
HUMAN RESOURCES

NPRSR Employee Complaints Management Policy and Procedure

Effective date: 30/09/2013

Version: 1.00

CHC/2013/775

1. Purpose

The purpose of this policy and procedure is to outline the Department of National Parks, Recreation, Sport and Racing (the department) process for the management and resolution of employee complaints.

2. Policy

The department is committed to the effective, confidential and timely resolution of employee complaints.

It is departmental policy that, where possible, attempts should be made to achieve local resolution of employee complaints in the first instance. This policy and procedure outlines the process for the management and resolution of employee complaints (as defined in section 10 of this procedure).

In circumstances where the complaint is about an employee of a different agency within the Queensland public service, the matter should be referred to Workforce Relations and Safety, Human Resources to be dealt with.

All employee complaints that are directly about the Director-General must be notified by the employee complainant, in writing, to the PSC Chief Executive.

All allegations of **Official Misconduct** must be notified, managed and resolved in accordance with the department's Official Misconduct Complaints Policy and Procedure; the Investigation and Discipline Procedure; and/or the Public Interest Disclosure Policy and Procedure.

3. Authority

Public Service Act 2008

Code of Conduct for the Queensland Public Service

Queensland State Archive – General Retention and Disposal Schedule for Administrative Records

4. Scope

Unless otherwise specified, this procedure applies to all:

- Public services officers;
- Permanent employees;
- Temporary employees;
- General employees;
- Casual employees;
- Trainees; and
- Cadets.

This procedure **does not** apply to consultants/contractors.

5. Procedure

5.1 Local Resolution

All action taken as a part of local resolution regarding an employee complaint made about an administrative decision or action must be completed within twenty-one (21) days of receipt of the complaint. The timeframe for local resolution can be extended upon mutual agreement between the parties (a party to the employee complaint is not to unreasonably withhold their agreement) or if the department can demonstrate that reasonable attempts have been made to progress the employee complaint.

5.1.1 Employee notifies supervisor/manager of complaint

The employee complainant must notify their supervisor/manager of their complaint. The complaint must be in writing (including email), provide sufficient information to enable their supervisor/manager to take appropriate action and outline the action/s that the employee complainant believes would resolve their complaint. In the circumstances where the complaint is about the employee's supervisor/manager, the complaint must be notified to their next line manager.

The divisional human resources contact **must be advised** by the manager in receipt of the complaint and will provide support and advice to assist local management in dealing with the complaint at the local action stage.

Should it be considered that the employee complaint may amount to Official Misconduct immediate advice must be sought from the divisional human resources contact who will refer the matter to the Manager, Privacy and Ethics, Corporate Services or Workforce Relations and Safety, Human Resources, Corporate Services. If the complaint is determined to be possible Official Misconduct, the matter must be dealt with in accordance with the department's Official Misconduct Complaints Policy and Procedure and Investigation and Discipline Procedure.

5.1.2 Decision regarding the complaint

A decision must be made by the supervisor/manager whether or not to take further action in regards to the employee complaint. If the supervisor/manager believes that the complaint is frivolous or vexatious, does not meet the definition of an employee complaint or an employee unreasonably refuses to participate in local action to resolve the complaint, the decision may be made to not progress the complaint. The decision on how to proceed must be made in conjunction with the divisional human resources contact. Should the supervisor/manager determine not to progress the complaint the employee complainant must be advised in writing of this decision and the reasons behind it.

5.1.3 Action

If it is determined by the supervisor/manager that the complaint meets the definition of an employee complaint, appropriate action must be taken. This action may include, but is not limited to one or more of the following:

- Conducting preliminary enquiries to determine appropriate options for resolution of the employee complaint;
- Facilitated discussion, mediation, conciliation or negotiation (refer to section 18.2 - Attachment 2 for more information);
- Investigation (in accordance with the departmental Investigation and Discipline Procedure); or
- Other reasonable action in the circumstances.

Employees must not make false, frivolous, groundless or vexatious allegation/s. The making of purposefully false or vexatious allegation/s is conduct that contravenes an employee's obligations to demonstrate a high standard of workplace behaviour and personal conduct prescribed under the Code of Conduct for the Queensland Public Service. The investigation of false, misleading or vexatious allegation/s is an unjustifiable use of departmental resources and such claims or complaints may result in the delegate commencing a discipline process. In making allegations employees must have evidence of material substance to support their allegation and the making of frivolous or groundless allegations could also result in the delegate commencing a discipline process.

It should be noted that employees are obligated under their employment contract to follow a lawful direction to co-operate with local level resolution processes and official inquiries into workplace matters including providing information and assistance to department appointed investigators.

5.1.4 Decision regarding action provided to employee complainant

At the completion of local action to resolve an employee complaint, even when the decision is made by the supervisor/manager to take no further action, a written decision must be provided to the employee complainant by the supervisor/manager to whom they notified the complaint. The decision must:

- Detail the action taken to manage the employee complaint and the outcome of this action;
- The reasons for the decision;
- Any action that the department will take, or proposes to take, as a result of the decision; and
- Be capable of review.

If a decision about an employee complaint regarding an administrative decision or action is not made within twenty-one (21) days of receipt of the complaint, the department is taken to have confirmed the administrative decision made that was the basis of the employee's complaint.

The outcome of the local action process, including the decision made and action taken, must be recorded by the divisional human resources contact on the **Employee Complaints Management Database – Local Action**.

5.2 Internal Review

If the employee complainant is dissatisfied with the decision made through local action or the local action decision is not made within twenty-one (21) days of receipt of the complaint, the employee may make a request for an internal review. This request must be made to the Executive Director, Human Resources within fourteen (14) days of the employee being provided with the written decision of the local action process. The request must be in writing and clearly state the reason/s why the employee complainant was dissatisfied with the decision made through local action,

and outline the action/s that the employee complainant believes would resolve the complaint. The Executive Director, Human Resources, where possible, provide an outcome to the employee complainant within twenty-one (21) days of the request for internal review being made. Where it is not possible to provide the employee complainant with an outcome within twenty-one (21) days, the Executive Director, Human Resources must advise the employee complainant of this in writing.

5.3 External Review

If the employee complainant is dissatisfied with the decision made by the Executive Director, Human Resources at internal review the employee complainant may make an application for an external review. Dependant on the nature of the initial complaint, avenues for external review may include, but are not limited to:

- Appeals Officer (PSC);
- Queensland Ombudsman;
- Queensland Industrial Relations Commission; or
- Anti-Discrimination Commission Queensland.

Employees should contact the above mentioned bodies directly for advice on how to make an application for external review.

Many departmental policies and/or procedures provide advice on appeal rights in relation to the external review avenues that are available for decisions made under that policy and/or procedure.

6. Delegations

Delegations are to be exercised in accordance with the department's Human Resource Management Delegations.

Delegation Schedules are reviewed on a regular basis to ensure they remain current and relevant to the operational needs of the department. It is recommended that delegate authority levels are confirmed prior to exercising any powers in relation to determination.

7. Responsibilities

Executive Director, Human Resources:

- Conduct internal review of decisions made through local action; and
- Ensure the internal review is completed and a written decision is provided to the employee complainant within twenty-one (21) days from the receipt of the request.

Supervisor/Manager:

- Initiate and make decisions regarding local action in conjunction with the divisional human resources contact;
- Ensure the local action process is completed within twenty-one (21) days from receipt of the complaint; and
- Matters which are the subject to an employee complaint process are to remain confidential.
- Supervisors/managers are to ensure that all documentation relating to such processes are kept in a secure location and that they only discuss the matter with officers who have a "need to know" and/or provide advice about the process (e.g. the divisional human resources contact).

Divisional Human Resources Contact:

- Provide support and advice to the supervisor/manager to address the employee complaint at the local action stage;
- Maintain the **Employee Complaints Management Database – Local Action**; and
- Provide monthly reports (on the first business day of each month) to Manager, Workforce Relations and Safety on action taken using their **Employee Complaints Management Database – Local Action**. A template for this database can be found on the department's Intranet.

Manager, Workforce Relations and Safety:

- Update and retain the **Employee Complaints Management Database** for all employee complaints;
- Provide statistical and other reports on complaints to relevant departmental committees and external organisations (e.g. Public Service Commission); and
- Periodically monitor and review the implementation of the Employee Complaints Management Policy and Procedure to ensure its effectiveness.

Employee Complainant:

- All employees are obligated under their employment contract to follow a lawful direction to co-operate with official inquiries into workplace matters including providing information and assistance to department

appointed investigators. Employees are also obligated to co-operate with local resolution processes that contribute to positively maintaining a harmonious and professional work environment;

- Complainants are not to unreasonably withhold agreement to a resolution through local action; and
- Matters which are the subject to employee complaints are to remain confidential. Employees are directed not to discuss investigation and discipline matters with work colleagues and any person likely to have information relevant to the allegations apart from their union, legal representatives or support person. Employees may discuss these matters with relevant line managers and/or HR officers who have the responsibility for dealing with the complaint.

Employee Respondent:

- All employees are obligated under their employment contract to follow a lawful direction to co-operate with official inquiries into workplace matters including providing information and assistance to department appointed investigators. Employees are also obligated to co-operate with local resolution processes that contribute to positively maintaining a harmonious and professional work environment;
- Respondents are not to unreasonably withhold agreement to a resolution through local action; and
- Matters which are the subject to employee complaints are to remain confidential. Employees are directed not to discuss investigation and discipline matters with work colleagues and any person likely to have information relevant to the allegations apart from their union, legal representatives or support person. Employees may discuss these matters with relevant line managers and/or HR officers who have the responsibility of dealing with the complaint.

Public Service Commission (PSC) Chief Executive:

- Co-ordinate and make decisions regarding an employee complaint where the complaint is directly about the Director-General.

8. Forms

A flowchart detailing the stages in each of the steps of this procedure (for all complaints excluding those made directly about the Director-General) is at **section 18.1 - Attachment 1**.

A supervisor/manager's guide to possible actions that can be taken as a part of the Local Action process is at **section 18.2 - Attachment 2**.

A template for the **Employee Complaints Management Database – Local Action** can be found on the department's [Intranet](#).

9. Employee complaints and appeals

Employees who are unsatisfied with the outcome of their employee complaint may be entitled to lodge an appeal in accordance with Directive 19/10 – Appeals which can be found on the Public Service Commission website at <http://www.psc.qld.gov.au/publications/directives/alphabetical.aspx>

An appeal may be started by giving the Industrial Registrar an appeal notice. Further information on starting an appeal and appeal rights is available from the Queensland Industrial Relations website http://www.qirc.qld.gov.au/prod_form_leg/public_service_appeals/index.htm.

10. Definitions and glossary of terms

Administrative action – is an action arising out of an administrative decision.

Administrative decision – a decision made by the department in relation to the administration of its affairs. This includes the failure to make a decision within a specified timeframe where applicable (e.g. a decision to take, or not to take action under a directive; a decision to transfer a public service officer).

Conciliation – a process in which the parties to a dispute, with the assistance of a neutral third party (the conciliator), identify the disputed issues, develop options, consider alternatives and endeavour to reach an agreement.

Delegate – the officer within the department who has the delegated authority from the Director-General to conduct an internal review.

Employee – a person employed as either a:

- Public service officer (officer) under section 8 of the *Public Service Act 2008* in either a full-time or part-time capacity (e.g. administrative, professional and technical officers), some ranger employees who are employed

under the Queensland Public Service Award — State 2003, the chief executive and Senior Executive Service (including Senior Officers); or

- Temporary employee under section 148 of the *Public Service Act 2008* either a full-time or part-time capacity; or
- Casual employee under section 148 of the *Public Service Act 2008*; or
- General (wages) employee under section 147 of the *Public Service Act 2008* in either a permanent or temporary full-time or part-time or casual capacity (e.g. employees engaged under the Conservation, Parks and Wildlife Employees' Award — State Government 2003); or
- Trainee employed under the *Vocational Education Training and Employment Act 2000*.

Employee complainant – the employee who has made the employee complaint.

Employee complaint – a complaint made, in writing (including email), by a current employee who has an honest belief based on reasonable grounds that:

- An administrative decision or action is unfair or unreasonable; or
- The conduct or behaviour of an employee, agent or contractor is unfair or unreasonable or constitutes sexual harassment or workplace harassment; and
- The decision, conduct or behaviour has a substantial and direct adverse effect on the employee concerned.

The following decisions cannot be the subject of an employee complaint:

- A decision about the policy, strategy, nature, scope, resourcing or direction of a department;
- A decision to discipline;
- A decision to retire an employee on the ground of ill-health under chapter 5, part 7 of the *Public Service Act 2008*; and
- A decision that is the subject of another complaint by the same employee under the Managing Employee Complaints Procedure or another industrial instrument.

Employee Complaints Management Database is the electronic database that records internal and external reviews, which is retained and updated by the Manager, Workforce Relations and Safety.

Employee Complaints Management Database – Local Action is the electronic database that records the actions taken to resolve employee complaints, which is retained and updated by the relevant divisional human resources contact. A template for this can be found on the department's Intranet.

Employee respondent – the employee who is the subject of the complaint.

Facilitated discussion – an attempt by an independent third party to bring about resolution between the parties to the complaint.

Mediation – a process in which a third party assists to resolve a conflict, always with the consent of the parties, to facilitate a mutually acceptable resolution, which requires the agreement of the participants for implementation. The third party in this situation would be an objective independent party.

Negotiation – the use of direct conversation and compromise by the parties to the complaint to arrive at a mutually satisfactory agreement.

Official Misconduct – as defined in the *Crime and Misconduct Act 2001*. Official Misconduct by a public sector employee involves carrying out duties in a way which lacks honesty and impartiality, breaches the community's trust or involves the improper use of official information. Conduct is not official misconduct unless it could (if proven) constitute a criminal offence or a disciplinary breach that could provide reasonable grounds for termination of employment.

Parties to an employee complaint – includes the employee complainant and the employee respondent to the employee complaint.

Sexual harassment – is any unwelcome behaviour of a sexual nature which makes a person feel offended, humiliated or intimidated and where that reaction is reasonable in the circumstances.

Sexual harassment also refers to a working environment or culture that is sexually permeated or hostile. This includes the display of obscene or pornographic material, general sexual banter, crude conversation, innuendo or jokes of an offensive nature. A single incident of unwelcome sexual conduct can constitute sexual harassment. Only the person subjected to the behaviour can characterise the behaviour as sexual harassment.

Sexual harassment is present if a person:

- Subjects another person to an unsolicited act of physical intimacy;
- Makes an unsolicited demand or request (whether directly or by implication) for sexual favours from the other person;
- Makes a remark with sexual connotations in relation to the other person; or
- Engages in any other unwelcome conduct of a sexual nature in relation to another person.

And the respondent does so:

- With the intention of offending, humiliating or intimidating the other person; or
- In circumstances where a reasonable person who have anticipated the possibility that the other person would be offended, humiliated or intimidated by the conduct.

Workplace harassment – (sometimes called bullying) occurs if an employee is subject to **repeated behaviour** (other than sexual harassment) that:

- Is unwelcome or unsolicited; and
- The person considers to be offensive, intimidating, humiliating or threatening; and
- A **'reasonable person'** would consider to be offensive, intimidating, humiliating or threatening.

11. Related Documents

Investigation and Discipline Procedure
 Official Misconduct Management Policy and Procedure
 Public Interest Disclosure Policy and Procedure

12. Further information

Should you require any further information regarding this procedure refer to:

- Your supervisor or manager;
- Division human resources contact; or
- Workforce Relations and Safety Unit.

13. Storage of Information

All records including information recorded on the **Employee Complaints Management Database** and the **Employee Complaints Management Database – Local Action** must be kept for a period of seven (7) years from last action in accordance with the Queensland State Archives General Retention and Disposal Schedule.

14. Review

This policy shall be reviewed within two years from the effective date of the policy.

15. Approval

New departmental policy and procedure
<p>Signed:</p> <p>John Glaister Director-General Department of National Parks, Recreation, Sport and Racing</p> <p>Date: 30/09/2013</p>

16. Version History

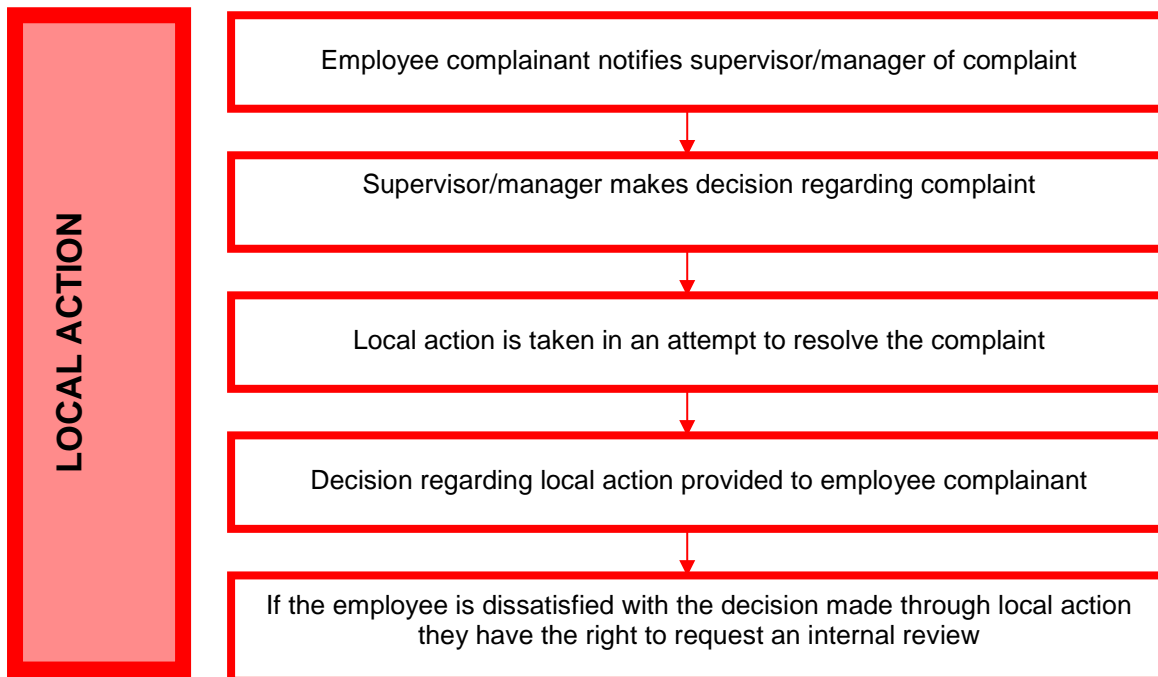
Date	Version	Action	Description / comments
30 September 2013	1.00	Endorsed by the Director-General	Former Policy No: CHC/2013/546

17. Keywords

Management; resolution; complaint; misconduct

18. Appendices

Attachment 1: EMPLOYEE COMPLAINTS MANAGEMENT LOCAL ACTION FLOW CHART



Attachment 2: SUPERVISOR/ MANAGER'S GUIDE TO POSSIBLE ACTIONS THAT CAN BE TAKEN AS A PART OF THE LOCAL ACTION PROCESS

<p>Facilitated discussion</p>	<ul style="list-style-type: none"> • Involves the supervisor/manager or external party speaking to the respondent, conveying the employee complainant concerns and restating the department's policy without assessing the merits of the case; • No determination should be made by the supervisor/manager until they have considered both parties to the complaint; • In cases of harassment or conflict, the supervisor/manager must explain that the behaviour is not acceptable, explain the impacts that the behaviour has on the employee complainant, request that this behaviour should stop immediately and outline the consequences should it continue; • The employee complainant and their support person can choose to be present or not during such discussion; and • Where one or all of the parties are not willing to participate in the facilitated discussion, the supervisor/manager may require one or all of the parties to independently attend a preliminary meeting to receive information about the proposed process.
<p>Negotiation</p>	<ul style="list-style-type: none"> • Involves the supervisor/manager speaking to the respondent conveying the complainant's concerns and restating the department's policy without assessing the merits of the case through providing natural justice; • In cases of an administration decision that has aggrieved an employee, negotiation may be appropriate in reaching a compromise on the matter; • In cases of harassment or conflict, the manager or supervisor must explain the behaviour is not acceptable, explain the impacts that the behaviour has on the employee complainant, request that this behaviour stop immediately, and outline consequences if the behaviour continues; • The supervisor/manager should seek written commitment from the respondent and where appropriate from the complainant that the behaviour will stop; and • The employee complainant should, where possible, be present for negotiation.
<p>Mediation</p>	<ul style="list-style-type: none"> • Involves the parties agreeing to openly discuss the situation in the presence of a third party (either internal or external) with mediation skills; • Is it preferable that both the complainant and the subject officer are in attendance, although relay style mediation can be used in some situations; and • Mediation is a voluntary process and the parties must feel secure to openly discuss the situation without fear of retribution and without prejudice.
<p>Investigation</p>	<ul style="list-style-type: none"> • Has varying degrees of complexity and can vary from a supervisor/manager asking questions and fact finding, in relation to the case, to appointing an independent external investigator to make conclusions and recommendations about the matter.