

**Guide
for the
resolution of informal
complaints at the
local level**

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Queensland Government
Queensland **Health**

health • care • people

Introduction

Resolving a workplace problem at the earliest stage possible, results in the least amount of disruption to the workplace. Modeling positive behaviours and quality human resource practices is strongly promoted and supported by both the Director-General and the Human Resources Branch.

The following guide aims to provide guidance for staff and managers to promptly and informally resolve administrative complaints and workplace conflict before issues are escalated to a formal grievance.

The guide supplements *HR Policy – Grievance Resolution and EB6 Grievance Settling; and Industrial Disputes* that informs staff of formal grievance processes.

We all have a role in doing everything possible to respond immediately to local workplace issues. It is expected that this guide will assist both managers and staff to abide by Queensland Health's code of conduct and values - **caring for people, leadership, respect and integrity**.

You are encouraged to make contact with your local human resources manager should you require any assistance.

Human Resources Branch

Table of contents

Section

1	Guide statement	5
2	Scope and application	6
3	Information for staff	8
4	Steps complainants should take	9
5	Information for managers	10
6	If local level attempts fail	13
7	Further information	14

Appendices

Appendix one - source documentation	16
Appendix two - staff complaint form	17
Appendix three - definitions	19
Appendix four - informal complaints resolution process	22

1. Guide statement

- 1.1. The purpose of the *Guide for the Resolution of Informal Complaints at the local level* (the Guide) is to provide guidance to staff, managers and supervisors of all occupational streams to promptly and informally resolve complaints about administrative (non-clinical) decisions and/or workplace conflict, before the issue escalates to a formal grievance.
- 1.2. The Guide encourages staff, where appropriate, to make reasonable attempts to resolve their complaint informally at the local level.
- 1.3. To facilitate this, managers or supervisors must respond to legitimate staff concerns by maintaining a safe work environment and extending fair and reasonable treatment to their employees.
- 1.4. The prompt resolution of conflict and complaints requires active and timely discussion between all the parties, characterised by a spirit of goodwill.
- 1.5. The Guide aims to promote efficiency, effectiveness and equity in the workplace, and expects staff to contribute to the creation and maintenance of an effective and harmonious workplace environment. Management and staff share responsibility for the resolution of workplace issues.
- 1.6. Where managers or supervisors become aware of inappropriate treatment of staff for whom they are responsible, they must endeavour to rectify the situation and enquire what outcomes the staff member is seeking without requiring them to make a complaint or lodge a grievance.
- 1.7. If all attempts to resolve the complaint at the local level using these guidelines fail, staff may lodge a formal grievance. Formal grievance procedures are outlined in HR Policy – Grievance Resolutions and EB6 Grievance Settling; and Industrial Disputes which arise out of the Office of the Public Service Commissioner (OPSC) Directive – Grievance Resolution, as well as Industrial Instruments.
- 1.8. The Guide complements the informal steps of the Checklist for Managing Bullying/Harassment Grievances produced by the Workplace Investigations Unit.
- 1.9. The Guide complements the principles of grievance resolution procedures to resolve staff complaints at the local level as provided for in the Directive and Industrial Instruments.
- 1.10. At any time during the informal or formal grievance process staff can contact their union for assistance and support.

2. Scope and Application

- 2.1. The Guide applies to all Queensland Health staff wishing to address administrative (non-clinical) decisions and/or workplace conduct.
- 2.2. The Guide does not apply to, or replace, the following processes:
 - Individual adverse incidents involving patient care - use established reporting procedures for example, the PRIME Clinical Incident Management System as per Queensland Health Incident Management Policy.
 - Concerns regarding the clinical performance of an individual clinician - use ClPSS (Clinician Performance Support Service) approach.
 - Occupational Workplace Health and Safety incidents reporting procedures, e.g. Incident Management System (IMS).
 - Selection decisions. A decision subject to a promotion appeal under the Appeals Directive cannot be dealt with under the Grievance Resolution Directive.
 - Consumer Health Service complaints, use reporting PRIME Consumer Feedback system.
 - Potential Public Interest Disclosures (PIDs) may be made directly as a formal disclosure without utilising these guidelines. (Refer to HR Policy - Policy and Procedure for the Management of Public Interest Disclosures – In Accordance with the *Whistleblowers Protection Act 1994* for further information).
 - Immediate reporting of suspicions of official misconduct to supervisors or local human resources managers for referral to the Ethical Standards Unit. (Refer to HR Policy - Official Misconduct – Requirements and Process for Reporting for further information).
- 2.3. The Guide complements HR Policy - Grievance Resolution and EB6 Grievance Settling and Industrial Disputes. As such, unless the aggrieved staff member specifies in writing at the commencement of a grievance procedure that they are lodging a grievance in accordance with a procedure contained in an industrial determination for example, an award or certified agreement dispute resolution procedure, the current Office of Public Service Commissioner Grievance Resolution Directive will apply.

2.4. For Nurses only:

Nurses employed under nurses' awards have a choice of three procedures to choose from depending on the nature of their complaint:

- **Nurses Workload Management:**

Grievances and disputes in relation to workload management will be addressed in accordance with:

- Clause 17.2 – Nursing Workloads Grievance Procedure of the Nurses (Queensland Health) Section 170MX Award 2003.
- Schedule 4 of the Nurses (*Queensland Health*) *Certified Agreement (EB6) 2006*.

- **Nurses Certified Agreement:**

Grievances and disputes in relation to the interpretation and implementation of the *Nurses (Queensland Health) Certified Agreement (EB6) 2006*, will be addressed in accordance with clause 8.1 of the agreement.

- **Other Nursing Complaints:**

All other grievances and disputes will be addressed in accordance with clause 9 – Grievance Procedure, Schedule 2 of the *Nurses (Queensland Health) Certified Agreement (EB6) 2006* (the Nurses (Queensland Public Hospitals) Award – 2004).

Regardless of which procedure is utilised, nursing staff may also use the Guide to attempt to address their issues at the local level in the first instance.

It is important to remember that despite this difference, nursing employees should be treated no less favourably than other employees.

3. Information for staff

- 3.1 Where appropriate, staff should attempt to make reasonable endeavours to resolve a conflict or complaint informally at the local level before raising it as a formal grievance.

Examples of complaints raised by staff that can be managed within these guidelines may include issues regarding:

- award or certified agreement entitlements
- working hours, leave and remuneration
- management of change
- unfair treatment
- workplace bullying and victimization
- management of performance
- verbal abuse and/or physical intimidation
- career development
- recruitment and selection process and decisions.

3.2 Exceptions

3.2.1 Immediate escalation to a formal grievance:

Some situations require immediate escalation of a complaint to a formal grievance. It is important that staff immediately lodge a formal grievance using Queensland Health's Staff Complaints Form (attached) without attempting to resolve the complaint at the local level when the complaint concerns:

- serious misconduct, or
- sexual harassment.

3.2.2 Suspicion of official misconduct:

In situations of suspected official misconduct it is not appropriate for staff to approach the other party concerned.

In these cases, staff should not make any direct approaches that may cause interference with evidence or witnesses relevant to the case. The matter should immediately be referred to their manager, supervisor, or local HR manager for advice.

4. Steps complainants should take

4.1 Approach the person involved

If appropriate, the complainant should approach the person involved. Support is available from supervisors, local HR managers, unions or workplace equity and harassment officers (WEHO) to assist staff in taking this step.

Complainants may choose to wait and approach the person involved after consulting their supervisor, union or preferred representative.

In some situations, the most appropriate step for the complainant is to talk to the person who is the cause of the complaint about how their actions are impacting upon others.

If the complaint is about behaviour (actions, or 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 resolution or solution.

4.2 Approach the supervisor, or other persons for assistance

Should the above steps fail, or the complainant is uncomfortable with directly approaching the person involved, the complainant may raise the complaint informally either verbally or in writing with their supervisor.

Where the supervisor or manager is the subject of the complaint, staff should approach the next higher level of management.

For advice or information about raising complaints or grievances, staff may approach:

- their local HR manager
- their union representative, or
- the WEHO - Note: WEHOs provide information and support (not advocacy). They only help staff regarding their options and do not provide industrial or legal advice.

For support and counseling, staff can call the Employee Assistance Service (EAS) for a free, confidential counseling service available to all Queensland Health employees. Contact details are available from local HR managers.

4.3 Complete a staff complaint form (attached – Appendix two)

In the first instance, the employee does not need to put their concerns in writing. Completing the Staff Complaint Form can be helpful to clarify the employees' concerns. Staff are encouraged to complete the Staff Complaint Form to assist staff and managers to identify the problem.

Supervisors, managers, unions and WEHOs should provide advice and information on how to manage the situation, assistance in completing the Staff Complaint Form, and an opportunity to discuss the issue with a third party (where appropriate).

Where issues are raised alleging discrimination or sexual harassment, it is important for staff to inform management using the Staff Complaint Form about such behaviour even if the employee feels comfortable in approaching the person who is causing them concern.

5. Information for managers

5.1 Types of complaint

Managers and supervisors may be approached informally by a staff member with concerns about a workplace decision or staff conduct such as, but not limited to:

- working hours, leave and remuneration
- career development
- conduct, performance or management responsibility of a staff member (note - a decision subject to a discipline appeal under the Appeals Directive cannot be dealt with under the Grievance Resolution Directive)
- equal employment opportunity, discrimination, workplace bullying or harassment including sexual harassment.

Note the exceptions outlined in clause 2.2.

5.2 Assess the complaint

- Managers or supervisors must consider all complaints where sufficient information has been provided by the complainant.
- Managers should assess the information provided by the staff member to determine whether it falls within one of the situations outlined in section 2.2 of the Guide, which will generally be inappropriate to resolve at the local level.
- Where the staff member is unable to provide reasonable information on the matter, the manager or supervisor may elect to take no further action in the informal resolution of the complaints process. If the matter involves interpersonal conflict and is causing distress in the workplace, continuing to address the matter through informal means (facilitated discussion/mediation, team building, etc.) is desirable. In the event there is insufficient evidence to commence an investigation or inquiry, the staff member should be advised in a timely manner of that fact and the decision.
- Complaints about management action that have been undertaken in a reasonable way in connection with the employee's work, will in most cases, not amount to harassing behaviour.
- The employee should immediately lodge a grievance without attempting to resolve the matter as an informal complaint for all alleged incidence of serious harassment (i.e. discrimination or unlawful behaviour), or sexual harassment. The Staff Complaint Form can be a helpful tool in documenting alleged conduct.
- Managers must ensure information received that may amount to Public Interest Disclosures (PID) is provided to the appropriate delegate for assessment and determination in accordance with the HR Policy. Staff who receive information that may amount to a PID or inappropriate conduct and fail to act on the information without a reasonable excuse may be liable for disciplinary action.
- Information that may amount to suspected official misconduct must be referred immediately to the district manager or senior manager via the local HR manager for possible referral to the Ethical Standards Unit.

5.3 Action managers should take

When a staff member approaches a manager or supervisor in relation to a complaint, an attempt must be made to resolve the complaint as soon as practical. Resolving a workplace problem at the earliest stage saves time, money and emotional energy, and assists in minimising disruption to the workplace.

When supervisors or managers are approached, they should:

- Provide useful advice and information on how to manage the situation, e.g. refer to the appropriate HR Policy or award and explain and provide assistance, or seek external assistance for the complainant.
- Assess the information provided by the staff member to determine whether it is a situation that needs immediate escalation to a formal complaint or referral to the appropriate unit.
- In the first instance, the employee does not need to put their concerns in writing. To clarify the concerns, a manager may encourage and help the employee complete the Staff Complaint Form.
- Managers should make file notes of when the complaint is notified, so they can be sure of resolving issues within reasonable time frames.
- Encourage the staff member to discuss the issue with a third party (for example, their union, or the local HR manager).
- Depending on the nature of the complaint, if the matter concerns another staff member, advise the staff member of what might happen including that the principles of natural justice require that the person they are complaining about is entitled to know the full particulars of the complaint including their identity.
- Promptly discuss and clarify the concerns of the staff member with their union, support person or other representative (if applicable) within seven working days of receiving the complaint. Listen carefully and if appropriate remind the staff member of the availability of the EAS.
- Ask the staff member what outcome(s) they are seeking. Consider whether the outcome is fair, reasonable and consistent with the supervisor or manager's duty of care and obligations to the workplace. In consultation with the staff member making the complaint, determine what should happen next. Managers and supervisors may seek assistance from their local HR manager at anytime.
- Keep the staff member informed on the progress of the complaint. If it is not finalised within ten working days from the date the supervisor or manager was advised, provide specific information about the status of the complaint, the planned date for finalisation and seek agreement to an acceptable time frame.
- The parties to the complaint may consult their union representative at any stage of the process.

A manager may take one or more of the following actions:

- refer the staff member to a person or work section that can address the matter
- refer the staff member to relevant Queensland Health policies
- refer the staff member to EAS, (if appropriate)
- review a decision if the matter is within the supervisor or manager's sphere of control
- make enquiries or examine documents or other evidence to establish past events, or determine agency policy on a matter
- attempt to resolve the workplace problem by informally facilitating discussion between the parties, (if appropriate, and the matter is within their sphere of control)
- attempt to resolve the workplace problem with facilitated discussion/mediation, and/or
- contact the local HR/employee relations manager, who can provide the supervisor or manager with access to trained, impartial mediators/conciliators if formal facilitated discussion/mediation/conciliation is required.

Note - All facilitated discussions or conciliation must be conducted by a trained mediator/conciliator. The facilitated discussion or conciliation process encourages participants to express their concerns while ensuring they listen to each other, identify common interests and encourage them to explore options for a mutually acceptable outcome (refer to definitions section 7 for further information).

5.4 At the resolution or finalisation of the complaint, the supervisor or manager should have clearly advised the aggrieved person and other parties if appropriate of:

- the successful resolution of the matter via an informal process
- if the matter is not successfully resolved, further options for resolution
- the staff member's right to escalate the grievance under HR Policy - Grievance Resolution if they are still aggrieved by completing a Queensland Health Staff Complaints Form, if they have not done so already
- line managers are encouraged to maintain a record for example file notes, of the actions taken in respect to their involvement in this informal process to assist all parties in the event the issues re-occur.

6. If local level attempts fail

If attempts at the local level fail to resolve the complaint, staff may then lodge a formal grievance. Completing Queensland Health's Staff Complaints Form (if they have not already done so) will assist this process. The procedures outlined in HR Policy - Grievance Resolution and EB6 Grievance Settling; and Industrial Disputes will apply.

7. Further information

For further information, contact your local Human Resources (HR) manager in your district or facility. If additional information is required, your local HR manager may contact the HR branch for further advice and assistance.

Procedures for formal grievance resolution may be found in HR Policy - Grievance Resolution and EB6 Grievance Settling; and Industrial Disputes, which complements OPSC Directive - Grievance Resolution.



Appendices

Appendix one

Source documentation

<p>Queensland Acts</p>	<p><i>Public Service Act 1996</i> <i>Industrial Relations Act 1999</i> <i>Queensland Anti-Discrimination Act 1991</i> <i>Crime and Misconduct Act 2001</i> <i>Health Services Act 1991</i> <i>Whistleblowers Protection Act 1994</i></p>
<p>Directives and Policy</p>	<p>OPSC Directive – Grievance Resolution OPSC Directive – Appeals HR Policy Grievance Resolution and EB6 Grievance Settling; and Industrial Disputes HR Policy Policy and Procedure for the Management of Public Interest Disclosures HR Policy Official Misconduct – Requirements and processes for reporting HR Policy Workplace Equity and Harassment officers HR Policy Alternative Dispute Resolution.</p>

Appendix two

Staff complaint form

Personal Details

Surname Given name

Work email address

Home email address

Phone number

Position / title

Branch / unit and address

Hospital / facility and location district

Classification
e.g. PO2, A03

Home postal address
Street address, suburb, state and postcode

Employment equity Aboriginal or Torres Strait Islanders Persons with a disability Women

Please tick the relevant box / boxes if you identify with any of the following groups Persons of Non-English speaking background Australian South Sea Islanders

Details of representatives (if applicable)

Union
Contact name, organisation, postal address and phone number

Solicitor
Contact name, organisation, postal address and phone number

Preferred method of correspondence

Please tick Phone Email Post to work address Post to home address via Union via Solicitor

Specifics of the complaint

Name(s) of those involved in the complaint

Name(s) of those who witnessed the incident(s) (if any)

The place of the incident(s)

Date and time of the incident(s)

What was said or done?
Include direct speech quotes where relevant

Steps taken so far to resolve the complaint

Source of the problem:
Why the problem arose and how this can be prevented in the future

Signature

Signature

Printed name

Date

Received by

Signature

Printed name

Date

Appendix three

Definitions

Term	Definition
Administrative decision	An administrative decision is a decision made by a department in relation to the administration of its affairs (other than a decision described in section 95(2) of the <i>Public Service Act 1996</i> where it states: 'a person cannot appeal against, or in an appeal call in question in any way, a decision that decides the policy, strategy, nature, scope, resourcing or direction of the public service department)' and includes the failure to make a decision.
Alternative dispute resolution	Alternative dispute resolution refers to mediation and conciliation as a less formal non-adversarial way of settling a dispute. These processes include (usually with the consent of the parties), a qualified impartial third party who guides the discussion between people in conflict so they can establish an agreement that is accepted by the parties. (refer to HR Policy - Alternative Dispute Resolution for further information).
Chief Executive	The Chief Executive is the Director-General and includes a delegate of the Director-General, except where the Director-General is a party to the grievance.
Conciliation	Conciliation is where a third party gathers facts and hears options. The conciliator may more actively negotiate between the employees in dispute and often have content knowledge of the issues, expressing opinions about the attitudes and positions taken by the parties, possibly even making recommendations.
Facilitated discussion	Facilitated discussion means an attempt by an independent third party to bring about resolution between the parties to the grievance. Facilitated discussion may include but is not limited to mediation, conciliation or negotiation.
Grievance	<p>A grievance refers to a formal complaint using the Queensland Health Staff Complaints Form in accordance with the Office of the Public Service Commissioner Directive 04/03 - Grievance Resolution and relevant Awards and Certified Agreements.</p> <p>A grievance can be raised when an employee has an honest belief based on reasonable grounds that:</p> <ol style="list-style-type: none"> an administrative decision adversely affects them and is unfair or unreasonable, or the conduct of another staff member adversely affects them is unfair or unreasonable, or the behaviour of another staff member, whether by action or inaction, constitutes sexual harassment or workplace harassment.

Industrial instrument	An industrial instrument is an industrial determination that derives its meaning from Schedule 3 of the <i>Public Service Act 1996</i> . This includes an award, industrial agreement, and determination or rule of an industrial authority.
Locally	Locally means the work unit within the district, facility or work unit where the staff member is engaged.
Natural justice	Natural justice refers to two rules: <ol style="list-style-type: none"> 1. Decisions affecting individuals should be made by an objective decision-maker who has no personal interest in the matter (rule against bias). 2. Decisions adversely affecting an individual's rights and interests can only be made after individuals have been given the right to know the allegations; the right to know the details of the case; the right to the particulars; the right to reply and suitable notice must be given (the fair hearing rule).
Official misconduct	Official Misconduct is defined in Section 15 of the <i>Crime and Misconduct Act 2001</i> as: 'conduct that could, if proved, be: <ol style="list-style-type: none"> a) a criminal offence, or b) a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or was the holder of an appointment'. <p>Actions such as knowingly making a false claim for remuneration, stealing government property or improper use of official information or powers for personal gain would constitute official misconduct.</p>
Public interest disclosure (PID)	A PID means a disclosure of information to a public sector entity made in accordance with the <i>Whistleblowers Protection Act 1994</i> . (refer to HR Policy - Policy and Procedures for the Management of Public Interest disclosures in accordance with the Whistleblowers Protection Act 1994. <p>For further information) A PID includes allegations of official misconduct, maladministration, negligent and improper management of public funds, reprisal action or a danger to public health or safety to a person with a disability.</p>
Staff and employees	Queensland Health staff are employed either under the <i>Public Service Act 1996</i> or under the <i>Health Services Act 1991</i> .

<p>Sexual harassment</p>	<p>Sexual harassment has the meaning given to it by section 119 of the <i>Anti-Discrimination Act 1991</i>. ‘Sexual harassment occurs if a person:</p> <ul style="list-style-type: none"> a) subjects another person to an unsolicited act of physical intimacy, or b) makes an unsolicited demand or request (whether directly or by implication) for sexual favours from the other person, or c) makes a remark with sexual connotations relating to the other person, or d) engages in any other unwelcome conduct of a sexual nature in relation to the other person, <p>and the person engaging in the conduct described in paragraphs (a), (b), (c) or (d) does so with the intention of offending, humiliating or intimidating the other person; or in circumstances where a reasonable person would have anticipated the possibility that the other person would be offended, humiliated or intimidated by the conduct’.</p>
<p>Workplace equity and harassment officer (WEHO)</p>	<p>A WEHO is a Queensland Health staff member who has been trained to provide information on issues of equity, harassment and discrimination in the workplace. (refer to HR Policy – Workplace Equity and Harassment Officers for further information).</p>
<p>Workplace harassment</p>	<p>A person is subjected to ‘workplace harassment’ if the person is subjected to repeated behaviour, other than behaviour amounting to sexual harassment, by a person, including the person’s employer or a co-worker or group of co-workers of the person that:</p> <ul style="list-style-type: none"> a) is unwelcome and unsolicited, and b) the person considers to be offensive, intimidating, humiliating or threatening, and c) a reasonable person would consider it to be offensive, humiliating, intimidating or threatening. <p>‘Workplace harassment’ does not include reasonable management action taken in a reasonable way by the person’s employer in connection with the person’s employment. (refer to HR Policy – Workplace Harassment for further information).</p>
<p>Whistleblower</p>	<p>A whistleblower is a person who makes a PID in accordance with the Whistleblowers Protection Act 1994. If the disclosure is assessed as a legitimate PID as defined by the <i>Whistleblowers Protection Act 1994</i>, then the person is protected by law and is not liable civilly, criminally or under an administrative process for making a PID. The whistleblower is also protected from any reprisal associated with the making of a PID.</p>

Appendix four

Informal complaint resolutions process

