
Title: **Grievance Resolution**

Document type: **Procedure**

PURPOSE:

The purpose of this Procedure is to outline Bairnsdale Regional Health Services' approach to the management of staff grievances.

WHO MUST COMPLY WITH THIS PROCEDURE?

All Bairnsdale Regional Health Service staff, volunteers, external contracted parties and students undertaking placement.

THIS PROCEDURE APPLIES TO:

This procedure is applicable to all Bairnsdale Regional Health Service staff, volunteers, external contracted parties and students undertaking placement.

PROCEDURE

The purpose of this procedure is to provide managers, employees, volunteers or contractors with clear procedures on how to promptly address grievances about administrative (non-clinical) decisions and/or workplace conflict.

BRHS is committed to maintaining a harmonious and safe working environment that is free from intimidation, harassment and/or practices that are inconsistent with the organisation's principles, trademark behaviours and code of conduct.

BRHS acknowledges individual difference and differing perspectives and the employee's right to express concern or lodge a grievance about a work related issue. BRHS will make every effort to have the issue managed in a way designed to resolve problems promptly and fairly. The focus on grievance resolution is not on 'winners' and 'losers' but rather to consider differing views, needs and wants to achieve a mutually agreed resolution for all parties.

NOTE: It is a serious breach of policy to lodge a complaint which is false, malicious or vexatious.

Rights and Responsibilities

BRHS has a legal responsibility under equal opportunity, employment and/or industrial relations legislation to resolve a workplace grievance as efficiently and fairly as possible.

Confidentiality- All persons involved in a grievance process have the right for that process to remain confidential. Information about a workplace grievance will be restricted to the individuals who genuinely need to know of the grievance to resolve it.

Victimisation – Managers must ensure that staff involved in a workplace grievance process are not penalized for doing so and are not victimised by anyone else. Victimisation will be treated as a serious disciplinary matter and will be dealt with promptly.

Fair, impartial and timely process – Staff who lodge a grievance or who are the subject of a grievance have the right to fair and impartial treatment. Until the grievance is determined, work shall continue normally in accordance with the custom and practice existing before the grievance arose (health and safety matters excluded).

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Lodging a Grievance

Prior to initiating or investigating any grievance, the relevant Enterprise Agreement shall be reviewed to check for clauses which contain grievance/complaint/dispute resolution processes that must be followed. Contact should be made with the Workplace Relations Coordinator, People and Culture Department (WCC) for assistance.

Where it is determined a grievance is to be lodged, a written submission detailing the grievance must be completed. It is preferred that a BRHS Grievance form, available from the intranet, be completed and forwarded to the Workplace Relations Coordinator, People and Culture.

The Workplace Relations Coordinator will undertake the following initial actions:

- Contact the relevant Director to advise that a grievance has been lodged.
- Review the grievance and make contact with the complainant to confirm the details of the complaint.
- Liaise with the Director, People and Culture (DP&C) to appoint a facilitator to coordinate the grievance resolution process. Generally, this will be the Workplace Relations Coordinator or DP&C.

After these discussions, **one or more** of the following actions may occur:

- The appointed Facilitator will liaise with the complainant and the Director to discuss and recommend the preferred method of grievance management.
- Referral by the Facilitator or Director to the relevant BRHS Policies/procedures;
- Referral of the complainant to Employee Assistance Program (EAP);
- Facilitator to make further enquiries and/or examine documents or other evidence to establish past events or compare precedents set in similar matters;
- Facilitator or Director to discuss with the complainant interpersonal methods of resolution (as outlined below)
- Facilitator to source appropriate trained impartial mediators if formal facilitated discussion is required;
- If instructed by the Director, the Facilitator to arrange for a workplace investigation to be undertaken;
- Depending on the severity of the grievance, the Director may escalate the matter to the CEO.

To establish which method is the most appropriate the Director and the Facilitator will discuss and consider:

- The **nature and extent of the allegations/matters**;
- The **skill level and intent** of the parties;
- The **objectives** of the grievance, in particular what outcomes are sought by the complainant;
- The **timing** of the grievance.

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Interpersonal Methods

Interpersonal methods of managing a grievance can be the most effective method of dealing with concerns that arise. Examples of grievances which could be resolved using Interpersonal Methods are:

- Award or certified agreement entitlements
- Working hours, leave and remuneration
- Management of change
- Unfair treatment
- Management of performance
- Lack of career development
- Recruitment and selection process and decisions.
- An occupational health and safety issue

Interpersonal methods include:

- One-to-one discussion
- Facilitation
- Mediation

In some situations, the most appropriate step is a **one-to-one discussion** with the individual who is the subject of the grievance. This method involves the parties having a direct and informal conversation with one another with a view to working out the matter between them. This method is designed to be collaborative and its focus is on the resolution of the matter through a shared understanding of the perspective of each party. This method is appropriate when it is used at an early stage in the matter; when both parties feel confident to manage this matter directly and are capable of setting mutually-agreed ground rules. This method should not be considered if the issue of concern involves allegations of harassment, bullying or victimization.

If the grievance is about behaviour (actions, spoken or written words) the complainant may choose to describe to the other party why they feel the conduct is offensive, intimidating, humiliating or hurtful and ask for it not to continue.

If it is about a work decision, the complainant should describe to the other party why they believe the decision is unfair or unreasonable and suggest a solution.

It is important that the one-to-one discussion takes place in a private space away from other interferences. The complainant should use non-emotive language to describe the concerns. Examples of this may include:

“It may not have been your intention but when (describe the incident), I felt (describe how you felt)”

If the complainant feels that they cannot approach the person, or if this approach is not successful, they should seek assistance from their Manager. In circumstances where the complainant believes that this is not appropriate the complainant may contact WCC who can offer information on the process and suggest other available options for resolution.

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Facilitation: This method involves a third party who can assist the parties to discuss the matter and work towards resolution on mutually-agreed terms. The parties should only participate on a voluntary basis and no representatives present. The appointed facilitator must be impartial and keep the matters discussed confidential, other than for the purpose of advising those within the organisation who need to be informed of the mutually agreed outcome i.e. direct Manager and Director. This method is appropriate when used at an early stage in the matter when:

- the complainant is seeking something to change and does not want a formal investigation;
- both parties approach the facilitation in good faith and are agreeable to a less formal method of dispute resolution;
- both parties believe they have sufficient skills and confidence to manage the matter and have a common interest and focus on outcomes rather than findings of right and wrong.

The facilitator must obtain from both parties signed evidence that neither party were forced to participate in facilitation; that the parties were informed of alternate options; and that both parties provided consent to this method.

Mediation: This is a more formal version of the facilitation method outlined above. Mediation involves representatives who may advocate for the party they represent. Identification of the key issues is important and the process is focused on how the issue can be resolved and how future issues will be avoided or managed. This method is usually voluntary in nature. The mediator needs to be impartial in the process and keep the matters discussed confidential other than for the purpose of advising those within the organisation who need to be informed of the mutually agreed outcome i.e. direct Manager and Director. Mediation should only be carried out by a person with training and expertise in this area. The appointed Mediator may be an external party.

The mediator must obtain from both parties signed evidence that neither party were forced to participate in mediation; that the parties were informed of alternate options; and that both parties provided consent to this method.

This method may be appropriate when the matters between the parties are of a more serious nature than those dealt with in facilitation but still not requiring a formal investigation process to be initiated.

Note: in some circumstances a formal investigation may still be the best method to use in these circumstances even if it is not the employee's preference.

Time frames:

As a guide, every effort should be made to resolve grievances using one of the above methods within seven business days. In circumstances where this is not possible, due to one of the parties being unavailable, all parties must be communicated with by the Facilitator (or appointed delegate) at least every seven business days to advise of progress and timeframes for resolution. It is an expectation that the process should not exceed 4 weeks (20 business days) duration.

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Workplace Investigation:

A workplace investigation should commence if one or more of the above interpersonal methods has not resolved the issue satisfactorily. Some situations require immediate escalation to a Manager or in the case where the situation concerns the Manager immediate escalation to the Director. It is important that staff immediately lodge a formal grievance in writing via the BRHS grievance form without attempting to resolve the concerns at a local level when the issue identified concerns:

- Serious misconduct;
- Sexual harassment;
- Verbal abuse and/or physical intimidation;
- Workplace bullying and victimization;
- Discrimination;
- Official misconduct;
- Clinical misconduct.

In the circumstances outlined above, a written submission detailing the grievance must be completed. It is preferred that the BRHS grievance form be completed and sent to the Workplace Relations Coordinator, People and Culture. The Workplace Relations Coordinator will:

- Contact the relevant Director to advise that a grievance has been lodged and recommend a Workplace Investigation take place.
- Review the grievance and make contact with the complainant to confirm the details of the grievance.
- Liaise with the Director, People and Culture to appoint an Investigator to coordinate the grievance process and to discuss potential investigators. Generally, this will be the Workplace Relations Coordinator or DP&C.

Note: Where the grievance relates to a Director, the matter will be escalated to the CEO. Where the matter relates to the CEO, the matter will be escalated to the Board of Directors via the Chair of the Board.

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A **workplace investigation** involves a third party – the Investigator – obtaining information and examining the issues at hand with a view to reaching a conclusion as to whether the matters alleged by one party (the Complainant) against another (the Respondent) are substantiated. Parties to a workplace investigation are compelled to participate in the process. This method is focused on facts rather than outcomes.

All workplace investigations must be conducted in accordance with common law and legislative obligations including natural justice and procedural fairness for all parties concerned.

All workplace investigations must be conducted in accordance with the **BRHS Workplace Investigation Guidelines**.

Contact should be made with the complainant by the Workplace Relations Coordinator within 48 hours of receipt of the grievance to acknowledge receipt of the grievance and discuss next steps with the complainant.

As a guide, every effort should be made to resolve grievances that have been raised using the formal procedure within ten (10) business days. In circumstances where this is not possible due to one of the parties being unavailable, all parties must be communicated with by the Workplace Relations Coordinator (or appointed delegate) at least every seven (7) business days to advise of progress and timeframes for resolution. It is an expectation that an investigation will not exceed 4 weeks (20 business days) duration.

Further Grievances:

A further grievance may also be lodged where a complainant has concerns that they have been treated adversely or penalized as a result of lodging the grievance and/or the original grievance has:

- Not been resolved in a timely manner;
- Not been resolved appropriately (e.g. agreed actions are not adhered to, follow up does not occur, there is a dispute as to whether policy/industrial instrument has been followed);
- Not been resolved as the behavior has continued/escalated.

Grievances relating to a management action which has been undertaken in a reasonable way in connection with the complainant's work will not amount to harassing behavior.

Potential Outcomes

Potential outcomes of a substantiated grievance include:

- a review of a decision;
- an apology for the harm or offence caused;
- an agreement that bad behaviour will stop or change;
- education or training for a person or group;
- an informal warning or 'quiet one-to-one chat' with someone by a manager;
- changed work practices or procedures;
- new policy(ies) or a change in policy(ies);
- reinstatement of a benefit (for example, sick leave or training) that was denied;

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- a formal warning or other formal disciplinary measure, such as transfer or demotion for the person who had behaved inappropriately.
- In the case of clinical misconduct, a report to AHPRA will be made by the Director if the breach fits the criteria for reporting.

Right of Appeal and Review Process:

If the grievance is not resolved to the satisfaction of a party directly involved in the grievance resolution process, the party may seek further review of the outcome and/or redress by escalating the matter in writing to the Chief Executive Officer. This does not preclude a party's right to seek other advice including Union or legal advice.

LIST OF IMPLEMENTATION TOOLS

- [BHRS Staff Grievance Form](#)

ASSOCIATED DOCUMENTATION:

- [Disciplinary Process](#)
- [BRHS Workplace Investigation Guidelines](#)
- [Equal Opportunity Policy and Procedure](#)

KEY LEGISLATION, ACTS and STANDARDS:

Equal Opportunity Act 2010
Fair Work Act 2010

EVALUATION:

Compliance to this procedure will be monitored, evaluated and reported through periodic review of grievances and outcomes by Workplace Relations Coordinator and DP&C.

KEY WORDS:

Grievance, Complaint, Investigation, Bullying, Harassment

STAFF CONSULTED IN DEVELOPMENT / REVIEW:

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