



## EMPLOYEE GRIEVANCE RESOLUTION POLICY

### 1. POLICY STATEMENT

WA Health is committed to the equitable and timely resolution of employee grievances. A grievance should be resolved promptly and in an atmosphere of mutual respect and cooperation.

WA Health is committed to ensuring that grievance resolution processes, actions and decisions comply with the Grievance Resolution Standard<sup>1</sup>. The [Grievance Resolution Standard](#) states that the minimum standard of merit, equity and probity is met if:

- employees are informed of their rights and responsibilities in the grievance resolution process
- the process is based on a proper consideration of the facts and circumstances prevailing at the time of the grievance
- decisions are impartial, transparent and capable of review.

All employees have a right to have a grievance heard without fear of unfair treatment or victimisation. If the complainant has cause for concern that their grievance is not being treated seriously or resolved appropriately, recourse is available to the appropriate decision maker in the hierarchy of responsibility.

### 2. SCOPE

This policy applies to all persons employed in WA Health, which incorporates the following entities:

- Department of Health
- Metropolitan Health Services
- WA Country Health Service
- Peel Health Service

Matters outside of the scope of this policy include those that are regulated by legislation or other WA Health Policies, some of which include, but are not limited to, the following:

- alleged acts of misconduct (refer to the [WA Health Misconduct Policy](#))
- substandard performance (see local Health Service substandard performance policy).
- alleged [breaches of the Public Sector Standards in Human Resource Management](#)
- workers compensation (see workers compensation processes at <https://healthpoint.hdwa.health.wa.gov.au/workingathealth/osh/Pages/workers-compensation-and-injury-management.aspx>)

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<sup>1</sup> The Public Sector Standards in Human Resource Management - Grievance Resolution Standard

- disputes over the application or operation of Awards and/or Agreements (refer to relevant [Industrial Agreement](#))
- disputed compensation or reclassification claims, including alleged denied contractual benefits, underpayments or those within scope of the Industrial Magistrates Court
- industrial relations matters that are the subject of applications to the Western Australian Industrial Relations Commission or Fair Work Australia
- matters that have been lodged with the Equal Opportunity Commission
- [Public Interest Disclosure](#) (contact local HR or Corporate Governance for assistance).

This is a whole of health policy and supersedes all policies related to employee grievance resolution in WA Health.

This policy is supported by local Health Service guidelines (see section 6).

### 3. DEFINITIONS

**Complainant** is the person/s who lodges a grievance pursuant to this policy.

**Grievance** is any real or perceived problem or concern in relation to work, the work environment or working relationships which is raised with the employer by an employee (the complainant), where the problem or concern has a direct impact upon the complainant (see section 2 for matters that are outside the scope of this policy).

**Grievance resolution** is the process used to resolve or redress employee grievances. Grievance resolution is not a disciplinary process.

**Parties** are the people involved in the grievance resolution process.

**Procedural fairness** concerns rules of common law relating to how a decision maker should act when making decisions that may adversely impact upon a person's rights or interests to ensure that there is a fair and equitable process<sup>2</sup>.

**Respondent** is the person/s against whom a grievance has been lodged.

### 4. GRIEVANCE RESOLUTION PRINCIPLES

- 4.1. The grievance resolution process will comply with the Grievance Resolution Standard, the [Public Sector Code of Ethics](#) and the [WA Health Code of Conduct](#).
- 4.2 Employees who are parties to a grievance will be informed about the grievance resolution process.
- 4.3 The parties should attempt to resolve the grievance informally before resorting to formal or more structured processes.
- 4.4 Grievance resolution is the responsibility of the relevant line manager. Where required, the grievance may be escalated to a more senior management level.

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<sup>2</sup> A Guide to the Disciplinary Provisions contained in Part 5 of the PSM Act, Public Sector Commission

- 4.5 Grievances will be considered seriously and will be dealt with fairly, sensitively and as quickly as possible. If a grievance cannot be resolved within a reasonable period of time, the employer will inform all parties about the delay and the reasons for the delay.
- 4.6 If at any stage of a grievance process the employer determines the matter constitutes misconduct, the matter is to be progressed in accordance with the Misconduct and Discipline Policy. Any remaining issues may continue to be addressed under the grievance resolution process. The complainant and respondent will be informed accordingly.
- 4.7 The following principles of procedural fairness should be afforded for the duration of the grievance resolution process:
- no finding shall be made against the respondent prior to the completion of the grievance resolution process
  - the respondent must be given relevant details of any grievance and time and opportunity to respond to the particulars of the grievance
  - reasonable time and notice must be provided to all persons involved in the grievance resolution process to enable them to prepare for meetings
  - complainants and respondents must be given the opportunity to present their case and to respond to any adverse material
  - aids or additional support (e.g. an interpreter) should be made available to an employee involved in the grievance resolution process, if required, to enable them to participate fully in the process
  - the decision maker is impartial and acts without bias when making the decision (see [WA Health Managing Conflict of Interest Policy](#) for further information)
  - the decision, the reasons for the decision and the evidence upon which the decision is made are explained, documented and are capable of review.
- 4.8 All parties will maintain appropriate confidentiality during the grievance resolution process.
- 4.9 The lodgement of a grievance will not result in unfair treatment or victimisation of any party.
- 4.10 Where, at any stage in resolving the grievance, the employer determines that a grievance is frivolous, vexatious, misconceived or lacking in substance, the employer may dismiss the grievance. A finding that a grievance has been made frivolously or vexatiously may lead to disciplinary action against the complainant under the Misconduct and Discipline Policy.
- 4.11 The complainant may at any stage withdraw their grievance if they do not wish to proceed. In circumstances where the employer believes that the matter warrants further action, the employer may pursue the matter of its own accord.
- 4.12 Each party involved in a grievance process is entitled to be accompanied to meetings/discussions by a support person of their choice.
- 4.13 Each party has the right to obtain the advice of a suitably qualified person to advise or support them in dealing with the grievance. This could be a person or persons internal and/or external to the organisation. Each party is responsible for covering their own costs.

- 4.14 Employees involved in a grievance resolution process should be informed about the Employee Assistance Program (EAP) relevant to their health service for confidential counselling and support.
- 4.15 Depending on the nature of the grievance, the employer may elect to appoint an external consultant. The employer will provide the external consultant with a clear scope of the work required and the process to be followed (refer to the [Common Use Arrangements](http://www.contracts.wa.finance.wa.gov.au/index.jsp) webpage <http://www.contracts.wa.finance.wa.gov.au/index.jsp> for further information).
- 4.16 Appropriate levels of documentation will be maintained for each grievance, having regard for:
- public sector record keeping practices
  - the provisions of the General Disposal Authority for Human Resource Management Records
  - the requirements of the *Freedom of Information Act 1992*.
- 4.17 Grievance documentation will be held in a confidential file in secure storage.

## 5. BREACH CLAIMS

Once the final reviewable decision is made, the complainant and respondent are to be notified in writing that they may make a breach claim in relation to the reviewable decision, how the claim may be made and the prescribed period in which the claim must be lodged<sup>3</sup>.

If a breach claim is lodged with a health service, reasonable attempts are to be made to resolve the claim with the claimant.

If the claim is not resolved within 15 days after it is lodged, the relevant health service must send to the Public Sector Commissioner:

- the claim
- the name and the telephone number or contact details of the claimant and the nominated officer any document that the health service consider relevant to the claim.

The Health Service must also provide written notice to the claimant that the claim has been sent to the Public Sector Commissioner<sup>4</sup>.

## 6. LOCAL HEALTH SERVICE EMPLOYEE GRIEVANCE RESOLUTION GUIDELINES

[Local Health Service guidelines](#) should:

- describe step by step how this policy is to be applied
- define the responsibilities of employees who are required to apply the policy and of individuals lodging grievances

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<sup>3</sup> For further information, refer to Regulation 5, *Public Sector Management (Breaches of Public Sector Standards) Regulations 2005*

<sup>4</sup> For further information, refer to Regulation 10, *Public Sector Management (Breaches of Public Sector Standards) Regulations 2005*

- make provision for feedback to both complainants and respondents on the outcomes and reasons for grievance decisions
- ensure that an employee's grievance is directed to the appropriate line manager.

## 7. QUERIES AND ADVICE

Employees and managers with queries or seeking advice should contact local Health Service Human Resources.

## 8. RELEVANT LEGISLATION

*Public Sector Management Act 1994 (WA)*

*Public Sector Management (Breaches of Public Sector Standards) Regulations 2005 (WA)*

*Freedom of Information Act 1992 (WA)*

*Public Interest Disclosure Act 2003 (WA)*

*State Records Act 2000 (WA) (as amended)*

Legislation can be accessed at

<http://www.slp.wa.gov.au/legislation/statutes.nsf/default.html>

## 9. RELEVANT DOCUMENTS

- Western Australian Public Sector Code of Ethics  
(<http://publicsector.wa.gov.au/publications-resources/instructions-standards-and-circulars>)
- WA Health Code of Conduct  
<https://healthpoint.hdwa.health.wa.gov.au/integrity/codeofconduct/Pages/default.aspx>
- Public Sector Standards in Human Resource Management  
(<http://publicsector.wa.gov.au/publications-resources/instructions-standards-and-circulars>)
- relevant WA Health industrial awards and agreements  
(<http://www.health.wa.gov.au/awardsandagreements/>)
- WA Health Misconduct Policy  
([http://www.health.wa.gov.au/circularsnew/circular.cfm?Circ\\_ID=13150](http://www.health.wa.gov.au/circularsnew/circular.cfm?Circ_ID=13150))
- WA Health Managing Conflict of Interest Policy and Guidelines  
([http://www.health.wa.gov.au/circularsnew/circular.cfm?Circ\\_ID=12611](http://www.health.wa.gov.au/circularsnew/circular.cfm?Circ_ID=12611))
- WA Health Preventing and Responding to Workplace Bullying Policy  
([http://www.health.wa.gov.au/circularsnew/circular.cfm?Circ\\_ID=12968](http://www.health.wa.gov.au/circularsnew/circular.cfm?Circ_ID=12968))
- WA Health Equal Opportunity and Diversity Policy  
([http://www.health.wa.gov.au/circularsnew/circular.cfm?Circ\\_ID=12969](http://www.health.wa.gov.au/circularsnew/circular.cfm?Circ_ID=12969))

Please Note:

- The links in this document are provided as a service. Links to documents can be volatile. If the link is broken you may need to search for the document.

## 10. AUTHORITY

<b>Policy link</b>	<a href="http://www.health.wa.gov.au/circularsnew/circular.cfm?Circ_ID=13005">http://www.health.wa.gov.au/circularsnew/circular.cfm?Circ_ID=13005</a>
<b>Policy Owner</b>	Workforce Directorate
<b>Contact</b>	<a href="mailto:policyofficer@health.wa.gov.au">policyofficer@health.wa.gov.au</a>
<b>Superseded Documents</b>	Operational Directive 0138/08
<b>Authorised by</b>	Director General
<b>Approval Date</b>	5 June 2013
<b>Review Date</b>	5 June 2016

**This information is available in alternative formats upon request.**