

Resolving Workplace Grievances

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Personnel/Workforce - Industrial and Employee Relations
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Director-General

This Policy Directive may be varied, withdrawn or replaced at any time. Compliance with this directive is **mandatory** for NSW Health and is a condition of subsidy for public health organisations.

RESOLVING WORKPLACE GRIEVANCES

PURPOSE

The purpose of this Policy Directive is to ensure that NSW Health has systems in place to resolve workplace grievances. This policy encourages early intervention, collaboration and a focus on solutions.

MANDATORY REQUIREMENTS

The objective of this policy is to ensure that all workplace grievances are managed in a fair, timely and appropriate manner. The policy:

- Adopts a common sense approach, with a focus on resolution and fairness
- Provides for matters to be assessed initially to determine the most appropriate pathway for resolution
- Does **not** apply where issues are raised such as discrimination, bullying, harassment or misconduct which need to be managed in accordance with other NSW Health policy.
- Sets expectations for all staff to contribute to a positive workplace
- Identifies what everyone can expect from the process, and their responsibilities
- Encourages self-resolution by those directly involved where appropriate
- Emphasises the need for confidentiality and documenting issues and actions taken
- Requires those managing workplace grievances are competent to do so.

Any local processes must be consistent with this policy.

IMPLEMENTATION

Chief Executives are required to:

- Model and promote NSW Health CORE values (Collaboration; Openness; Respect and Empowerment) and the Code of Conduct to create a positive and productive workplace
- Ensure that this policy directive is communicated to all managers and staff.

Directors of Workforce are required to:

- Model and promote NSW Health CORE values and the Code of Conduct to create a positive and productive workplace
- Identify emerging problems and issues within business units
- Provide instruction, information and training to support the effective resolution of grievances, with a particular focus on building the people management skills and capability of managers.
- Monitor compliance with mandatory standards.

All managers are required to:

- Model and promote NSW Health CORE values and the Code of Conduct to create a positive and productive workplace
- Identify and address inappropriate behaviour within their team as soon as they become aware of it
- Undertake any required development to manage and resolve workplace issues
- Manage issues in confidence, ensuring that only those directly involved are provided with information necessary for resolution
- Document, secure and retain appropriate records.

All staff are required to:

- Commit to and demonstrate NSW Health CORE values and the Code of Conduct to create a positive and productive workplace
- Be aware of how their behaviour may be perceived by and impact on others at work
- Attempt to resolve any issues directly with those involved in the first instance, where appropriate
- Raise workplace issues or concerns early and actively participate in the resolution process
- Make themselves available to participate in any discussions and/or meetings during the resolution process
- Be honest and sensitive in raising or responding to a grievance
- Provide all relevant information in a timely manner and, where appropriate, keep records of relevant information
- Participate in the resolution of grievances in which they are involved in good faith
- Not release information relating to a grievance to any third party who has not legitimate involved in the process.

REVISION HISTORY

Version	Approved by	Amendment notes
October 2016 (PD2016_046)	Deputy Secretary Governance, Workforce and Corporate	Reviewed and simplified policy and provided additional resources for managers and staff.
January 2010 (PD2010_007)	Director General, Health NSW	Reviewed policy; provided examples of grievance resolution methods
May 2005 [PD2005_584]	Director General, Health NSW	New Policy

ATTACHMENTS

1. Resolving Workplace Grievances: Procedures

Resolving Workplace Grievances



Issue date: October-2016

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1 BACKGROUND

1.1 About this document

Effective grievance management and resolution contributes to positive working relationships, and can prevent minor issues escalating into more serious matters.

A **workplace grievance** means a problem, concern, issue or incident raised by a staff member who believes he / she is the subject of unreasonable treatment from the organisation or another person(s) in the workplace. Examples may include, but are not limited to, interpersonal conflict between colleagues, the way work is allocated or managed, the physical workplace environment, application of management policies or perceived unfairness in the workplace.

The intent of this policy is not to prescribe a set procedure on how workplace grievances are managed as the process adopted needs to be appropriate to the particular situation. Issues vary, and grievances can involve a range of circumstances, with varying levels of complexity or seriousness.

The policy focuses on restoring effective working relationships by ensuring that each issue is considered individually as it arises, and is managed in the most appropriate way for the circumstances. The policy encourages early intervention, collaboration and a focus on solutions.

The manner in which grievances are managed locally must be consistent with this policy directive.

2 RESOLVING WORKPLACE GRIEVANCES

All staff have an important role in contributing to a positive culture by working in a professional and productive manner.

Managers have a responsibility to create a positive culture within their teams, identify, respond to and promptly address issues when they arise.

Managers may deal with a range of workplace issues which are not raised as a grievance, but have some of the same features. The manager may choose to use some of all of the techniques suggested for workplace grievances to resolve those issues.

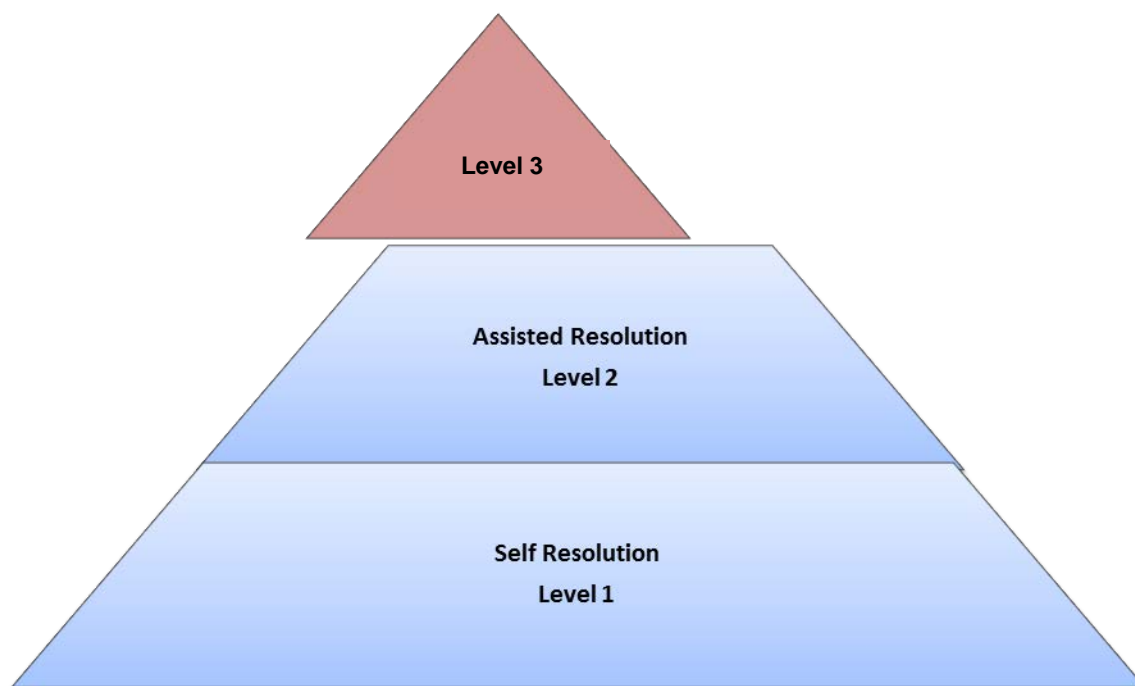
However, when a matter is raised with the manager as a workplace grievance, and the staff member seeks for it to be dealt with under this policy, then the manager must follow the steps set out in this policy, noting that the initial assessment may identify that the matter should be dealt with under another policy directive.

2.1 Options for resolution

The nature and seriousness of a workplace grievance and the appropriate options for resolution can be determined by categorising the grievance into one of three levels as per the diagram below.

For the purposes of the policy, **Level 3** relates to serious matters that do not fit the definition of a workplace grievance, such as bullying, harassment, misconduct or

performance management matters. Refer to [Appendix 1](#) which lists various policies that deal with these matters.



Workplace Grievance Resolution Model

2.2 Self-Resolution – (Level 1) workplace grievances

Grievances categorised as Level 1 can generally be resolved quickly, locally and directly by the staff member who experienced or observed the issue. Features of these grievances may include:

- One-off or irregular occurrence
- Not serious in nature
- A few low level minor events
- Able to be resolved quickly and easily without requiring the manager's involvement.

It is expected that staff members will promptly address and resolve such matters early and directly with the person they are experiencing the issue with, rather than ignore the concern. This provides the best opportunity for a positive resolution, as it focuses on maintaining and/or improving working relationships, minimises the likelihood that a minor issue will escalate into a serious one, and lessens the impact of the grievance on the operation of the team and its work.

Where the staff member does not feel comfortable or able to resolve the matter personally, they should seek assistance from their manager. Where the grievance relates to their manager, they should discuss the matter with a more senior manager who is in a

position to provide advice to them, including determining the best way of resolving the grievance themselves in a low-key manner.

Options for self-resolution of grievances by a staff member include:

- Take no immediate action, but monitor the situation
- Seek support and advice from someone they feel comfortable with
- Seek support from the Employee Assistance Program (EAP) provider
- Seek personal development (e.g. training in resilience, having difficult conversations)
- Have a direct conversation with the individual with whom they are experiencing the issue of concern
- Have a discussion with their manager about the matter (or if the grievance involves a direct manager, a more senior manager).

The desired outcome is for the grievance to be successfully resolved by the staff member in a constructive manner. While documentation is not required, keeping some notes about the matter may be helpful should the situation not be resolved or recurs.

Generally, these types of grievances should be resolved as quickly as possible. If the issue is not resolved, assisted resolution (Level 2) options may need to be considered.

Further information and resources is provided in the [Raising Workplace Grievances Guideline for Staff](#) and the [Receiving and Responding to Workplace Grievances Guideline for Managers](#)

2.3 Assisted Resolution (Level 2) workplace grievances

Level 2 grievances require the involvement of the manager in resolving the matter(s) raised.

The features of these types of grievances may include where:

- The issue is complex
- There are disputed views
- There is a pattern of ongoing behaviour or concern
- Self-resolution options have already been attempted without success or would not be appropriate in the circumstances.

2.3.1 Notification of the Grievance

At Level 2, the staff member should meet with their manager and advise him/her that their assistance is required to resolve a grievance. Where the immediate manager is the subject of the grievance, they should notify a more senior manager.

The relevant manager should be notified as close as possible to the issue having occurred, or within a reasonable timeframe following failure to resolve the grievance at Level 1. The employee should provide information relating to the grievance, including:

- The nature of the issue, concentrating on the facts of the situation
- Any evidence or names of witnesses where relevant
- Any attempts to resolve the grievance at Level 1 and the outcomes of those attempts
- The outcome / resolution the staff member is seeking

Level 2 grievances must be documented in writing by either the person raising the grievance or the manager responsible for resolving it. The purpose of documentation is to clearly describe the circumstances and severity of the grievance, and to describe the rationale for actions taken, or not taken in the circumstances.

2.3.2 Initial assessment

When a manager receives notification of a level 2 grievance, they must undertake an initial assessment to determine the nature and severity of the concern raised, and whether the issue should be managed according to this policy or others (See Attachment 1).

For example, it could be unclear whether the grievance equates to inappropriate behaviour (such as potential bullying, harassment or discrimination), a potential breach of workplace policy or a potential performance issue. Considering the following will help to determine the degree of severity of the matter and whether it should therefore be managed by other policies or procedures:

- What is the nature and severity of the grievance?
- How often has the behaviour / issue occurred?
- How long has the behaviour / issue been going on?
- How long has it been since the alleged incident(s) took place?
- How many people are involved?
- What are the roles, responsibilities and relationships of those involved?
- How is the behaviour / issue impacting on those involved?
- Has the same matter been raised before?
- What action, if any, has already been taken?
- What are the expectations of the person raising the grievance?
- What are the potential consequences of the matter?

The manager should also carefully consider whether they are the appropriate person to manage the grievance. For example, if they consider they are unable to be objective or impartial, or may be perceived as such, they should seek advice from their manager or HR unit on who should assess the grievance and manage its resolution. It is acknowledged that it is appropriate for a staff member to be assisted in the resolution of their grievance by a manager who does not hold a conflict of interest.

The initial assessment may reveal the matter or level of behaviour to be very minor in nature, which should be managed as a Level 1 grievance, or where it is considered that

no action is required. The staff member must be advised accordingly, and may choose to explore Level 1 resolution options or to withdraw the grievance. It should be noted that a staff member may withdraw their grievance at any stage of the process.

Where it is determined that the matter is to be managed by other processes, the manager must advise the staff member (and other party to the issue) in writing of the alternative procedures that will be followed and advising that no further action will be taken under this policy.

Where a matter is to be dealt with as a Level 2 grievance, then the process set out below will apply.

Further information and resources is provided in the [Raising Workplace Grievances Guideline for Staff](#) and the [Receiving and Responding to Workplace Grievances Guideline for Managers](#).

2.3.3 Issue analysis and information gathering

Once the initial assessment has determined that it is appropriate to manage the matter as a Level 2 grievance, the details of the matter need to be determined as far as possible. The *Issue Analysis* (see [Attachment 2](#)) provides guidance on what information should be sought to determine the most appropriate options for speedy resolution.

Information gathering must:

- Be undertaken fairly and impartially by the relevant manager, or some person authorised by the manager or organisation who is competent to do so
- Maintain confidentiality
- Ensure that the parties are given the opportunity to have their say
- Include speaking to those identified by either party as having information relevant to the issue as considered necessary to form a view
- Include appropriate documentation and records
- Ensure appropriate security of any related documentation.

2.3.4 Issue resolution

The focus of resolution should be to repair any negative impact caused by the issue or behaviour through communication, openness to others' views, cooperation and reasonableness. The aim is to repair the professional working relationship. The manager should attempt to resolve the issue within 20 working days.

Techniques used may include:

- Facilitated discussion
- Mediation
- Observation and feedback
- Team communication and development
- Coaching

- Mentoring
- Relevant training
- Team values or charters
- Other appropriate management action.

The manager must confirm with the staff member (and other party to the issue) the decision in relation to resolution of the grievance. This confirmation shall be in writing.

The desired outcome is that the grievance is successfully resolved with no further action required, or resolved with ongoing monitoring to ensure the resolution is effective and sustainable.

Where there is no resolution, the issue should be re-assessed to determine if other management responses are more appropriate in the circumstances.

2.3.5 Request for Review

The parties directly involved in a grievance will be informed as to what actions are being taken, or not taken, and when the matter is regarded as being resolved.

A review of an outcome can only be requested where there are grounds to do so. For example, where new information has become available that may change the outcome, or where there is an explicit deficiency in the process followed. Dissatisfaction with an outcome is not on its own a ground for a review.

Where a review is appropriate, it will be undertaken by a senior member of management or an external party who was not involved in the original decision. This person will consider the issues raised, along with all relevant records regarding the matter. The parties directly involved in the grievance will be advised in writing when the review is to occur and of the review outcome.

3 RESTORING PRODUCTIVE WORKPLACE RELATIONS

Following the resolution of a grievance, the work environment, productivity and relationships may still be negatively affected. This can impact the parties involved, and may also affect others in the team. It is therefore essential that action is taken to restore relationships and to promote a positive work environment.

The manager should:

- Follow up with the parties involved and encourage respectful and professional interaction
- Set and model expected standards of workplace behaviour, in accordance with NSW Health CORE values and the Code of Conduct
- Monitor the work environment, and identify / address potential issues
- Remain open to comments and feedback from others on ways the workplace can be improved
- Consider lessons learned from workplace grievances.

Staff members should:

- Follow expected standards of workplace behaviour in accordance with NSW Health CORE values and the Code of Conduct
- Take responsibility for ensuring respectful and professional behaviour within the workplace
- Actively contribute to positive problem solving and conflict resolution.

4 OTHER PROVISIONS

4.1 Expectations and Responsibilities

4.1.1 Staff

Throughout all stages of the grievance resolution process, staff can expect:

- To be treated with respect
- To receive advice and support from management
- To identify desired outcomes that can be discussed with management
- To have their grievance treated seriously and managed in a fair, impartial and appropriately confidential manner
- To be provided with information on the progress of their grievance and on any decisions made that may affect them
- To have a support person present at any meetings they attend relating to the grievance
- To have access to relevant records taken at meetings they attend to enable them to agree that they are accurate and true
- To be protected against victimisation or harassment because they have raised a grievance
- To be able to withdraw a grievance at any stage of the process
- To be able to request a review of a decision or action in relation to their grievance.

Staff are responsible for:

- Recognising their role in contributing to a positive workplace environment
- Understanding their own behaviour and considering how it may be perceived by, and impact upon, others at work
- Raising matters of concern at an early stage and actively participating in the resolution process in good faith
- Making themselves available to participate in relevant discussions and meetings to resolve the grievance
- Not raising malicious, vexatious or frivolous issues

- Maintaining appropriate confidentiality
- Accepting that the resolution of the grievance may not always result in the outcome they sought.

4.1.2 Managers

At all stages of the grievance resolution process, managers can expect:

- To be treated with respect by all parties involved in the grievance
- To receive support and assistance from senior management and HR as necessary
- To be protected against victimisation or harassment for being involved in the management and/or resolution of the grievance.

Key responsibilities include:

- Ensuring that the grievance resolution process progresses as quickly as possible
- Providing parties with relevant information about the process as it occurs
- Providing appropriate support to the parties throughout the process
- Protecting staff members from victimisation, harassment or discrimination
- Basing any resolution, decision or action on the best available, relevant information
- Documenting the process undertaken.

4.2 Confidentiality

Parties to a workplace grievance may need to discuss their concern(s) with someone they trust, such as a family member and / or colleague not directly involved in the matter, to receive advice and/or support. Wherever possible, these discussions should be conducted in private and preferably away from other staff.

It is important that information relating to the grievance only be provided on a 'need to know' basis and not provided to people in the workplace who have no legitimate involvement in the process. This includes confidentiality of the identity of those involved, as well as the subject matter.

Inappropriate release of confidential information in relation to a workplace grievance can complicate the resolution process and violate the parties' rights to privacy and procedural fairness. Breaches of confidentiality in relation to workplace grievances will be dealt with in accordance with NSW Health PD2014_042: *Managing Misconduct*.

Where a staff member has had a grievance raised against them, they must be provided with sufficient information to be able to adequately respond to the matters raised.

4.3 Role of local HR units in workplace issues

It is usually the role of the immediate manager to take the lead in dealing with workplace issues raised by their staff. To support this approach, local HR units are available to provide advice and guidance to managers on the resolution process.

HR units should:

- Identify and address emerging issues, including patterns and trends within business units. They are well placed to assess how units are functioning and where issues are occurring or recurring.
- Support managers to build people management capabilities
- Provide policy advice and support to managers, but usually will not be directly involved in resolving the grievance
- Provide information to staff on the Resolving Workplace Grievances policy and their options in using it.

4.4 Role of a support person

During any stage of the resolution process, employees may request the support of another person (a support person) to assist them. A support person may be a friend, work colleague or union representative who can accompany the person to meetings to provide emotional support.

The role of the support person is to provide support to the employee concerned. The support person acts as a witness to the process but may not direct the process, nor answer questions on behalf of or act as an advocate for the employee.

5 LIST OF ATTACHMENTS

1. Initial Assessment
2. Issue Analysis

Attachment 1: Initial assessment

Initial Policy Review - Depending on the nature and complexity of the matter raised, more than one policy may be relevant to the management of the grievance, and different pathways may be followed for resolution.

Nature of Issue/Complaint	Relevant NSW Health Policy Directives/Guidelines
<i>Breach of expected behaviour or conduct standards</i>	<ul style="list-style-type: none"> • PD2014_042 Managing Misconduct • PD2015_01049 NSW Health Code of Conduct
<i>Bullying, harassment, threatening or discriminatory behaviour</i>	<ul style="list-style-type: none"> • PD2011_018 Bullying – Prevention and Management of Workplace Bullying in NSW Health
<i>Allegation, charge or conviction of a child protection nature (ie where it involves a person currently engaged/employed and there is an alleged victim under the age of 18 years of age. Note this includes non-work related or historical matters and alleged child pornography offences).</i>	<ul style="list-style-type: none"> • PD2014_042 Managing Misconduct • PD2006_025 Child Related Allegations, Charges and Convictions Against Employees • PD2009_076 Communications - Use & Management of Misuse of NSW Health Communications Systems • PD2013_007 Child Wellbeing and Child Protection Policies and Procedures for NSW Health
<i>Clinical performance, practice or outcomes related to a health practitioner or other health service provider (as defined under the Health Practitioner Regulation National Law (NSW))</i>	<ul style="list-style-type: none"> • PD2006_007 Complaint or Concern About a Clinician – Principles for Action • GL2006_002 Complaint or Concern About a Clinician – Management Guidelines
<i>Communication systems - inappropriate use (eg internet etc)</i>	<ul style="list-style-type: none"> • PD2014_042 Managing Misconduct • PD2009_076 Use & Management of Misuse of NSW Health Communications Systems • PD2006_025 Child Related Allegations, Charges and Convictions Against Employee • PD2011_070 Reporting Possible Corrupt Conduct to the Independent Commission Against Corruption
<i>Corrupt conduct - the dishonest or partial use of power or position resulting in one person being advantaged over another</i>	<ul style="list-style-type: none"> • PD2014_042 Managing Misconduct • PD2011_070 Reporting Possible Corrupt Conduct to the Independent Commission Against Corruption • PD2010_010 Conflicts of Interest and Gifts and Benefits • PD2011_061 Public Interest Disclosures
<i>Criminal allegation, charge or conviction (that does not involve a child under the age of 18 years of age as an alleged victim)</i>	<ul style="list-style-type: none"> • PD2014_042 Managing Misconduct
<i>Government information contravention – failure to properly fulfil functions under the Government Information (Public Access) Act 2009</i>	<ul style="list-style-type: none"> • PD2014_042 Managing Misconduct • PD2011_061 Public Interest Disclosures

Nature of Issue/Complaint	Relevant NSW Health Policy Directives/Guidelines
<i>Grievance - problem, concern, issue or incident raised by a staff member who believes he/she is the subject of unreasonable treatment from the organisation or another person(s).</i>	<ul style="list-style-type: none"> • Resolving Workplace Grievances
<i>Maladministration - action or inaction of a serious nature that is contrary to law; unreasonable, unjust, oppressive or improperly discriminatory; or based wholly or partly on improper motives</i>	<ul style="list-style-type: none"> • PD2014_042 Managing Misconduct • PD2011_061 Public Interest Disclosures
<i>Work health and safety concern</i>	<ul style="list-style-type: none"> • PD2013_005 Workplace Health and Safety: Better Practice Procedures • PD2013_006 Injury Management and Return to Work
<i>Performance issue – unsatisfactory performance</i>	<ul style="list-style-type: none"> • PD2013_034 Managing for Performance
<i>Research misconduct (eg fabrication or falsification of results, plagiarism, risking the safety of participants or the wellbeing of animals or the environment etc)</i>	<ul style="list-style-type: none"> • PD2014_042 Managing Misconduct • GL2011_001 Research Governance in NSW Public Health Organisations
<i>Sick leave absences - frequent and/or unauthorised</i>	<ul style="list-style-type: none"> • PD2014_029 Leave Matters for the NSW Health Service
<i>Waste – serious and substantial - uneconomical, inefficient or ineffective use of resources, which results in significant loss/wastage of public funds/resources</i>	<ul style="list-style-type: none"> • PD2014_042 Managing Misconduct • PD2011_061 Public Interest Disclosures

Other policies that may need to be considered in addition to the above include:

- [PD2006_073 Complaint Management Policy](#)
- [GL2006_023 Complaint Management Guidelines](#)
- [PD2011_040 Employee Assistance Programs](#)
- [PD2008_071 Medical Practitioners - Compliance with Registration Conditions](#)
- [PD2014_028 Open Disclosure Policy](#)
- [PD2013_036 Service Check Register for NSW Health](#)

Attachment 2: Issue Analysis

The Issue Analysis – information that may be collected for the purpose of confirming resolution pathway options and outcomes:

- Name of person who raised the grievance
- Their position and area
- Their contact details
- Date of initial discussion
- Name of person(s) with whom the workplace issue is being experienced.

Background:

- What happened?
- Who was involved? (individual and/or witnesses)
- When and where did the issue occur (date, time and location)
- What factors do you think caused this to occur?
- What action, if any, has been taken?
- Is there any other information about the issue or incident?

Frequency and Severity:

- How often has the matter occurred? If more than once, list dates, describe incidents, how the person dealt with it and any additional information.
- How serious is the behaviour / incident
- If this continues, and is unresolved, will it get worse?
- Is there more than one person involved?

Impact

How do you rate the impact of the matter on:

- The person experiencing the issue
- The other person(s)
- Working relationship between the people concerned
- Wider team dynamics

- Business and task outcomes.

Additional information

- Is there a risk to health and safety of those involved or others? If yes, why?
- Does information gathered suggest more serious issues (such as misconduct, or criminal conduct)?
- Are you missing any further information?

Options for Resolution

What are the expectations of the person raising the grievance and what outcome do they want? Is this the best option?

Have you consulted with anyone (e.g. your local HR unit)? If yes, what did you discuss?

At what level can the grievance be addressed?

- Level 1 (self-resolution by staff members involved)
- Level 2 (resolved with assistance of manager using remedial resolution techniques)
- Level 3 (further investigation and other pathways – e.g. Misconduct, WHS, performance management)

Are there appropriate Level 1 or 2 options available to address the issue in an informal way? If yes, briefly describe.

Recommended outcome and follow up

- Briefly describe what the recommended outcomes and options are.
- What support will you as a manager provide?
- Is the person who raised the issue satisfied with the outcome?
- How will the issue be monitored?
- Will you meet with the person who raised the grievance again? When?

Additional Comments