



Grievance Handling Policy

Whiddon

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Grievance Handling Policy

1. PURPOSE

Whiddon is committed to promoting and enabling a positive and healthy workplace, where genuine and professional relationships can thrive. We acknowledge that from time to time, problems may occur that cause an employee to feel upset or aggrieved.

The purpose of this policy is to provide employees with a process to resolve problems, concerns, or disputes quickly and effectively.

The intent of this document is to act as a Policy. Whiddon reserves the right to vary, deviate and exclude elements of this Policy at any time. This policy is intended for use by all Whiddon employees, volunteers and contractors (e.g., Agency staff).

2. DEFINITIONS

A grievance is any type of problem, concern or complaint that is work-related and makes an employee feel as if they have been unfairly or unjustly treated. A grievance might involve potentially unlawful behaviour such as discrimination or harassment.

Complainant refers to the person (employee/volunteer/contractor) raising a concern or making a formal complaint as a result of an event or action.

Employee refer to all persons employed by Whiddon, whether permanent, casual or on a temporary basis and also includes agency staff, contractors, students and volunteers.

Natural Justice refers to the due process that displays fairness to all parties. It includes the right to be heard, the right of reply, the right to be treated fairly and the right to be informed of the allegations(s) being made.

Respondent refers to the person who has allegedly perpetrated the act/behaviours which have caused the grievance.

Serious Incident Response Scheme (SIRS) refers to the Australian Government initiative implemented from 1 April 2021 to help prevent and reduce incidents of elder abuse and neglect in residential aged care services.

Support Person is a person nominated by an employee or volunteer who attends meetings with them to provide them with support.

Vexatious / Malicious claim refers to a grievance that was not made in good faith with the intention to be false or misleading.

Witness refers to a person who can give a firsthand account of something seen, heard or experienced.

3. GRIEVANCE TYPES

Grievances can relate to any aspect of employment, recruitment and selection, conditions and benefits, training and promotion, task allocation, shifts, hours, leave arrangements, workload, and equipment. Grievances can occur in any work-related setting including off-site or after-hours work, work conferences, work related social functions, business trips and wherever employees may be because of their Whiddon duties. There are several examples of grievances such as:

Employee vs employee complaint could include a report of bullying, discrimination, or harassment within the workplace, or where an employee has felt unfairly or unjustly treated such as a report of verbal, physical or emotional abuse.

Workplace incident complaint could include a workplace investigation process, such as a SIRS incident where a report of elder abuse or neglect has occurred. Please note, SIRS incidents have strict reporting requirements. Please speak with your manager. All incidents must be logged in eQstats.

Pay or wages complaint could include a concern in relation to pay or wages. Where a grievance pertains to wages or payment of wages, the employee is required to complete a *Pay Query Form* and submit this to their manager to resolve onsite, or if required through the Payroll department.

For resident/client related complaints, employees are encouraged to report these via their manager who should log an incident via eQstats.

4. RESPONSIBILITIES

Whiddon

If an employee lodges a grievance, it will be taken seriously and investigated impartially.

The person reviewing the grievance will be a Whiddon representative i.e., Manager/Supervisor or People and Culture team member who will remain impartial. This means they will gather all relevant information to make an informed decision. The decision will be based on the evidence gathered.

The grievance will be investigated in as short a time as possible, and the employee will be informed of the outcome in writing.

Whiddon have a duty to resolve the grievance in a fair, reasonable, and lawful manner in accordance with procedural fairness. All complaints will be addressed in a manner aimed wherever possible at conciliation and education, rather than with the prime objective of taking punitive action. However, in some circumstances disciplinary action may be warranted.

The principles of natural justice will apply, and all parties will have a reasonable and timely opportunity to present their cases.

Once a grievance has been raised, even if the complainant has requested the matter not proceed formally, Whiddon reserves the right to investigate or resolve the original grievance where the grievance relates to serious misconduct, or where failure to resolve the problem would adversely affect other employees. Whiddon is obligated to follow a dutiful and lawful process to investigate and resolve the grievance.

No parties involved in the grievance process will be victimised or treated unfairly because they have been involved in the grievance process.

Employees

All Whiddon employees, volunteers, students, contractors, and subcontractors are responsible for ensuring they follow the *Grievance Resolution Procedure*. It is also the responsibility of Whiddon and relevant employees to make all reasonable attempts to resolve the grievance or dispute reasonably, in the shortest time practicable, and within the workplace. If the matter cannot be resolved in the workplace there are opportunities for external assistance to resolve the matter.

5. PROCEDURE

5.1 Raising a Grievance

Self-Resolution - in the first instance and where safe to do so, you should speak with the person causing the grievance. Explain how the persons behaviour/conduct has caused you to become upset or offended and request they modify or stop the behaviour to ensure it does not happen again. Sometimes problems can be caused through misunderstanding such as a difference in opinion, a set of different values or beliefs which

can cause misalignment. Speaking with the individual provides them an opportunity to stop what they have done that has caused offence or upset.

Speak to your supervisor or manager - in some instances you may not feel comfortable speaking to the person who has caused the grievance directly, or perhaps you have spoken to the person, but they have not ceased the behaviour or action which you have brought to their attention. In this instance, you should speak with your supervisor/manager who can provide advice and may be able to help you resolve the problem.

If your concern is about your direct Supervisor – you should contact the next level of management or the People and Culture team. If you are unable to speak with your supervisor as your grievance is about them, you should contact their manager. All staff should take reasonable steps to give their manager the first opportunity to resolve the issue.

5.2 Reporting a Grievance

If you decide to lodge a formal grievance, you should write down the incident(s) which have occurred, including details such as date and time of incident(s), witness(es) present at the time, the behaviour/action which occurred which caused you to be unhappy and why, additionally the solutions you deem fair and reasonable to achieve resolution.

If you have difficulty writing it down, your manager or their representative may interview you and you can sign the minutes of the meeting.

5.3 Investigating a Grievance

When a written complaint is received, a meeting will be held with the complainant to discuss the grievance and the grievance process outlined in this policy. The employee may bring a support person to the meeting. Employees need to be aware that any outcome/solution as a result of the investigation findings will be fair, reasonable, and considerate of legal and or legislative obligations Whiddon must adhere to. Whiddon reserve the right to determine the outcome based on the investigation findings. A written record will be taken of this meeting for the use of Whiddon.

The grievance will be resolved confidentially with the least amount of people involved as possible whilst ensuring a thorough and complete investigation. If appropriate, the respondent will be interviewed. In some cases of serious misconduct, it may be decided to interview the respondent through a formal process.

If necessary, any witness(es) will be interviewed. Any other information that may be relevant to the grievance such as medical certificates or other documentation will be collected.

5.4 Outcomes

In most cases, the complainant will be advised of the outcome of the grievance in writing. However, where the grievance outcome requires a formal disciplinary process to be undertaken, the complainant will not be advised of specific details or information pertaining to actions taken nor the outcome pertaining to the individuals, or group of individuals involved in the disciplinary process.

The outcome will be determined in relation to the seriousness of the incident/s that formed the basis of the grievance. Some possible outcomes could include but are not limited to:

- The parties involved gain a better understanding of the issue and resolve the problem
- The parties resolve the issues with the assistance of their manager or supervisor
- The parties resolve the issues with the assistance of a third party (mediator)
- An apology is issued

- A change in working arrangements is implemented
- A commitment to change behaviour is given
- Guidance, counselling, coaching or training is provided
- Disciplinary action commenced

Where a grievance is unsubstantiated due to lack of evidence, additional training may be provided to coach employees about appropriate behaviour in the workplace or behaviour may be monitored to ensure incidents do not reoccur.

Where the grievance cannot be substantiated no further action can be taken.

If a false and or misleading grievance has been reported, it will be managed in accordance with the disciplinary process. A grievance will not be considered false or misleading just because it cannot be substantiated.

5.5 Appeal Process

If an employee believes the grievance process was not followed, they can submit an appeal to the Chief People Officer who will assess the way the grievance was handled.

No further action will be taken if the Chief People Officer determines the grievance was managed in accordance with this policy.

If the Chief People Officer determines the grievance process was not undertaken in accordance with this policy, a review may be undertaken by an external party. The review will be carried out by someone other than the person who first managed the grievance.

If the employee is unsatisfied with the outcome, they may refer the matter to an external agency such as the relevant Union, the Anti-Discrimination Board or the Human Rights Commission.

6. THIRD PARTY GRIEVANCE

A grievance may be reported by an employee that involves a person who is not directly employed by Whiddon, but who is present on site or in a community care setting. This could include, but is not limited to:

- Relatives or friends of a client of Whiddon (visitor)
- Agency Staff
- Tradespersons, volunteers and consultants not employed by Whiddon
- Tradespersons or consultants employed as contractors by Whiddon
- Directors of the Board of Whiddon

While there are limitations with regards to resolving grievances with non-employees due to legal jurisdictions, Whiddon will ensure that every effort is made to resolve the grievance as far as practicable.

If a grievance relates to a person not directly employed by Whiddon, the complainant should:

- Advise their manager of the nature of the grievance. The manager will obtain relevant details regarding the grievance. Employees should not try to resolve the matter on their own.
- The manager will forward the details of the grievance to the People and Culture team for investigation. Possible outcomes may include:
 - If the non-employee is employed by a contractor or is affiliated with a specific agency or organisation, Whiddon may write to the contractor, agency or organisation advising them of the grievance and request it be investigated;

- If the non-employee is a relative or friend of a client, Whiddon may request to meet with them to discuss acceptable standards of conduct whilst visiting Whiddon sites. In serious or repeat cases, the General Manager People and Culture may request approval from the Deputy Chief Executive Officer (COO) to apply visiting limitations (e.g., Restrict access or ban the person) or may refer the matter for legal action;
- The General Manager People and Culture may advise the employee of Police involvement or referral to the appropriate tribunal; and or
- May advise the employee of the decision that further action is not appropriate, and no further action will be taken; and or
- Any other action that is deemed appropriate to resolve the matter as far as practicable.

7. CONFIDENTIALITY

All parties involved in the grievance process are bound by confidentiality and the grievance process will remain confidential. At no time is the complainant, the witnesses or the respondent to discuss the grievance process before, during or after the conclusion of the process, unless it is to seek the necessary support or advice.

Where a grievance process is required to proceed through a formal disciplinary process, the complainant will not be provided with specific details or information pertaining to the steps or actions taken as part of the formal disciplinary process and will not be provided with a specific outcome in which that employee may have received.

Where confidentiality is breached by an individual or group of individuals involved in a grievance process, this will be deemed a breach of reasonable and lawful directive and Whiddon may commence disciplinary action, which may result in an outcome up to and including termination.

8. EXTERNAL SUPPORT

An employee should make a concerted effort to allow Whiddon to attempt to resolve grievances internally in the first instance before appealing to an external body. If either the complainant or respondent continues to be dissatisfied with the outcome determined by Whiddon they may refer the matter to an external agency.

8.1 Employee Assistance Provider (EAP)

Employees may require additional support when involved in the grievance process. Whiddon provide access to the Employee Assistance Program (EAP) which provides free and confidential services to all employees. This service is available online via [Hapstar](#), 24 hours a day 7 days a week.

8.2 Union Representation

Where employees are a member of a Union, an employee may request assistance or support with the grievance process. A Union representative may be contacted by a member employee to act as a support person to attend meetings or to review the grievance process should they believe it has not been managed in accordance with this policy.

8.3 Australia Human Rights Commission (AHRC)

The AHRC is an independent third party which investigates complaints about discrimination and human rights breaches. Employees who have had their grievance managed internally but believe it has not been managed in accordance with this policy, may refer the matter to the AHRC.

9. WITHDRAWAL OR DISCONTINUATION OF GRIEVANCE

At any stage during the informal or formal grievance procedure, the complainant may withdraw or discontinue the grievance. If the grievance is being handled under the formal grievance procedure, the withdrawal or discontinuance is to be made in writing.

If a grievance is withdrawn or discontinued, Whiddon may still take action to address the issues raised in the grievance, if it considers it appropriate to do so.

10. GRIEVANCE HANDLING PROCESS

Concerns relating to the implementation of this policy and any associated guideline or procedure should be directed to the Chief People Officer.

11. RELATED POLICIES/DOCUMENTS

This policy should be read in conjunction with:

- Employee Grievance Flowchart
- Sexual Harassment and Other Unlawful Related Behaviours Policy
- Diversity and Inclusion Policy
- Termination Guidelines
- Incident Management Policy and Procedures
- *Fair Work Act 2009*

12. EMPLOYEE GRIEVANCE FLOWCHART

