

POLICY STATEMENT

The NSW Institute of Sport recognises that the prompt, sensitive and appropriate resolution of all staff grievances and disputes is sound management practice. The Institute is better able to meet its corporate objectives by recognising that properly implemented grievance and dispute resolution policy and procedures improve the efficiency of the Institute. Unresolved grievances and disputes may result in higher incidents of absenteeism, low morale, poor health, poor productivity and industrial unrest. Commitment of the staff is crucial to the success of the Institute and can be enhanced by implementing a fair and equitable grievance mechanism with effective and efficient procedures.

LEGISLATIVE REQUIREMENTS

The Industrial Relations Act 1996 requires that all awards and agreements [including enterprise agreements] contain provisions for the resolution of grievances of individuals and for the handling of disputes between employees and employers. The Act specifies that these procedures must be followed in all matters involving employee entitlements that are provided for in and by award or agreement. Other related legislation includes the Anti-Discrimination Act 1971 and the Public Sector Management Act 1988.

OBJECTIVES OF THE POLICY AND PROCEDURES

The objectives of the Institute's Grievance Handling and Dispute Resolution policy and procedures are to:

Identify and redress individual grievances and disputes, take action to resolve the problem, wherever it occurs, and determine the underlying causes.

- Deal with grievances and disputes at all levels in the institute and encourage discussion at all stages of the process.
- Encourage managers and supervisors to handle grievances and disputes as part of their management responsibilities so that they are resolved promptly and effectively.
- Provide staff the opportunity to voice their complaints in a work environment that treats their concerns seriously, maintains confidentiality and is free of victimisation.

WHAT IS A GRIEVANCE?

A grievance is any type of problem, concern or complaint regarding work or the work environment experienced by a staff member or manager. This can include a question, complaint or concern regarding the interpretation application or operation of an award agreement or enterprise agreement that is raised by a group committee or an individual staff member. Some examples are:

Unfair allocation of development opportunities such as special projects and job rotation.

- Unfair work allocation.
- Interpersonal conflicts, including supervisor - staff conflicts and co-worker conflicts or group victimisation of an individual worker.
- Lack of communication on work-related information.
- Any form of discrimination or harassment including racial harassment, or harassment on the basis of disability or age.
- Work environment problems (eg lighting, heating, chairs, and equipment).

Grievances may fall into two broad classifications of either less or more serious. These classifications are offered as a guide to complainants and grievance handlers to ensure that grievances are handled appropriately within the Institute.

KEY POSITIONS IN THE PROCESS

Grievance Manager

The Business Manager is responsible for implementation of the policy and procedures. A crucial component of their role is to ensure that all grievances are handled and resolved promptly within a framework of confidentiality and impartiality. Serious grievances will be handled by this manager.

Grievance Handlers

Grievance handlers are Institute staff whom a staff member may approach with a less serious grievance.

Managers/Team Leaders and or Supervisors

All managers/team leaders and or supervisors are responsible for handling and resolving grievances with their staff as part of their day to day duties. Sometimes this is not possible and a Grievance Handler may become involved to resolve the grievance more formally.

DOCUMENTATION AND RECORDS

At all stages of the grievance handling and dispute resolution process, records must be kept by Grievance Handlers. The type of records, the level of detail and how long the records are to be retained depends on the nature and seriousness of the grievance.

Any written record regarding a grievance will be kept confidential during the process of resolution. Letters of complaint, notes from discussions and any 'other written material

associated with a grievance must be kept under lock and key' while investigations and consultations are under way. All action taken to resolve the grievance must be fully documented at each step by the Grievance Handler. Details of what was said in any interview that is held as part of the investigation process should be written down.

Information relating to grievances should not be placed on the personnel file except where disciplinary action has been taken as a result of the grievance resolution process and proven. An agreement to destroy all records of a grievance may form part of the resolution and action plan.

RIGHTS OF STAFF

At all times the rights of any person involved in a grievance or dispute will be respected. Victimisation of any person lodging a grievance or victimisation of the person who has had the complaint made against them will be viewed as misconduct. To ensure that all parties are treated fairly and impartially during the resolution procedures it is important that all parties to the grievance are:

Informed of the procedures and understand them.

- Provided with their choice of support and representation during the course of the procedures.
- Informed of the range of options available to them.
- Informed of developments throughout the processes.
- Explained the reasons for the decisions made.

EXTERNAL SUPPORT FOR GRIEVANCES

The right of an employee to seek appropriate external support and assistance to deal with their "work-related" concerns is respected. Employees should be informed, when relevant, of their right to have a grievance dealt with by an external organisation such as the Industrial Relations Commission, the Anti-Discrimination Board or the Independent Commission Against Corruption.

Employees should also be informed of their entitlement to seek advice and support of their union and be represented by the union.

PROCEDURES FOR HANDLING GRIEVANCES

Grievances between a staff member and the Institute might occur. The aim of these procedures is to resolve a grievance quickly, effectively and at the local level, if practicable.

The procedures detail the steps that should be taken to facilitate the resolution of a grievance. It is important that Grievance Handlers follow the procedures and are fully aware of the documentation required for each stage.

Whilst grievance and dispute procedures are very similar there is a difference. The procedures for disputes resolution are outlined later in this document. It is essential that managers, supervisors and other Grievance Handlers are aware of the difference and adopt the appropriate procedures.

INFORMAL DISCUSSION BEFORE LODGING A FORMAL GRIEVANCE

On occasions a staff member may informally raise a matter of concern, either verbally or in writing before officially reporting a grievance.

The Grievance Handler should in the first instance recommend that the staff member raise the matter with the supervisor [provided it is appropriate to do so]. Alternatively the Grievance Handler may, with the permission of the staff member, speak to the supervisor on their behalf about the issue. However if the staff member does not feel comfortable with this or the nature of the grievance makes this inappropriate, then the Grievance Handler needs to determine who is the most appropriate person to consult [for example supervisor's manager co-worker of equal or higher grade or a manager from another area].

The circumstances considered inappropriate to first consult with the immediate supervisor are:

- If the matter and potential complaint involves the supervisor and/or their work practices.
- If the staff member believes that their supervisor would not be able to deal with the matter fairly.
- If the supervisor is closely related to the subject matter.

Documentation Requirements

The Grievance Handler should NOT keep any record of an informal discussion with a staff member.

The procedures for conducting an informal discussion regarding a potential grievance are outlined below:

1. Set a Time and Place

The Grievance Handler should agree on an appropriate time and place to conduct the discussion. It is important to set aside sufficient time to conduct the actual discussion and to ensure that confidentiality can be maintained. Interpreter services should be provided if requested.

2. Informal Discussion

The Grievance Handler should establish that the staff member views this meeting as an informal discussion. At this stage the role of the Grievance Handler is to provide support and information on how the grievance procedures operate within the Institute. A Grievance Handler can only commence to investigate a grievance if the staff member has been fully informed of the procedures and wishes to lodge a formal grievance.

3. Explain Procedures

The Grievance Handler should then inform the staff member how the Grievance and Dispute Resolution Procedures work. This includes:

- Discussing the role of Grievance Handler in the process.
- Outlining what is a grievance and what is a dispute.
- Discussing the broad classifications of less serious and more serious grievances and informing the staff member that these classifications are meant as a guide to ensure that the grievances are handled appropriately.
- The decision of how far a grievance will be taken rests with the staff member unless the grievance is one in which:
 - Harm may occur to a person.
 - Someone has committed a crime.
 - The question of employer liability might be raised.
 - There is a possibility of industrial action: or
- Breaches of the public sector management act 1988 may have occurred. [In these situations the manager corporate services or manager human resources will need to be advised as such a grievance would be deemed as more serious].
 - Explaining how to lodge a formal grievance if they choose to proceed with the grievance.
 - Outlining how confidentiality is maintained and what the documentation requirements are.
 - Providing the staff member with a copy of the department's grievance handling and dispute resolution brochure.

4. Discuss the Grievance

The Grievance Handler should then allow the staff member to discuss the details of their grievance or dispute. It is important that the Grievance Handler:

- Treat the matter seriously and not prejudice the staff member and not sway the staff member to lodge or not to lodge a formal grievance.
- The decision must rest with the staff member. Maintain a level of impartiality and not form premature conclusions.

LODGING A FORMAL GRIEVANCE

Once a staff member lodges a formal grievance either verbally or in writing the Grievance Handlers must follow the procedures as outlined below.

Documentation Requirements

The Grievance Handler will be required to keep some records. However the type and detail will depend on the seriousness of the grievance. It is important that all officers involved are fully informed of the type of information being kept and by whom.

The procedures for planning and conducting the first interview are outlined below:

1. Discuss the Complaint Immediately

During this discussion the Grievance Handler should:

- Confirm that the staff member wishes to lodge a formal grievance.
- Make arrangements to interview the staff member within the next 48 hours, however it may be more practical to interview the staff member at this time.
- Inform the staff member of the grievance procedures that operate in the Institute.
- The information provided to the staff member should include:
 - Discussing the role of Grievance Handler in the process.
 - Outlining what is a more serious and less serious grievance.
 - Informing the staff member that these classifications are meant as a guide to ensure the grievances are handled appropriately. The decision of seriousness rest with the staff member, unless the grievance is one in which the Business Manager or Director has to be informed.

The situations when the Business Manager or the Director of the Institute will need to be informed are when:

Harm may occur to a person, someone has committed a crime or the question of employer liability might be raised.

- There is a possibility of industrial action.
- Breaches of the Public Sector Management Act, 1988.
- Discussing the appropriateness of talking to the immediate supervisor about the issue and outline circumstances when it would be inappropriate to first consult with the supervisor.
- Explaining how confidentiality is maintained and what the documentation requirements are.

2. Interview The Officer Who Has Lodged The Complaint

The Grievance Handler must interview the staff member who has made the complaint as soon as practicable and definitely within 48 hours of the grievance being lodged. The Grievance Handler should agree on an appropriate time and place to discuss the grievance. It is important to:-

- Set aside sufficient time to conduct the actual discussion.
- Ensure the location of interview is private so confidentiality can be maintained.
- Provide interpreter services if requested.

At the beginning of the interview the Grievance Handler should state that the aim of the first interview is to establish the issues, determine whether advice is required from another source, discuss the options available and formulate a plan of action or investigation. During the interview the Grievance Handler should adopt a very positive attitude and:-

- Provide a guarantee of confidentiality.
- Listen and be understanding of the staff members concerns.
- Attempt to place the person at ease and encourage openness:
- Not prejudge the staff member or the issue.

Be aware that the complaint presented may not be the main issue but a symptom of a different or underlying issues.

- Be aware that whilst some issues may appear trivial or minor that if repeated over a period of time can cause considerable damage.
- Not dominate the discussion and give the staff member the opportunity to talk.

The Grievance Handler and staff member should discuss:-

- The Desired Outcome – the staff member should be asked how the issues should be resolved and what they would regard as a satisfactory outcome, eg 'what would you like to see happen?'
- The Facts and Feelings – the staff member should be allowed to express their feelings openly and the Grievance Handler should clarify the issues without further investigation.
- The Seriousness of the Grievance – the Grievance Handler and the staff member should discuss whether the staff member considers the complaint to be less serious or more serious.
- The Options Available – Grievance Handler should advise the staff member of all options available to resolve the issues of the grievance. The staff member will then have the right to choose their preferred plan of action. For less serious grievances the options may include:
 - The person or Grievance Handler dealing directly with the person(s) complained against.
 - The person documenting any further occurrences.
 - The person or Grievance Handler holding discussions with co-worker(s).
 - Referring the matter to the Business Manager and Director.
 - Seeking additional advice or information.

For more serious grievances the options include all of those as outlined for less serious grievances. However, in the case of serious grievances the Business Manager and the Director should be informed of the substance of the grievance and will oversee any actions taken to resolve the grievance.

At the end of the interview the staff member and the Grievance Handler must have reached agreement on:

- whether the grievance is more serious or less serious; what option of resolution is preferred by the staff member.

The main issues involved in the grievance, whether the staff member wishes to proceed with the grievance:

- To proceed with the investigation or plan of action as agreed to during the discussion of options.

- For the grievance handler to document any action taken to resolve the grievance.

3. Investigating The Grievance

The Grievance Handler should investigate the grievance immediately. However no action should be undertaken unless the Grievance Handler has the consent of the staff member. If the complaint involves other staff members then it is important for the Grievance Handler to:

- Inform them of the details of the complaint and the need to interview them.
- Advise them of their rights in the grievance procedures.
- Explain how the institute's grievance handling procedures operate.
- Make arrangements to interview the other staff member(s). The interview should be arranged as quickly as possible ideally within 48 hours of the interview with the staff member who made the complaint.
- Advise them of the need to maintain total confidentiality and that failure to observe this direction could result in action be taken against them.

Procedures for conducting interviews with staff members who have had a complaint made against them are very similar to those who have lodged the grievance. The aim of the investigation is to:

- Clarify the facts and identify the main issues.
- Explore the possible methods of resolution.
- Interview the parties involved.
- Gather information on policies procedures and conditions.
- Seek advice from other qualified personnel.

At all times during the investigation strictest confidence needs to be maintained in order to preserve the privacy and rights of the parties involved with the grievance. At the end of the investigation the Grievance Handler will document a summary of the issues including a record of the dates for future discussion and interviews.

A plan of action to resolve a grievance must give consideration to:-

- Addressing any damage or suffering sustained.
- Resolving the issues to the satisfaction of all parties.
- Improving the immediate circumstances, which gave rise to the grievance.

- Agreed plan for the future.

A grievance should only be regarded as satisfactorily resolved when:

- All parties agree that the issues have been resolved.
- The cause of the grievance has been removed.
- Arrangements have been made to repair or make good any damage and distress suffered by the staff member. and
- An agreed plan for the future has been decided upon.

Any plan of action agreed upon at any of the meetings must be workable in terms of the Institute's workplace practices and not be in conflict with the Institute's policies, procedures and objectives.

Once a resolution has been agreed upon the Grievance Handler must implement the agreed plan of action immediately unless extenuating circumstances exist. For more serious grievances the Business Manager will ensure that the necessary steps are taken to implement the agreed terms of the plan of action and to prevent the re-occurrence of the problem.

REPORTING BACK

The Grievance Handler should report back to all the staff immediately involved with the grievance and outline:

The results of their investigation.

- What steps have been taken to resolve the grievance to the staff member.
- The plan of action.

At the conclusion of discussions there should be a clear indication whether the grievance is going to be resolved at this stage. If an agreement is imminent then all parties should proceed with the agreed plan of action, which will lead to a resolution.

It may also be necessary to advise all staff in the unit branch who were not directly involved in the grievance but were aware of its existence that the matter has been resolved and that the unit needs to put the issue behind it and look to the future, otherwise they will all be left wondering whether the issue was ever satisfactorily resolved or not.

If it is clear that the grievance will not be resolved then the grievance should be referred to the Business Manager who will act as a third party mediator and or assist the parties towards a resolution.

Follow Up

Managers and Team Leaders are to monitor situations where grievances have arisen to ensure that resolution is achieved and maintained over time. Follow up interviews with both parties are to take place at one week and one month after the resolution of the grievance - to ensure that the source of the grievance has been eliminated and that no victimisation has occurred.

Review and Appeal**Decisions Made Regarding Formal Grievances**

If an officer who has lodged a formal grievance is not satisfied with the final decision made regarding the grievance then they are entitled to:

- Have their grievance reviewed by the Director; and/or
- Take their grievance to an external agency such as the:-
 - Industrial Relations Commission.
 - The Anti-Discrimination Board.
 - The Independent Commission Against Corruption.

PROCEDURES FOR HANDLING DISPUTES

Disputes may occur between a group of staff on a question or complaint or difficulty concerning the interpretation, application or operation of an award, agreement or enterprise agreement. Essentially disputes are of an industrial nature and involve several staff members complaining about the same issues. Examples:

- A group of staff challenge the commencement date of an entitlement as identified in an award agreement or enterprise agreement.
- A group of staff believes that they are entitled to certain conditions afforded to other staff in the organisation.
- A condition in an award or agreement discriminates against a particular group of people.

Lodging A Dispute

In the first instance the staff members may inform [in writing or otherwise] either their manager, supervisor or another appropriate person in the Department as to the substance of their dispute.

During the dispute resolution procedures there should be no disruption to normal work practices as this is a condition in all awards, agreements or enterprise agreements.

Role of Managers And Supervisors

Managers and supervisors must treat any possible dispute seriously by acting quickly and not prejudging the staff members' claims. The Business Manager must be informed immediately so that a meeting with the staff can be held within 48 hours of the initial approach.

ADDITIONAL INFORMATION

For confidential advice and assistance regarding procedures or this policy contact:

- The Director.
- The Business Manager.
- The Grievance Coordinator.

In addition, there are a number of external agencies that are able to provide independent advice and assistance. Set out below is a list of external bodies, which may be used to resolve serious grievances if the Institute is unable to resolve the grievance. Staff is urged to take advantage of the Institute's grievance dispute resolution procedures before external bodies are approached.

- Public Service Association of NSW – (02) 9290 1555
- Disability Complaints Service of NSW – (02) 9319 6549 or 008 424 007
- NSW Department of Sport and Recreation