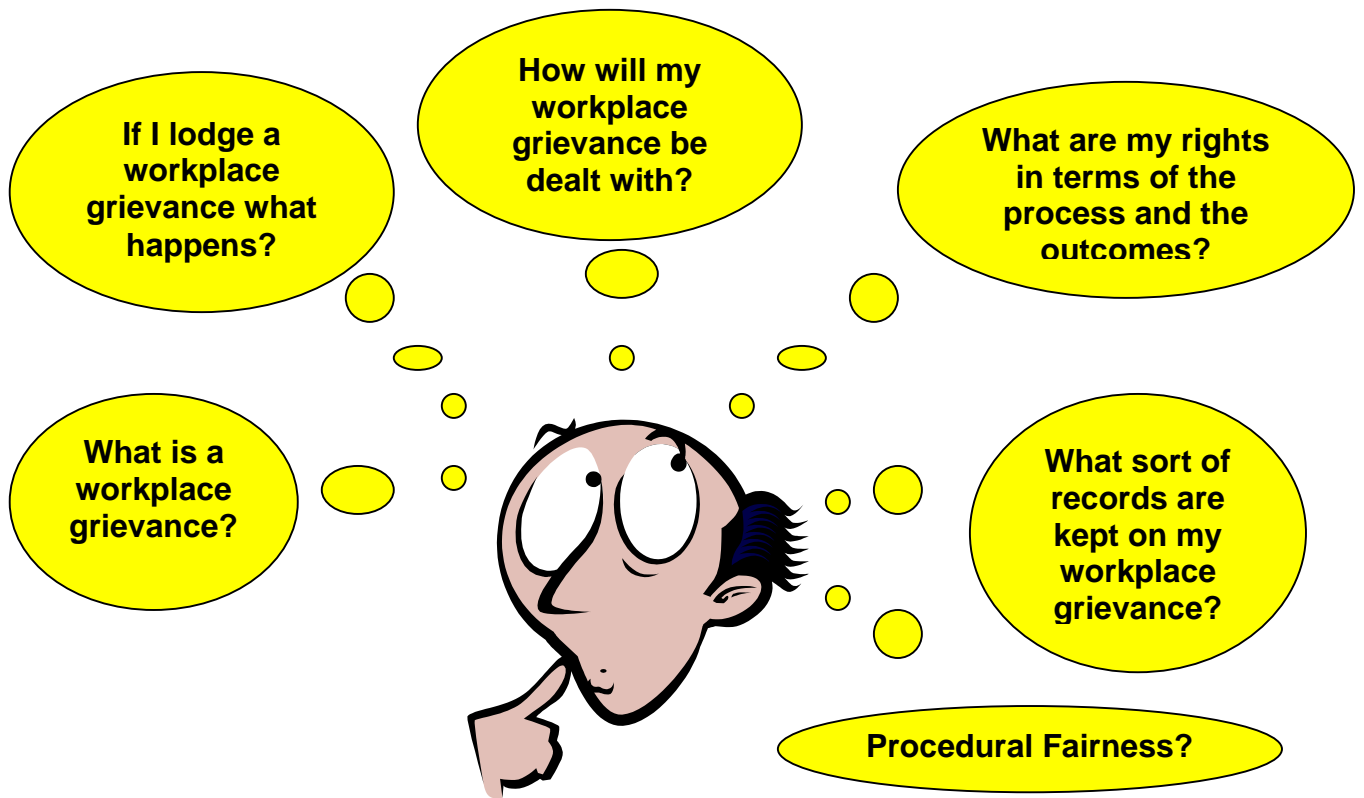
If you need assistance with dealing with a grievance or if you would like to attend training on grievance handling processes, staff employed in the Corporate Personnel Services section are available to provide professional and confidential advice and guidance. Key contacts are:

Steve McNab **Associate Director Corporate Personnel Services**
phone 9391-9504 email SMCNA@doh.health.nsw.gov.au

Mark Whybrow **Manager Employee Relations**
phone 9391-9347 email MWHYB@doh.health.nsw.gov.au

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What is a workplace grievance?

A grievance is a formal complaint made by a staff member against another staff member in relation to workplace behaviour including interpersonal conflict, the way work is allocated or managed, the interpretation of people management policies or a perceived unfairness in the workplace.

Many types of complaints are not treated as grievances because we have a whole range of other policies that set out the steps for dealing with other workplace issues such as bullying, fraud, violence, misconduct, performance management, serious safety issues and potential criminal matters. These policies are listed in our grievance resolution policy.

As we have these special policies for dealing with other workplace issues, not all complaints will be treated as a grievance. The manager who receives your complaint will conduct an initial assessment to determine whether your complaint should be dealt with as a complaint, or as a grievance or as a serious issue that should be dealt with under one of the specialist policies.

In summary:

- **The manager conducts an initial assessment of your complaint to determine if it is a grievance**
- **If it is considered to be a grievance then the grievance resolution procedure is used**
- **If it is not considered to be a grievance then one of the specialist policies is used**

If I lodge a workplace grievance what happens?

The diversity of issues and people requires grievances to be considered individually for the most appropriate means of resolution to be used in each case. Early identification of a grievance sometimes provides the opportunity to facilitate resolution without the use of formal procedures. Various options are available (see PD2005_584) to assist managers to resolve grievances promptly and effectively.

To begin the formal process of dealing with your grievance, and to ensure that your grievance can be dealt with promptly, you must lodge your grievance, in writing, with your manager or the next most senior manager in your branch that is not involved in the grievance. Your manager has primary responsibility for handling grievances for staff in their area.

In exceptional circumstances, your manager may accept a verbal grievance from you but this is not standard practice as it makes it much harder to identify your issues and to be fair to the respondent.

It is important that your grievance sets out in detail:

1. The nature of your concern in sufficient detail to allow the person against whom you have lodged your grievance, i.e. the respondent, to respond so you will need to give specific details of your concerns including, wherever possible, dates on which the incident(s) occurred and the names of any witnesses to the incident(s); and,
2. The outcome(s) that you seek to resolve the grievance. These outcomes must be consistent with the nature of your concern

Your manager will advise you of the outcome of their initial assessment of your concern within a few days and if your concern is to be dealt with as a grievance, your manager will write to you to acknowledge receipt of your grievance and to the respondent to provide them with a copy of your appropriate records grievance and to ask for their response. Records of more serious grievance issues may be held by Corporate Personnel Services in addition to records kept at branch level.

You will be offered support through the Employee Assistance Program. The manager will try to deal with and finalise your grievance within ten (10) working days of receiving the grievance. But this isn't always possible as matters may be complex, involve a number of people and range over a period of time. The manager will need to give the respondent sufficient time to prepare their response and may need to interview people who have direct knowledge of the concerns you have raised and who can assist in assessing the facts in the matter. In this situation the manager should provide all parties with information on time-frames as the process progresses.

In summary:

- **Lodge your grievance in writing with your manager or the next most senior manager not involved in the grievance**
- **Your manager will assess the grievance and determine how it should be dealt with which can include processes under specialist policies**
- **You will be offered support throughout the grievance resolution process**
- **Timeframes will be set by the manager for dealing with the grievance**

How will my workplace grievance be dealt with?

The objective of our grievance resolution process is to ensure that all workplace grievances are managed in a fair, timely, appropriate and effective manner. Wherever possible, the outcomes decided upon by the manager should be mutually acceptable to the parties to the grievance.

All grievances are dealt with on a strictly confidential basis and within agreed timeframes and all people involved in the grievance including any support person assisting you are expected to treat the matter as strictly confidential. If you belong to a Trade Union, your union representative is able to actively participate in the process as your advocate or support person.

Your manager will gather the information necessary to deal with your grievance. The manager should:

- Meet with you to discuss your concerns and clarify issues raised in your written grievance
- Meet with the respondent to explain the process and seek response (either through interview or in writing)
- Interview witnesses and reviewing relevant documents.
- Have people interviewed to sign and return a summary of their interview to the manager dealing with the grievance
- Focus on key questions to identify facts and perceptions
- Listen to see if there are emerging grounds for resolution.

For procedural fairness reasons, you and the respondent will be given access to all information that the manager dealing with the grievance assembles so that the person can make a full and comprehensive response to the grievance.

Occasionally, and when both you and the respondent agree, an independent mediator can be called in to assist with trying to reach an amicable resolution to the grievance. Similarly, it may, on rare occasions, be necessary to engage an external expert to assist with the investigation process. Corporate Personnel Services has contact details of external services providers who can be used to provide this expert support.

If the information gathered by the manager indicates that the matter is more serious, the manager will refer the issue to appropriate staff within the Department to deal with under one of our specialist policies. The manager will inform you as soon as this decision is taken.

Once the manager has gathered all the relevant information she/he will convene discussions with you and the respondent with a view to trying to reach amicable and realistic agreements. If this is not possible, the manager will make a decision that both parties will be expected to abide by genuinely and in the spirit of trying to work professionally with each other. The manager may also require the parties to attend training or make administrative changes designed to assist the parties to work harmoniously and effectively.

In summary:

- **The objective of our grievance resolution process is to achieve fair and amicable outcomes in a timely manner**
- **The parties to the grievance will receive procedural fairness**
- **Mediation or the involvement of external experts may be used to assist with resolution of the grievance**
- **Outcomes will be discussed with the parties and resolution agreements may include the requirement for the parties to attend training or for changes in administrative processes.**

What are my rights in terms of the process and the outcomes?

The rights of those who lodge the grievance include:

- The right to procedural fairness, confidentiality and a fair and timely process for dealing with the grievance
- The right to receive full and complete information on the grievance resolution process and to withdraw their grievance at any time
- The right to specify desired outcomes and be informed of all decisions made in dealing with their grievance
- The right to be protected from victimisation or harassment because they have raised the grievance
- The right to have a support person and counselling through the Employee Assistance Program

The rights of the respondent include:

- The right to procedural fairness, confidentiality and a fair and timely process for dealing with the grievance
- The right to receive full and complete information on the grievance resolution process and be informed of all decisions made in dealing with the grievance

- The right to be protected from vexatious or malicious complaints
- The right to have a support person and counselling through the Employee Assistance Program

The rights and obligations of the manager dealing with the grievance include:

- The obligation to deal with the grievance promptly and in accordance with specified timeframes
- The obligation to protect staff from victimisation, harassment and discrimination as a result of raising or responding to the grievance or providing information necessary to deal with the grievance
- The obligation to provide the parties with procedural fairness
- The obligation to fully document the grievance resolution process and store all records securely and confidentially
- The right to be trained in effective grievance management processes

The parties to the grievance may, within two weeks of the completion of the grievance resolution process, **request an independent review of both the process and the outcomes** if they can demonstrate to the reviewer that there has been unfairness or bias in the process or the outcomes. It should not be assumed that just because a party to the grievance may not accept the outcome that there is an automatic right of review. The review will be undertaken by the Director of the branch in which the person lodging the grievance is employed or by the relevant Deputy Director General (or delegate) if the Director conducted the grievance resolution process.

The role of Corporate Personnel Services is to:

- Advice and assist the parties to the grievance on process issues
- Provide training to managers on dealing with grievances
- Identify external experts to provide specialist assistance to managers.

In summary

- **The parties have rights that will be vigorously protected by the Department throughout and after the grievance resolution process**

What sort of records are kept on my workplace grievance?

The Department needs to maintain records of grievances to allow for objective review of the effectiveness of the grievance resolution process and to inform decisions regarding issues such as the conduct of training programs on conflict resolution or conduct of awareness raising programs on grievance resolution and other more serious issues such as bullying and discrimination in the workplace.

A central confidential file with restricted access will be maintained on some grievances.

The information that is maintained on grievances generally is de-identified to protect the privacy of the parties. The sort of information that is recorded and that can be made available to the senior officers of the Department includes:

- The types of grievances raised
- The employment classifications, gender and age range of those involved in the grievance
- The approaches used to deal with the grievance and the timeframes achieved in dealing with the grievance
- Whether a review process was requested and activated

Procedural Fairness

Throughout this Users Guide we have referred to the concept of procedural fairness. In broad terms, this means:

- The parties to the grievance have a right to know what is alleged to have occurred in sufficient detail to enable a full and complete response
- The parties to the grievance have a right to have the matter dealt with in a fair and impartial and timely manner and to be informed of all decisions made throughout the grievance resolution process
- The parties to the grievance have a right to have the grievance dealt with by an impartial manager and to be informed of the outcomes determined by the manager
- The parties to the grievance has a right to be made fully aware of all the information that the manager takes into account when determining outcomes to the grievance
- The parties to the grievance have a right to an independent review of the process and the outcomes in situations where they can identify procedural flaws or impropriety in the process or the outcomes imposed by the manager

In conclusion:

- **The parties to a grievance should feel safe and protected in the process and should demonstrate professionalism and adherence to the Department's values by genuinely complying with the outcomes determined by the manager.**