# Grievance Handling & Conflict Resolution Policy

## Purpose

The purpose of this policy is to define the procedure if an employee has a grievance that relates to their employment with Company Name Australia.

## Scope

This procedure applies to all Company Name and associated entities employees. This policy is not intended to override the terms of any award, enterprise agreement or contract that applies to an employee.

## Policy

Company Name aims to maintain a harmonious working environment which affords equality of opportunity. Company Name recognises the right of individuals to express their concern about work related issues and will endeavour to resolve employees’ genuine grievances and complaints in a fair and timely manner.

A grievance is a real or perceived issue causing resentment, suffering or distress and which may be regarded as grounds for complaint in the Company Name environment. A grievance may be about any act, omission, situation or decision that you may feel is unfair, discriminatory or unjustified. Grievances may range in severity from matters that can be immediately resolved by timely appropriate action, to complex matters involving prolonged investigation, negotiation or disciplinary action.

In the first instance, all efforts will be made to resolve the complaint directly between the parties in a low-key and diligent manner. Company Name takes seriously its responsibilities to handle grievances and accordingly outlines appropriate procedures for a resolution process.

Company Name will:

* Ensure that each person is free to raise and have resolved any complaints or disputes he or she may have regarding the organisation or its activities;
* Ensure that all problems are routinely reported, so that the need for any immediate corrective action can be considered and implemented;
* Investigate the cause of grievances and problems, analyse processes to detect and eliminate causes, initiate preventive action, apply and implement changes resulting from corrective preventive action.

Company Name will ensure that the handlings of all grievance claims are to be kept private and confidential in a safe place.

### Procedure for a complaint/grievance:

Before a formal complaint is lodged the employee should approach the person involved by:

* Asking or telling the person to stop;
* Writing a personal and confidential letter to the person concerned asking that the behaviour stop immediately; and
* Making an informal grievance complaint to the manager.

1. The complainant should in all cases ensure that they have approached the person concerned with whom they have a complaint (the respondent). In all cases an attempt should be made to resolve the conflict in this step.

If the complainant feels the conflict has not been resolved, for whatever reason, then:

1. The complainant should put the complaint in writing. The written complaint should be given to the manager. A record is to be kept of the discussion and filed in the employees personnel file. The manager is then to contact the respondent, and ask for their side of the story – a record of this discussion is also to be kept.
2. The manager is then to co-ordinate a meeting between the complainant and respondent, to discuss the problem. A record is to be taken of this meeting. If the conflict is resolved, all records are kept for five years and then destroyed.

If the conflict is not resolved, then:

1. The manager is to notify senior management, and allow perusal of notes of the above meetings.

A meeting is to be arranged between the manager, and senior management and both parties. If the conflict is resolved, all records are kept for five years and then destroyed.

If conflict is not resolved, then:

1. The complainant has a right to bring in an outside mediator for a further meeting, after which all parties are to agree to a solution.

If the complainant chooses not to bring in an outside mediator, the manager will assist in negotiating a solution or a way to avoid the problem in the future.

**NOTE:** If the grievance is against the manager the complainant should, if possible, first approach the manager and attempt to solve the conflict immediately. If the complainant is not satisfied, then they are to approach a senior manager to negotiate through Steps 4 - 5 as above.

## Disciplinary Procedure

Company Name is committed to ensuring the provision of a workplace that guarantees all employees equity, fairness, justice and privacy in all aspects of their working relationships.

Inherent within this commitment is an acknowledgment that Company Name is a service delivery organisation and therefore its single most valued asset is its workforce.

To this end the commitment by Company Name is to:

* Maximise the effectiveness of all employees;
* Provide a management style designed to encourage optimum work performance and conduct;
* Respect and acknowledge the rights and responsibilities of all employees;
* Provide a mutually supportive work environment founded on mutual trust and respect; and
* Provide a fair and equitable process for the identification, handling and resolution of all areas of conflict or grievance within the workplace.

In any workplace, matters will inevitably arise that will require processes to improve an individual’s work performance or conduct.

This policy is designed to:

* Provide the foundation for all counselling and discipline related matters arising within Company Name Australia;
* Ensure that any unsatisfactory work performance or conduct is remedied to allow the employee to perform at an acceptable level as a valued member of the team;
* Provide consistency and fairness in procedures to deal with such circumstances;
* Identify matters of concern at an early stage; and
* Place maximum emphasis on conciliation and negotiation of mutually acceptable outcomes with imposed outcomes being the exception rather than the rule.

## Performance Management

### Scope

This policy applies to all staff of Company Name and associated entities.

### Policy

Where warranted, Company Name will use improvement processes to improve performance. Should such improvement processes be unsuccessful in improving an employee’s performance, Company Name may decide to end an employee’s employment. Depending on the circumstance, performance improvement action may include verbal or written warnings, counselling or retraining.

Company Name requires a minimum standard of conduct and performance which will be made clear to employees in management appraisals, at the commencement of employment. If an employee does not meet this standard, Company Name will take appropriate corrective action, such as training. Formal performance improvement procedures will generally only start when other corrective action fails.

If an employee deliberately breaches business policy or procedure, or engages in misconduct, Company Name may start improvement procedures, or, in cases of serious misconduct or breach of policy, may dismiss an employee.

Each employee must understand their responsibilities, be counselled and given the opportunity to reach the standards expected of them. Company Name will give an employee an opportunity to defend themselves before management takes any further action.

Note: If employees have a disability that requires reasonable adjustments to be made to the workplace or job to allow you to work safely and productively, they should raise this with their manager. Company Name will only refuse such requests on reasonable business grounds.

### Responsibilities

It is the responsibility of all employees to monitor performance and to implement performance management and improvement measures when required.

It is the responsibility of employees to make every effort to improve unsatisfactory work performance or conduct when a need has been identified and co-operate with supervisors to implement improvement programs.

Company Name Australia’s external HR consultant may be engaged to provide advice and assistance to parties involved in a disciplinary procedure.

## Disciplinary Procedure

Disciplinary action may be instituted for any breach of Company Name Australia’s policies or procedures, or for work performance and conduct which does not meet an acceptable level. Disciplinary action will only be instituted in accordance with the procedure set out in this policy.

Other than in cases of misconduct that warrants instant dismissal, the disciplinary procedures will be directed to the identification and rectification of the unsatisfactory work performance or conduct. The employee is entitled to representation at all disciplinary sessions. It is the responsibility of Company Name to offer each employee this right.

All matters arising during a disciplinary interview will be kept in the strictest confidence and copies of any relevant documents will be provided to the employee.

**Step 1 - Informal Counselling**

Informal counselling of an employee will normally occur when, in the Manager’s opinion, the employee’s behaviour is such that formal disciplinary action is not appropriate.

At the informal counselling the Manager will:

* Provide details of the behaviour of concern;
* Provide the employee with an opportunity to respond to the concern and to raise any other matters that the Employee considers relevant; and
* If the Manager is satisfied that the concern can be substantiated, identify any improvement in behaviour that may be required and assistance/support to be provided (if relevant).

After the informal counselling the Manager will:

* Keep a diary note of the discussion; and
* Where appropriate, plan a subsequent discussion with the employee to review behaviour.

**Step 2 - Formal Counselling**

Formal counselling of an employee will normally occur when:

* The employee has previously been counselled informally, but behaviour has not improved to the standard required; or
* The employee’s behaviour is such that, in the opinion of the Manager after consulting a senior manager and/or HR Consultant, formal counselling is appropriate.

At the formal counselling the Manager will:

* Provide details of the behaviour of concern; and
* Provide the employee with an opportunity to respond to the concern and to raise any other matters that the Employee considers relevant.

After the formal counselling the Manager will prepare a written record of the meeting and, if satisfied that the concern has been substantiated:

Confirm in writing:

* The behaviour of concern;
* Any assistance/support to be provided (if relevant);
* That failure to address the behaviour of concern may result termination of employment; and
* Plan a subsequent discussion with the employee to review their behaviour.

**Step 3 - Formal Warning**

A formal warning will be given to an employee when:

* The employee has previously been counselled formally, but behaviour has not improved to the standard required;
* The employee’s performance remains unacceptable following a reasonable period of performance improvement; or
* The employee’s behaviour is such that, in the opinion of the Manager after consulting a senior manager and/or HR Consultant, formal counselling is appropriate.
* Prior to conducting a meeting at which a formal warning may be given, the Manager will advise the employee in writing:
  + the time and place of the meeting; and
  + the nature and detail of the matters to be discussed.

At the meeting the Manager will:

* Provide details of the performance or behaviour of concern and support/assistance that has been provided (if relevant);
* Provide the employee with an opportunity to respond to the concern and to raise any other matters that the employee considers relevant;
* Advise the employee that failure to address the concern may result in termination of employment; and
* Plan a subsequent discussion with the employee to review their behaviour or performance.

After the meeting the Manager will prepare a written record of the meeting and, if satisfied that the concern has been substantiated:

Confirm in writing:

* The behaviour of concern;
* Any assistance/support to be provided (if relevant);
* That failure to address the behaviour of concern may result in termination of employment; and
* Supply a copy of the record to the Employee and request that they acknowledge receipt of the record by signing and returning it.

**Step 4 - Final Warning**

If it is required, the fourth step is conducted along the same lines to step 3 (above). The employee will be advised that this is a final warning and if the problem continues, or occurs again, that the employee may be terminated.

**Step 5 - Termination of Employment**

If an employee’s work performance or conduct continues at an unacceptable level, or should a further incident occur following a Final Warning or in a case of misconduct, the following procedure will be followed:

* Giving at least 24 hours’ notice, the employee will be requested to attend an interview and advised of the reasons for the meeting.
* The employee will be advised that this is the final stage of the discipline procedure and that it may lead to termination of employment.
* The employee may be suspended on full pay to allow an opportunity for a full investigation of all of the circumstances relating to the alleged unsatisfactory work performance or misconduct.
* The employee will be counselled that it would be appropriate to have a witness or other representative present.
* The employee will be advised of all the relevant facts, witness statements and other documentation.
* The employee will be invited to present his or her version of events. If an employee wishes time to prepare a defence, up to 24 hours will be allowed.
* The employee’s response will be evaluated to ensure all facts have been established and verified.
* If following the investigation, it is determined that the allegation is proven, the employee will be issued with a Notice of Dismissal.

**Note**: Some circumstances justify going straight to a second or final warning.

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## Gross or serious misconduct

### Purpose

To outline the processes involved in managing misconduct or serious misconduct of employees.

### Scope

This policy applies to all staff of Company Name who has passed their probation period.

### Policy

Summary (instant) dismissal for gross or very serious misconduct is possible (depending on the facts involved). Management should seek advice from HR before taking this step.

For the purpose of this policy, serious misconduct includes (but is not limited to) the definition under section REG 1.07 of the Fair Work Regulations 2009 and any further definitions within the contract of employment. The following matters are examples of acts considered by Company Name to be misconduct:

* Any form of abuse, including: sexual, physical, emotional and verbal abuse of employees or customers of Company Name or the general public whilst at work;
* Theft of monies or property of Company Name or any associated parties;
* Conduct that causes imminent and serious risk to the health or safety of employees, customers or the general public whilst at work;
* Attending work intoxicated by drugs and/or alcohol;
* Dishonesty; and
* Ignoring an important instruction.

### Procedure

1. The investigation must be carried out as soon as possible after the alleged misconduct is discovered
2. Managers should consider whether or not it is appropriate to suspend the individual (on pay for permanent staff) whilst the matter is investigated
3. Managers or supervisors should be conscious of conflicts of interest or bias and speak to their higher managers whether there involvement is appropriate
4. All those involved within the investigation are responsible to remain aware of further misconduct or victimization as a result of this process
5. The investigation will be conducted in accordance with the principles of natural justice and procedural fairness and the outcome will be determined on a balance of probabilities
6. The manager and/or HR is to investigate the alleged offence thoroughly, including talking to witnesses and collecting evidence, if any
7. Where possible an employee must be advised in advance of the nature of the interview, that they may be accompanied by an employee representative and that the interview may result in disciplinary action or termination of employment
8. The manager should ask the employee for their response to the allegation (taking notes of this discussion) and allow them to have representation. The manager should also have a witness present. The manager shall give genuine consideration to the employees response and circumstances
9. If still appropriate, following a thorough investigation, the manager can terminate/dismiss the employee
10. The manager should keep a file of all evidence collected and action taken in these circumstances
11. Company Name will send the employee a letter of termination noting brief details

If you have any questions regarding this policy, please contact your manager.