

# Grievance Resolution Procedure

## 5.1 Steps in the grievance resolution procedure

Resolving a grievance may involve up to 5 stages. Lack of resolution at one stage becomes the trigger for referral to the next stage. At any stage of the process the complainant may have the support of a union representative, legal representative or support person. Similarly the Local Government association (LGNSW) may represent Council.

Procedure		What happens	When
CONTACT	<b>Step 1</b>	Discussion between the parties. In some cases the grievance may be resolved at this stage. You may find that the person didn't mean to do what they did.	As soon as possible. The grievance may be resolved at this stage.
	<b>Step 2</b>	The complainant discusses the grievance with a Contact Officer, supervisor, manager or human resources officer.  This may occur if the person is not sure how to handle the problem or wants information and advice about their options or assistance to prepare a written grievance.	The person contacted about the grievance must discuss it as soon as they can and preferably on the same day that they are contacted.
STAGE 1	<b>Step 3</b>	<b>Complete Stage 1 Form (Appendix 7.2)</b> The complainant raises their grievance with their supervisor, another supervisor or manager.	As soon as possible.
	<b>Step 4</b>	The person who receives the written grievance decides whether to take responsibility for handling it themselves, or refers it to another person, having considered conflict of interest. This is preferred to be someone more senior. (See 5.2).	The person with whom the grievance is lodged or referred to should meet with the complainant <b>within 2 working days</b> . Action to resolve the grievance should begin immediately.
	<b>Step 5</b>	The person taking responsibility for handling the grievance (Grievance Investigator) should interview the Respondent of allegations and decide what action to take. (See 5.3 and 5.4). The parties cooperate fully with whatever process has been put in place to resolve	The Grievance Investigator should meet with the Respondent <b>within 2 working days</b> of meeting within the complainant.  Resolving a grievance should be prioritised.

		the grievance.	
	<b>Step 7</b>	The Grievance Investigator actions a resolution. If required, the complaint is investigated further and witnesses interviewed. (See 5.6).	<b>Within 5 working days</b> of meeting with the respondent <b>or as soon as possible</b> if further investigation is required (see 5.6). The investigation should be a priority and should not be delayed by other issues.
	<b>Step 8</b>	Grievance is resolved and the Grievance Officer advises the parties of a decision. (See 5.7 and 5.8).	Parties are advised of the outcome of investigations <b>within 2 working days</b> of completion of investigations.
<b>STAGE 2</b>	<b>Step 9</b>	If any party is dissatisfied with the process or the outcome of Stage 1 they can lodge an appeal with the Department Director or other Grievance Investigator (preferably someone senior). <b>Complete Stage 2 Form (Appendix 7.3)</b>	<b>Within one week</b> of the resolution.
	<b>Step 10</b>	Steps 4-8 repeated by Department Director or other Grievance Investigator. (See 5.9)	Within same timeframes as Steps 4-8.
<b>STAGE 3</b>	<b>Step 11</b>	If the matter remains unresolved the grievance should be referred to the General Manager. <b>Complete Stage 3 Form (Appendix 7.4)</b>	Within <b>one week</b>
	<b>Step 12</b>	The GM should consider the matter in the light of previous attempts at resolution as well as through their own investigations. (See 5.9).	Within <b>5 working days</b>
	<b>Step 13</b>	The GM will provide a written response as to why remedial or corrective action has not been proposed or, if such action has been proposed, why it has not been implemented. If the GM cannot resolve the grievance, it will be referred to the union and Associations.	Within <b>2 working days</b> of completion of investigation.
<b>STAGE 4</b>	<b>Step 14</b>	If either party is still dissatisfied, they can seek remedy from the appropriate external agency. Relevant external agencies are listed in Appendix 6.1.	As soon as possible. Each external agency will have a time limit for making complaints.

## 5.2 Who should handle a grievance?

The complainant can raise their grievance with their immediate supervisor, or with another supervisor or manager or a human resources officer. If the grievance is about their supervisor, or they feel uncomfortable about discussing it with their supervisor, they should raise it with someone else.

The grievance may be handled by the person with whom it is first raised, or it may be referred to someone else to handle, such as an external, independent mediator. This may occur if:

- the person with whom it is first raised has a conflict of interest, or is perceived to have one;
- the grievance is complex or sensitive and should be handled by someone with more skills and experience; or
- the grievance is very serious or involves a senior member of staff and should be handled at a more senior level.

If the grievance involves the General Manager, it should be handled by the Mayor in the first instance and then an external mediator if necessary.

The person handling the grievance may refer it to an external, independent person for investigation or conciliation. This may occur if it is the only way to ensure that the grievance is handled with absolute impartiality and/or the appropriate level of skill.

## 5.3 Record keeping

Each step of the grievance procedure except Step 1 must be documented. This is to avoid misunderstandings and provide a record of what has been done in case the grievance is not fully resolved or there is an appeal.

If the complainant decides not to pursue the grievance after Step 2, or it is resolved through informal discussion or negotiation, the person who was approached about the matter only needs to make a brief note of the discussion, including the names, date and nature of the concern, and how the grievance was resolved. This can be recorded on the Contact Officer Form attached as Form 7.1.

If the grievance proceeds beyond Step 2, a more detailed record must be kept using the Stage 1, 2 or 3 Grievance Notification Form (Appendices 7.2, 7.3 or 7.4).

The parties to the grievance are entitled to:

- see the record of any meeting or interview they attended, in order to correct inaccuracies and to ensure that it is complete. They may choose to sign this to acknowledge that it is accurate;
- see and respond to a record of the *relevant* facts contained in the other party's statement and in witness statements;
- a record of how the grievance will be resolved and the reasons for that outcome.

The parties to a grievance are not entitled to see records that would breach a third person's privacy or contain facts that did not influence the outcome, if these could inflame hostilities, damage Council's reputation or pose a risk to someone's health, safety or wellbeing.

Records or notes about the grievance will not go on an employee's personnel file unless disciplinary action is taken against them. All other records will be filed in a secure, confidential place. Only the General Manager, Directors and Human Resources Officer, will have access to this file.

## 5.4 Possible actions to resolve a grievance

Options to resolve a grievance include:

- informal discussion between the parties;
- conciliation to reach an agreement between the parties; and
- full investigation followed by a decision based on the findings of the investigation.

## 5.5 Conciliation

Conciliation involves an impartial person assisting the parties to a grievance to reach an agreement about how it should be resolved. The conciliator does not take sides, but is responsible for ensuring that the agreed outcome is fair and practical and in accordance with Council's policies and procedures. Conciliation differs from mediation, in which the mediator does not try to influence the content of the agreement in any way.

Conciliation is most likely to be used when:

- there is some basis for agreement, for example the parties may agree about what happened but have different interpretations;
- the parties show some willingness to cooperate; and/or
- both parties have equal bargaining power.

Conciliation is less likely to be used when:

- there is no agreement about what happened;
- one party is accusing the other of serious misconduct;
- one party is in a position of power or influence over the other; and/or
- one or both parties do not show willingness to cooperate.

Conciliators must have training or experience in this area. If necessary, an external conciliator may be used. Other forms of grievance or conflict resolution such as group conciliation may also be used in some cases.

***The person handling the grievance may end the conciliation if:***

- ***the process is not working; or***
- ***it becomes clear that an investigation is required to achieve a fair outcome.***

## 5.6 Investigation

An investigation is required when the grievance is more serious, or the parties do not agree about what happened. The aim of the investigation is to uncover facts which may inform the decision about how to resolve the grievance.

The grievance investigator will talk to the complainant, the respondent and any witnesses. He or she will also gather any other relevant information such as records, documents or emails.

The steps in an investigation are as follows:

<b>Investigation</b>	<b>What will happen</b>	<b>When</b>
<b>Step 1</b>	The investigator explains the grievance process and the rights of participants to the parties and witnesses involved.	Within 2-4 working days (where practical).
<b>Step 2</b>	The investigator interviews the complainant and respondent to get each party's version of what happened.	
<b>Step 3</b>	If necessary, the investigator interviews witnesses and collects other relevant information.	Ideally within 5 days but as soon as practicable. The time frame may be affected by the availability of the parties or other witnesses and the complexity of the grievance. However, the investigation should be a priority and should not be delayed by other issues. Most grievances should be investigated within a maximum four weeks.
<b>Step 4</b>	The investigator assesses whether they have all the necessary information to decide whether the situation described in the grievance is likely to be accurate. If required, they will consider what other witnesses or records they should consult.	
<b>Step 5</b>	The investigator prepares a report on the investigation, giving all the relevant facts that have been uncovered. It may also make recommendations on how the grievance should be resolved. (See 5.4, 5.5 and 5.7).	The time frame for writing the report will be affected by the complexity of the issues, but it should usually be completed within 2-5 days.

An investigation Report Template is provided in Appendix 6.2.

## 5.7 The decision to resolve the grievance

If the parties to the grievance cannot agree on how to resolve it, the decision about how it will be resolved may be made by the person handling it, or by a more senior person. This will depend on:

- the type of grievance;
- how senior the parties are within the organisation;
- how serious the grievance is.

If dismissal from employment is a possible outcome, then the decision must be made by the General Manager.

The person responsible for deciding on a resolution will:

- consider possible outcomes and decide on what is appropriate, based on the facts and anything that might partly explain or excuse the behaviour (mitigating circumstances);
- explain their decision to the parties and if required, provide a written statement of their reasons;
- explain the appeal process, the need for confidentiality and privacy to be continued after the resolution and the need to avoid victimisation;

- decide on and implement a process for monitoring the effectiveness of the resolution. If the resolution is not effective, it may need to be reconsidered.

## 5.8 Possible outcomes

### *(a) Joint agreement*

The parties reach agreement about how the grievance should be resolved through discussion or conciliation, without a decision being made about whether the grievance is justified or not.

The person responsible for resolving the grievance must be satisfied that the agreement is fair and in accordance with Council's policies and procedures.

### *(b) The grievance is justified*

The person resolving the grievance is satisfied that the grievance is justified. This decision must be reasonable in view of the available information. They will then decide on a course of action that is fair and reasonable in all the circumstances.

Examples of possible outcomes include:

- an apology;
- training;
- changes in work practices;
- counselling; and/or
- disciplinary action.

A decision to take disciplinary action should take into account:

- the seriousness of the grievance;
- the attitude, intent and previous record of the respondent; and
- any mitigating circumstances.

Disciplinary action could include:

- an official warning;
- transfer to another work area;
- demotion; and/or
- dismissal.

If disciplinary action is taken, a record of the grievance and the outcome will be placed on the personnel file of the person who is disciplined.

### *(c) The grievance is not supported*

It is determined that the grievance is not supported by the results of the investigation. In this case steps may be taken to restore good working relations and prevent any problems from recurring. Examples of this could be training, improving communication channels, mediation or counselling.

### *(d) The grievance is malicious or vexatious*

It is determined that the grievance is not supported and has been lodged deliberately to cause trouble for another person. In this case disciplinary action will be taken against the person lodging the grievance.

*(e) There is not enough information to make a decision*

If there is not enough information to decide whether or not the grievance is justified, neither party has been found “right” or “wrong”. This will be explained to the complainant and the respondent.

In this case steps may be taken to restore good working relationships and ensure that everyone understands their rights and responsibilities. Examples of this could be training for the parties involved in the grievance or the entire team, or new procedures to improve supervision and monitoring.

## 5.9 Appeals

If either party to the grievance appeals, the decision can be reviewed in accordance with Stages 2, 3 and 4 of the Grievance Resolution Procedure.

The person who reviews a grievance may:

- check that the process was conducted according to this procedure and the principles of procedural fairness;
- check that the outcome was fair in view of all relevant evidence and any mitigating circumstances;
- consider particular aspects of the grievance process or the outcome;
- “rehear” the grievance if it appears that there were defects in the process or the outcome; and/or
- interview more witnesses or seek other evidence where appropriate.

The person performing the review may confirm the original decision or make a different decision.

## 5.10 Withdrawing a complaint

A grievance can be withdrawn at any time, unless management consider it to be too serious to be withdrawn. For example, it may be too serious if it involves a serious breach of Council’s *Code of Conduct* or a risk to workplace health and safety.

If a complaint is withdrawn it cannot be raised again, unless there is victimisation, the behaviour is repeated or new facts come to light.

# Appendices

## 6.1 EXTERNAL AGENCIES

Anti-Discrimination Board of NSW

### **Sydney office**

Level 4, 175 Castlereagh St, Sydney NSW 2000  
PO Box A2122, Sydney South NSW 1235  
Phone (02) 9268 5555; Fax (02) 9268 5500; TTY (02) 9268 5522

### **Wollongong office**

84 Crown St, Wollongong NSW 2500  
PO Box 67, Wollongong NSW 2520  
Phone (02) 4267 6200; Fax (02) 4267 6261; TTY (02) 4267 6267

### **Newcastle office**

Level 3, 97 Scott Street, Newcastle NSW 2300  
PO Box 1077, Newcastle NSW 2300  
Phone (02) 4903 5300; Fax (02) 4903 5376; TTY (02) 4903 5389

### **Discrimination enquiries and complaints**

Phone (02) 9268 5544; Toll free 1800 670 812  
Email enquiries: [adbcontact@agd.nsw.gov.au](mailto:adbcontact@agd.nsw.gov.au)  
Email complaints: [complaintsadb@agd.nsw.gov.au](mailto:complaintsadb@agd.nsw.gov.au)  
Website: [www.antidiscrimination.lawlink.nsw.gov.au](http://www.antidiscrimination.lawlink.nsw.gov.au)

### **Human Rights Commission**

Level 3, 175 Pitt Street, Sydney NSW 2000  
GPO Box 5218, Sydney NSW 2001  
Phone: (02) 9284 9600  
Complaints Infoline: 1300 656 41;  
General enquiries and publications: 1300 369 711  
TTY: 1800 620 241; Fax: (02) 9284 9611

### **NSW Industrial Relations Commission (NSW public servants only)**

50 Phillip St, Sydney NSW 2000  
Phone (02) 9258 0080; Fax (02) 9258 0058

### **Workcover NSW**

92-100 Donnison Street, Gosford NSW 2250  
Locked Bag 2906, Lisarow NSW 2250  
Workcover Assistance Service: 131 050  
Website: [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

### **Safe Work Australia**

220 Northbourne Avenue, Braddon ACT 2612  
GPO Box 641, Canberra ACT 2601  
Phone: 1300 551 832  
Email: [info@safeworkaustralia.gov.au](mailto:info@safeworkaustralia.gov.au)  
Website: [www.safeworkaustralia.gov.au](http://www.safeworkaustralia.gov.au)



**Privacy Commission NSW**

Level 11, 1 Castlereagh Street, Sydney NSW 2000

GPO Box 7011, Sydney NSW 2001

Email: [ipcinfo@ipc.nsw.gov.au](mailto:ipcinfo@ipc.nsw.gov.au)

Phone: 1800 472 679; fax: (02) 8114 3756

Website: [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au)

**Office of the Australian information Commissioner**

Level 3, 175 Pitt Street, Sydney 2000

GPO Box 5218 Sydney NSW 2001

GPO Box 2999 Canberra ACT 2601

Phone: 1300 363 992; Facsimile (02) 9284 9666

Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

Website: [www.oaic.gov.au](http://www.oaic.gov.au)



## 6.2 INVESTIGATION REPORT TEMPLATE

GRIEVANCE INVESTIGATION REPORT				
NAME OF INVESTIGATOR				
NAME OF COMPLAINANT/S				
NAME OF RESPONDENT/S				
	Issue, as raised by Complainant/s	Findings	Grievance Proven	Recommendation
1				
2				
3				
4				
5				

	Other Issues noted during the investigation	Findings	Recommendation
1			
2			
3			

	Name of Witness Interviewed	Date	Findings
1			
2			
3			

All interview notes (preferably typed) should be attached. Interviewees should be provided a copy of the interview record and provided opportunity to correct the record. Such feedback should be incorporated in to the interview notes.

**Forms**

**7.1 CONTACT OFFICER FORM**

Name of Contact/Support Officer \_\_\_\_\_

**1. Complainant's Grievance**

Name of complainant \_\_\_\_\_

Date of interview \_\_\_\_\_

Interview started at \_\_\_\_\_

Interview completed at \_\_\_\_\_

Present at interview \_\_\_\_\_

The facts as stated by complainant \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Feelings expressed by complainant *(complete this as a way of helping to separate the emotional content from the facts)* \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

What they want to happen to fix the grievance \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

What I advised them \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

What they are going to do now \_\_\_\_\_

\_\_\_\_\_

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**2. Complaint Respondent's Version of Events (where it is this person who approaches you, and you are not already advising the complainant)**

Name of Respondent \_\_\_\_\_

Date of interview \_\_\_\_\_

Interview started at \_\_\_\_\_

Interview completed at \_\_\_\_\_

Present at interview \_\_\_\_\_

The facts as stated by them \_\_\_\_\_

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Feelings expressed by that person (complete this as a way of helping to separate the emotional content from the facts) \_\_\_\_\_

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What they want to happen to fix the grievance \_\_\_\_\_

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What they are going to do now \_\_\_\_\_

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**7.2 STAGE 1 GRIEVANCE NOTIFICATION FORM**

**STAGE 1 GRIEVANCE NOTIFICATION FORM**

<b>EMPLOYEE DETAILS:</b>	
Name:	
Address:	
Home Phone:	Mobile:
Signature:	Date:
<b>REPRESENTATIVE DETAILS</b> (Only if you wish to be represented by a delegate or other nominated person at this stage)	
Name:	
<b>SUPERVISOR DETAILS:</b>	
Name:	
Supervisor's Phone Number:	
Date lodged with supervisor:	
<i>I wish to bring to your attention a grievance. The grievance relates to the matters as outlined below. I am committed to resolving the matter in accordance with the process outlined in the relevant award and or agreement / referral deed and seek a response to the matters raised within two working days.</i>	
<b>Details of the grievance are as follows:</b> – (Please add an attachment if you require more space)	
<b>The remedy I / we seek is:</b>	

Please retain a copy for your own records.

**7.3 STAGE 2 GRIEVANCE NOTIFICATION FORM**

**STAGE 2 GRIEVANCE NOTIFICATION FORM**

I wish to bring a grievance to the **Director’s** attention. The grievance relates to the matters as outlined in the Stage 1 form (attached). Despite raising the matter with the appropriate supervisor: (Please tick)

**No response was received**

**The response received was inadequate**

**Attempts to resolve the matter were unsuccessful.**

**I am therefore seeking the assistance to resolve the matter/s.**

DIRECTOR DETAILS:	
Name:	
Director’s Phone Number:	
Date lodged with Director:	
Please outline what has happened since the dispute was lodged: – (Please add an attachment if you require more space)	
Please outline in what regard the remedy was insufficient and what you are seeking:	
Signature:	Date:

**Please attach a copy of the Stage 1 form and all correspondence and any other material that relates to the grievance. Please retain a copy of this form for your own records.**

**7.4 STAGE 3 GRIEVANCE NOTIFICATION FORM**

**STAGE 3 GRIEVANCE NOTIFICATION FORM**

<p>I wish to bring a grievance to the <b>General Manager's</b> attention. The grievance relates to the matters as outlined in the Stage 1 and 2 forms (attached). Despite raising the matter with the appropriate supervisor and Director: (Please tick)</p> <p><input type="checkbox"/> <b>No response was received</b></p> <p><input type="checkbox"/> <b>The response received was inadequate</b></p> <p><input type="checkbox"/> <b>Attempts to resolve the matter were unsuccessful.</b></p> <p><b>I am therefore seeking the assistance to resolve the matter/s.</b></p>
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<b>GENERAL MANAGER DETAILS:</b>	
Name:	
Director's Phone Number:	
Date lodged with General Manager:	
<b>Please outline what has happened since the dispute was lodged: –</b> (Please add an attachment if you require more space)	
<b>Please outline in what regard the remedy was insufficient and what you are seeking:</b>	
<b>Signature:</b>	<b>Date:</b>

**Please attach a copy of the Stage 1 and 2 forms and all correspondence and any other material that relates to the grievance. Please**

