

Grievance Management

Implementation Guide to Ministry of Health Policy PD2010_007 Grievance – Effective Workplace Resolution.

Policy Number 3.090

Policy Function Human Resources

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Summary This document provides Justice Health & Forensic Mental Health Network specific policy and procedures on grievance management when implementing Ministry of Health policy [PD2010_007 Grievance – Effective Workplace Resolution](#).

Responsible Officer Executive Director Governance & Commercial Services

Applicable Sites

- Administration Centres
- Community Sites (e.g. Court Liaison Service, Community Integration Team, etc.)
- Health Centres (Adult Correctional Centres or Police Cells)
- Health Centres (Juvenile Justice Centres)
- Long Bay Hospital
- The Forensic Hospital

Previous Issue(s) Policy 3.090 (November 2011, March 2009)

Change Summary

- Simplified flow chart.
- Updated Justice Health & Forensic Mental Health Network title.

TRIM Reference POLJH/3090

Authorised by Chief Executive, Justice Health & Forensic Mental Health Network

1. Preface

The purpose of the policy and supporting procedures is to ensure Justice Health & Forensic Mental Health Network (JH&FMHN) has in place systems that encourage early grievance reporting and to ensure speedy and effective local resolution.

Good workplace grievance management can prevent minor workplace issues escalating into more serious matters. Such a system allows staff to raise legitimate workplace concerns early, with the option for informal resolution where appropriate. A key objective of grievance management systems is to ensure minor workplace issues are identified and resolved early and before they develop into more serious workplace concerns.

A workplace grievance is defined as a written or oral statement made by a staff member regarding a concern arising in the workplace. Examples may include, but are not limited to, interpersonal conflict, the way work is allocated or managed, interpretation of people management policies or a perceived unfairness in the workplace. Workplace grievances usually involve some concern or personal distress, and will usually, though not always, involve other people.

The procedures include tools to assist managers to assess initial workplace grievances, conduct further inquiries and maintain the appropriate records.

2. Policy Content

2.1 Mandatory Requirements

- Grievances must be managed in a fair, timely, appropriately confidential and effective manner in accordance with NSW Ministry of Health (MoH) [PD2010_007](#) *Grievance - Effective Workplace Resolution* and the procedures outlined in this policy.
- A staff member who wishes to make a protected disclosure of corrupt conduct, mal-administration or serious and substantial waste must follow the appropriate procedures outlined in JH&FMHN policy [2.140](#) *Public Interest Disclosures*.
- Documentation created for the purpose of lodging or investigating a grievance must be retained, managed and disposed of in accordance with JH&FMHN policy [2.014](#) *Corporate Records Management*.

2.2 Implementation - Roles & Responsibilities

2.2.1 Executive Directors

Executive Directors are responsible for:

- the implementation of the NSW MoH policy on grievance resolution;
- acting as a Grievance Manager which involves managing grievances at the local level, deciding on recommendations that flow from the investigation of serious work place grievances and ensuring that grievance management procedures commence within 28 days of a staff member notifying of a grievance;
- ensuring staff are aware of grievance management procedures;
- monitoring compliance; and

- promoting proactive workplace communication and relationship strategies to decrease the possibility of grievances developing.

2.2.2 Service Directors, Clinical Directors, Nurse Managers, Nursing Unit Managers and Department Managers

This level of management is responsible for ensuring they have the knowledge and skills to effectively deal with grievances including:

- grievance management in the orientation of new staff as part of the local department specific orientation;
- supporting staff who submit a grievance;
- promoting proactive workplace communication and relationship strategies to decrease the possibility of grievances developing; and
- dealing with a staff grievance in accordance with NSW MoH [PD2010_007](#) *Grievance – Effective Workplace Resolution*.

2.2.3 Managers

All managers are required to:

- Conduct an initial assessment of a workplace grievance;
- Resolve workplace grievances in a fair, timely and appropriately confidential way;
- Appropriately identify the mechanism for managing a workplace grievance where it is not to be managed as a grievance; and
- Gather and assess the relevant information in order to identify and implement the most appropriate grievance resolution option/s.

2.2.4 Staff Rights and Responsibilities

All staff should be aware of their rights and responsibilities in relation to grievance management as all parties have a significant role to play in resolving grievances.

Key rights of all staff include:

- Being provided with sufficiently detailed information to allow an appropriate response;
- Being treated with respect;
- Being provided a full and fair opportunity to have their say, and the right of reply;
- Being provided information on the progress of their grievance and on any decisions made that may affect them;
- Appropriate confidentiality and protection from recrimination;
- Impartial, prompt and professional management of the grievance to a speedy resolution.

Key responsibilities of all staff include:

- Recognising their role in harmonious workplace relations;
- Raising matters of concern at an early stage and actively participating in the grievance resolution process;

- Not raising malicious, vexatious or frivolous complaints; and
- Not releasing information relating to a grievance to any third party who has no legitimate involvement in the process.

2.2.5 Workforce

Workforce is responsible for providing advice and support to managers and staff in dealing with grievances, including:

- grievance management in the orientation of new staff as part of the JH&FMHN Orientation Program;
- delivering training and development activities to support NSW MoH [PD2010_007](#) *Grievance – Effective Workplace Resolution*;
- maintaining data on grievances that have been submitted to the Executive including, but not limited to:
 - the incident date
 - the work department
 - the nature of grievance
 - action taken by the staff member who submitted the grievance
 - action taken by JH&FMHN
 - the outcome.

3. Procedure Content

3.1 Raising a Grievance

Staff who have a grievance should in the first instance discuss the issue with their manager or if appropriate, with the person whom they have the grievance with in an attempt to resolve the issue informally. At this stage a written explanation of the grievance is not required for the manager to proceed. A third person may be able to assist both parties to resolve the issue. This could include a more senior manager or human resources department.

If it is not appropriate, or if attempts to resolve the grievance informally are unsuccessful, the staff member must be advised to submit a formal grievance in writing to his/her manager. Should his/her manager be the subject of the grievance or if the staff member has a valid reason for not submitting the grievance to his/her manager, the grievance must be submitted to the relevant Operational Manager or Service Director. In submitting a grievance, the staff member should include the following information:

Who is the grievance about and what other staff or witnesses may be able to corroborate the issues raised in the grievance;

What the grievance is about, including as much detail as possible about the actual complaint and information that will assist JH&FMHN to substantiate the complaint;

Where did the grievance, issue or incident(s) take place;

When did the grievance, issue or incident(s) take place. Actual times and dates are important; and

Redress Sought in submitting the grievance (what outcome is sought).

When a staff member is unable to write his/her statement, the manager or another person should assist by writing the statement for the staff member. The staff member should sign the statement acknowledging that it was recorded with their consent.

3.2 Initial Action on Receipt of a Grievance

When receiving a grievance, managers must ensure they do not have any conflict of interest either personal or professional, which may prevent them from dealing with the grievance. Managers must acknowledge receipt of a grievance (by letter or email) and notify the staff member who submitted a grievance as soon as possible and within twenty-eight days that the grievance management process has commenced.

On receipt of a grievance, the manager must determine (if necessary on advice from his/her line manager/Service Director or Workforce) how best to deal with the grievance. It may be appropriate to deal with the grievance informally with the staff member. However, if this cannot be achieved, or the staff member refuses to attempt to deal with the grievance informally, the grievance must be dealt with formally in accordance with this policy and NSW MoH [PD2010 007](#) *Grievance – Effective Workplace Resolution*. If the grievance has not yet been made in writing, then it now must be submitted in writing by the staff member or documented by the manager.

The manager must:

- decide to investigate the grievance; or
- refer the grievance to the next level of management because:
 - the issues raised are serious and/or may warrant the involvement of the Police or involve allegations of serious misconduct that may result in disciplinary action against staff;
 - the issues raised include allegations of corrupt conduct, maladministration or serious and substantial waste of public money which may be more appropriately dealt with as a Protected Disclosure; or
 - the grievance relates to the manager, the manager is involved in the issues raised or, the manager believes there would be a conflict of interest;
- acknowledge receipt of the grievance and brief the staff member who submitted the grievance on this policy and NSW MoH [PD2010 007](#) *Grievance – Effective Workplace Resolution* and the intended action; and
- take any immediate steps necessary to protect staff and/or equipment, to prevent a recurrence or to safe guard the interests of JH&FMHN and those involved.

3.3 Dealing with a Grievance

Once the decision is made to deal with a grievance, the JH&FMHN grievance management procedure involves a six step approach.

3.3.1 Identify the Problem/Issues

The information provided by the staff member submitting the grievance may be insufficient or incomplete. What might be obvious to the staff involved may need clarification by the person dealing with the grievance.

The onus is on the staff member to provide enough information for the relevant manager to take appropriate action. It is also important for the staff member to outline his/her desired outcome of the grievance as this information must be included in the final report.

3.3.2 Information Gathering

Once the initial assessment has determined that it is appropriate to manage the workplace grievance under the grievance management process, the facts of the matter need to be determined as far as possible. The purpose is to determine whether there is a reasonable basis for the grievance and to help determine the most appropriate option/s for a speedy resolution.

While the degree of formality will depend on the nature of the grievance and those involved, when gathering information there are some key principles that need to be considered. Information gathering should:

- Be undertaken fairly and impartially, by a competent person,
- Maintain appropriate confidentiality (refer to [Section 3.5](#)),
- Ensure both parties are given full opportunity to have their say,
- Include speaking to those identified by either party as having information relevant to the grievance,
- Focus on gaining all relevant information, with the objective of affecting a prompt and durable resolution of the matter/s,
- Include appropriate documentation and records (refer to [section 3.10](#)), and
- Ensure appropriate security of any related paperwork.

Other options need to be available where it is inappropriate for the line manager to manage the grievance.

Where the grievance is lodged against the manager or the manager feels that they he/she not be able to be impartial or objective, or be seen to be impartial in assessing the grievance or seeking further information, he/she should seek advice from their manager/director and/or relevant human resource staff who will assess the complaint and manage any ensuing grievance.

3.3.3 Conduct the Investigation

The investigation of a grievance will normally be conducted by the manager of the staff member who submitted the grievance. An investigation is a systematic review of all relevant information and facts relating to the grievance. It will involve the collection of evidence through a range of activities such as interviewing those involved, inspecting work locations, and reviewing documents, policies and procedures. A person conducting an investigation on behalf of JH&FMHN should report any obstruction in conducting the investigation to his/her line manager/Service Director without delay. The person conducting the investigation should also be mindful that his/her own actions may be reviewed if the grievance is referred to the next level of management. Where necessary, an interpreter or support for staff with a disability must be provided.

During the investigation there may be a need to interview other staff, including one or more staff who may be the subject of any allegation of wrong doing. When being interviewed, it must be stressed to staff that any attempt to harass the complainant about the grievance or as a result of the grievance would be unacceptable and could result in disciplinary action.

3.3.4 Develop and Implement a Plan of Action

Once the investigation is complete, a final report should be produced that details the background, the investigation findings and recommendations for action. The manager dealing with the grievance should

review the report (if conducted by someone else), decide what action to take and then take the necessary action. It may be necessary to refer the grievance and recommended action to a more senior manager who has the authority to act on recommendations listed in the report. It may be appropriate to detail a plan that includes actions, outcomes, timeframes and those responsible for the actions. The report must also include the expected outcome of the staff member who submitted the workplace grievance.

3.3.5 Monitor Implementation of the Plan of Action

As with all activities, implementation must be monitored and, where necessary, modified to meet changing circumstances. Failure to implement agreed actions may result in further grievances.

3.3.6 Evaluate the Outcome

Those involved in the grievance and the resolution should take time to evaluate the outcome of the process. Consideration should be given to determine if:

- The issues have been resolved;
- Lessons been learnt by the experiences; and if
- Necessary actions have been taken to prevent a recurrence.

The timeframe for evaluation should be linked to the action plan detailed above.

It is important to resolve the grievance as soon as possible while at the same time ensuring a balanced and thorough investigation. Staff who submit a grievance must be kept informed.

3.4 Options for Grievance Resolution

A range of options exist to assist managers to resolve grievances promptly and effectively. Because of the diversity of issues and personalities that can be involved, it is important to consider each grievance individually in order to determine the best course of action and the most appropriate resolution. Reasonable attempts should be made to resolve the grievance informally before initiating the formal grievance process.

3.4.1 Self resolution

All staff have a responsibility to contribute to a harmonious workplace. Staff should be encouraged to resolve minor workplace matters themselves. Many minor workplace issues may benefit from encouraging those involved to attempt to resolve the matter themselves.

3.4.2 Facilitation

Facilitation is a process whereby a manager attempts to facilitate a resolution between staff members without the use of more formalised procedures. Consideration should be given to using this as a first option, though it may not always be appropriate.

3.4.3 Mediation

Mediation is a voluntary and confidential process where an appropriately skilled mediator assists people in conflict to identify and isolate issues under dispute, and to establish an agreement on potential options to resolve these issues. Mediators are neutral assistants who do not make judgements and can be a trained internal person or an external professional mediator. Managers may contact Workforce if an external professional mediator may be required.

During mediation, the mediator aims to assist parties to find their own solution and may, in some instances, offer suggestions for resolution. They do not, however, direct a decision or provide advice about likely

outcomes. Both parties to a grievance must agree to mediation. Additionally, both parties must accept the mediator as being independent and having no vested interest in the outcome of the mediation.

Because mediation is conducted in a confidential, informal atmosphere that encourages participants to discuss issues in a more open manner than might otherwise be possible, there can be many benefits.

Even if agreement is not reached on all issues in dispute, parties are assisted to air their grievances in a constructive manner, and to reach an understanding of each other's position.

The benefits of using mediation to resolve grievances may include:

- Access to an objective and confidential mechanism for solving problems,
- Providing support to the parties so they may solve their own problems and make their own decisions, and
- Providing a useful option for a fair, effective and speedy resolution of workplace grievances.

3.5 Confidentiality

All parties have rights and responsibilities in relation to confidentiality. Information relating to a grievance must only be provided on a 'need to know' basis and must not be provided to third parties who have no legitimate involvement in the process. Those involved in a grievance have both the right to confidentiality and the responsibility for maintaining confidentiality. This includes confidentiality of the identity of those involved as well as the subject matter. Inappropriate release of information relating to a grievance or a person involved with a grievance to any third party with no legitimate involvement in the process will be dealt with in accordance with JH&FMHN policy [3.020 Conduct & Discipline](#).

The respondent must be provided with enough information to allow for an adequate opportunity to fully respond to the issues raised.

The respondent is entitled to, and must be provided with, enough information to allow an adequate response to the workplace grievance, including the employee who made the complaint.

As most workplace grievances usually involve a complaint by one person against another, the subject of the grievance will generally need to know who raised the complaint, in order to be able to adequately respond to the matters raised.

The grievance management process must not be confused with systems for managing performance, protected disclosures or other serious matters, where it may not be appropriate to divulge the identity of the person making the complaint. This reinforces the need for an adequate initial assessment to ensure that grievance management is the appropriate vehicle for resolving the situation.

3.6 Review Process

The resolution of most grievances will usually be determined and managed by the appropriate manager. On occasion, some or all parties to the grievance may wish to question the appropriateness of the process followed and/or the outcomes of the process. An effective review mechanism will assist in ensuring that the grievance management and resolution processes are fair and impartial and can stand up to scrutiny.

The process for requesting a review should be based on the following:

- The initial grievance management process has been completed with findings communicated to both parties;
- A review of the grievance management process is requested within a reasonable time frame (e.g. within two weeks of its completion);
- Sound reasons for requesting the review are identified. It should not be assumed that just because a party to the grievance may not accept the outcome that there is an automatic right of review;
- That, where a review is warranted, it is conducted within an identified and reasonable time frame;
- That the review is conducted impartially by someone who was not involved in managing the initial grievance;
- That the review focuses on the process followed to resolve the grievance (e.g. was it impartial, fair, inclusive and appropriate); and
- That the findings of the review and their reasons are communicated in writing to the relevant parties.

3.7 Industrial Award and Determination Dispute Resolution Provisions

Health industrial awards and determinations contain dispute resolution provisions for dealing with award matters. Where there is any uncertainty about whether the grievance must be dealt with through the award provisions, advice should be sought from Workforce.

3.8 Disciplinary Action against Staff

Recommendations flowing from the investigation of a grievance may include taking formal disciplinary action against staff. Any disciplinary action must be in accordance with JH&FMHN policy 3.020 *Conduct and Discipline*.

During the process of taking disciplinary action against staff, a grievance may be raised. When this occurs, the formal disciplinary action should continue and the grievance dealt with as a separate issue in accordance with this policy and NSW MoH [PD2010_007](#) *Grievance – Effective Workplace Resolution*.

3.9 Reporting on Workplace Grievances

The NSW MoH requires agencies to provide regular reporting on workplace grievances to ensure mechanisms are place for managing grievances effectively and in a timely manner. Reports will be provided by Workforce to the NSW MoH which must include aggregate information on grievances that has been de-identified.

Information that is reported should include:

- Dates grievances were first raised;
- Employment groups of those involved (e.g. the cleaner, manager etc.);
- The number of times each grievance has been raised (whether this was the first time, or whether the same matter has been raised a number of times);
- Work location (may need to go up a level if the particular work unit is small and identifying it may lead to the identity of those involved in the grievance);
- The nature of grievances (interpersonal, perceived unfair practices etc);

- Options utilised by managers to resolve each grievance (self-resolution, mediation, facilitation, administrative changes etc);
- Timeframes; and
- Whether a review process was activated.

3.10 Maintaining Grievance Documentation

Those managing grievances must maintain appropriate documentation. The type of documentation and level of detail will depend on the type of grievance, whether it was managed formally, level of complexity, and those involved. This can range from a simple diary note to more detailed notes kept locally, or to dedicated files on TRIM. The person gathering information on a grievance must keep a record of the findings and the process followed in managing and resolving the grievance.

Documentation should include:

- Key step/s taken to manage the grievance;
- Key points of information obtained when looking into the matter;
- Options activated to resolve the grievance, and timeframes; and
- Any process review.

The purpose of such documentation is to:

- Allow for a review of the management of a grievance if the review process is activated;
- Provide access to relevant information if the same grievance is lodged again at a future time, or the grievance worsens despite all efforts to resolve it; and to
- Provide information to support actions should the grievance be escalated to an external forum.

4. Definitions

Must

Indicates a mandatory action or requirement.

Should

Indicates a recommended action that needs to be followed unless there are sound reasons for taking a different course of action.

5. Related Documents

JH&FMHN Policies and Procedures

[2.014](#) *Corporate Records Management*

[2.140](#) *Public Interest Disclosures*

[3.020](#) *Conduct and Discipline*

NSW MoH Policy Directives, and Guidelines

[PD2010_007](#) *Grievances – Effective Workplace Resolution*

Appendix 1 - Flowchart: Grievance Management

