



Tasmania

**DEPARTMENT OF  
PREMIER AND CABINET**

**Grievance Policy and Procedures**

April 2006

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# 1. POLICY

## 1.1 Statement of Intent

The Department of Premier and Cabinet is committed to providing a work environment that allows staff to reach their full potential. It is the department's objective to ensure that it provides employees with a fair and equitable workplace where staff can raise their concerns without fear of retribution. The workplace should be safe, fair and free from discrimination for all staff. The department also has the responsibility to ensure that staff are not subjected to behaviour that may constitute unlawful discrimination, harassment, vilification or victimisation.

An essential part of developing that environment is ensuring that employees feel confident that they can raise concerns in the knowledge that a responsible officer will take prompt and effective action to address the issues. It is recognised that grievances that are not addressed have the potential to grow into major problems that can cause tension, lower morale, reduce performance and productivity.

This Policy applies to all staff and is aligned with the State Service Code of Conduct and the State Service Principles both of which provide guidance on the expected standards of behaviour.

This Policy does not limit the right of staff members to seek the advice and assistance of a union, other professional association or any external agency in the resolution of their grievance.

## 1.2 Coverage

The Policy applies to **all** staff grievances including unlawful discrimination, vilification or harassment.

Grievances may arise between employees and managers/supervisors over a range of issues including;

- working conditions (hours of work, leave etc), access to training and career development opportunities, variation of duties, or any other decision/action/inaction within the Department of Premier and Cabinet.
- unlawful discrimination if it contains allegations of unfair and inequitable treatment on the basis of a person's race, ethnic and ethno-religious origin or nationality; sex or sexual preference (including transgender); marital status; status as carer; pregnancy or potential pregnancy; age; disability; religion; trade union or political affiliation.

- ❑ vilification on the grounds of race, sexual preference, health status e.g HIV/Aids status.
- ❑ unlawful harassment including unwelcome and offensive or intimidating behaviour, comments or images based on any of these grounds.

This Policy also applies to the use of the departmental computers and telephone facilities including voicemail, email and the Internet.

### 1.3 Principles

Grievance resolution is an integral part of a manager's and/or supervisor's duties, which includes responsibility for identifying, preventing, responding to, and redressing problems in the workplace.

Grievances should be treated seriously and sensitively, having due regard to procedural fairness, confidentiality and privacy. Requirements relating to confidentiality and privacy extend to the use and storage of any information and records related to a grievance.

Grievances should be handled quickly and as close as possible to their source. This may be influenced by the nature of the grievance and the staff member's wishes. Staff should raise concerns as early as possible after the decision/action/inaction/incident/s occurs.

Wherever possible, grievances should be resolved by a process of discussion, cooperation and conciliation. The aim is to reach an acceptable outcome that minimises any potential detriment to ongoing work relationships.

The staff member raising the grievance (the complainant) and if applicable, the person against whom the grievance is made (the respondent), will receive appropriate information, support and assistance in resolving the grievance. An employee may bring a support person including a Workplace Behaviour Contact Officer to any interview.

No person shall be victimised because they raise a complaint or are associated with a grievance. Section 10(5) of the State Service Act provides that an officer or an employee must not victimise, or discriminate against another officer or employee because they have reported an alleged breach of the Code of Conduct.

Staff should not instigate grievances that are frivolous or malicious. All staff are expected to participate in the grievance resolution process in good faith.

Since the aim of this Policy is to resolve an issue between the parties, and that may involve negotiation, conciliation or mediation, it is not possible to investigate anonymous complaints.

## 2. PROCEDURES

- 2.1 Before initiating the grievances procedures, the complainant should try to resolve the problem directly with the person/s concerned. If this is not possible or appropriate, the complainant should proceed to ***Step 1*** of the procedure below.

The complainant may seek advice or assistance on the best way to tackle a problem or complaint from a *Workplace Behaviour Contact Officer* (see list below). The *Workplace Behaviour Contact Officer* may provide advice or assistance in clarifying the nature of the problem and in identifying the appropriate responsible officer but shall not act as an advocate in resolving a complaint.

### 2.2 ***Step 1 – Talk to the immediate supervisor***

Where a complainant is unable to resolve a grievance themselves, they should refer the matter to the immediate supervisor or person with the appropriate line authority to resolve the matter. Where the grievance involves a supervisor the complainant should refer the matter to the next management level.

The supervisor/manager shall assess the complaint to determine whether it is appropriate for the matter to be dealt with under the internal grievance procedures or as a potential breach of the Code of Conduct.

The supervisor/manager should address a grievance expeditiously and normally within ten working days of receiving the complaint. The supervisor should ensure procedural fairness for all parties involved by:

- a) listening carefully to a complainant's concerns and identify their desired outcome/s and ensure that the complainant is content for the supervisor to approach the respondent;
- b) ensuring that a request not to proceed with a grievance investigation is provided in writing by the complainant;
- c) giving the respondent an opportunity to answer allegations and considering any responses given;
- d) providing the complainant and the respondent with a copy of the grievance policy outlining the grievance procedures and the range of options available;
- e) completing the *Grievance Investigation Report Form* and immediately forwarding it to the Human Resource Manager at the completion of the case (make any additional notes and diarise events as appropriate, which may include some form of confidential file note);

- f) considering whether the matter can be resolved at the local level or whether it should be referred to Stage 2 or 3 of these Procedures;
- g) keeping the complainant and the respondent informed of actions taken and the progress of a complaint;
- h) documenting the actions taken to resolve the grievance including any findings made or agreements reached and providing a copy to the complainant and the respondent; and
- i) monitoring and reviewing the situation during and after resolution.

### 2.3 ***Step 2 – Referral to the Divisional Head***

If the complaint remains unresolved by the end of ***Step 1 or exceeds the ten working days time line***, it must be referred to the Divisional Head. The Divisional Head must act to resolve the matter within ten (10) working days of receiving the grievance, following similar processes outlined in ***Step 1***.

If a grievance is not resolved within those ten (10) working days, the Divisional Head will provide a written report to the Secretary (***Step 3***).

### 2.4 ***Step 3 – Referral to the Secretary***

If a grievance remains unresolved it may be referred in writing to the Secretary. A complaint may be referred by a complainant, supervisor, or Divisional Head.

The Secretary may take whatever action considered appropriate, including:

- a) referring the complaint back to the Divisional Head for further investigation and action;
- b) resolving the complaint directly having undertaken any further investigation the Secretary considers appropriate;
- c) referring the complaint for external mediation; or
- d) Dismissing the complaint.

Determinations made by the Secretary in accordance with Step 3 of these Procedures with regard to the grievance will be final, save for the complainant/respondent's right to pursue the matter to external resolution.

The Secretary will seek to take action in accordance with (a) to (d) above within twenty (20) working days. Where this is not possible, the Secretary will advise the complainant and respondent of the expected timeframe for resolution of the matter.

### 3. OUTCOMES

- 3.1 Outcomes will vary from case to case depending upon the nature and circumstances of each grievance. Outcomes can range from:
- a complainant gaining a better understanding of the situation resulting in a resolution of their concerns;
  - a verbal or written apology;
  - an agreement to participate in counselling, mediation; or
  - disciplinary action where a breach of the Code of Conduct has been established.

Malicious or vexatious complaints may also result in the complainant facing disciplinary action under the *State Service Act 2000*.

- 3.2 Disciplinary action may be taken where an employee is found to have breached the Tasmanian State Service Code of Conduct viz:
- (1) An employee must behave honestly and with integrity in the course of State Service employment.
  - (2) An employee must act with care and diligence in the course of State Service employment.
  - (3) An employee, when acting in the course of State Service employment, must treat everyone with respect and without harassment, victimisation or discrimination.
  - (4) An employee, when acting in the course of State Service employment, must comply with all applicable Australian law.
  - (5) For the purpose of subsection (4), “Australian law” means any Act (including this Act) or any instrument made under an Act; or any law of the Commonwealth or a State or Territory, including any instrument made under such a law.
  - (6) An employee must comply with any standing orders made under section 34(2) and with any lawful and reasonable direction given by a person having authority to give the direction.
  - (7) An employee must maintain appropriate confidentiality about dealings of, and information acquired by, the employee in the course of that employee’s State Service employment.
  - (8) An employee must disclose, and take reasonable steps to avoid, any conflict of interest in connection with the employee’s State Service employment.

- (9) An employee must use Tasmanian Government resources in a proper manner.
- (10) An employee must not knowingly provide false or misleading information in connection with the employee's State Service employment.
- (11) An employee must not make improper use of information gained in the course of his or her employment: or the employee's duties, status, power or authority in order to gain, or seek to gain, a gift, benefit or advantage for the employee or for any other person.
- (12) An employee who receives a gift in the course of his or her employment or in relation to his or her employment must declare that gift as prescribed by the regulations.
- (13) An employee, when acting in the course of State Service employment, must behave in a way that upholds the State Service Principles.
- (14) An employee must at all times behave in a way that does not adversely affect the integrity and good reputation of the State Service.
- (15) An employee must comply with any other conduct requirements that is prescribed by the regulations.

## 4. RECORD KEEPING

- 4.1 **Notes and records made during a grievance investigation**

All records or notes taken by the supervisor/ manager, including the *Grievance Investigation Report Form*, should be stored in a secure and confidential location during the investigation of a complaint. Notes should only be kept during the grievance process and should be disposed of appropriately once the process is complete.
- 4.2 **Records of unsubstantiated and other informal complaints**

Complaints received which are unproven, unsubstantiated and/or resolved at an informal level, may be destroyed after a period of two years from the completion of the investigation (consistent with the Disposal Schedule of the *Archives Act 1983*), unless the Human Resource Manager determines otherwise. Where the Human Resource Manager determines that records are to be retained for a longer period, there will be a clearly specified reason for this decision recorded on the file. **This information is not to be stored on employee personnel files.**

4.3 **Grievance Investigation Report Form**

Where a grievance is resolved and a *Grievance Investigation Report Form* has been completed by a supervisor/ manager or Divisional Head, it should immediately be forwarded in confidence to the Human Resource Manager. The content of all unofficial notes made by the supervisor or Divisional Head should be, and will be deemed to be included within the *Grievance Investigation Report Form*. If the information on the *Grievance Investigation Report Form* is insufficient to record the steps taken in the resolution of the complaint by the supervisor or the Divisional Head and/or the detail of any agreement reached between the complainant and respondent, then extra documentation outlining those matters should be provided with the *Grievance Investigation Report Form* to be stored by the Human Resource Manager.

4.4 **Documentation relating to disciplinary action**

Where a grievance investigation results in disciplinary action being taken all relevant documentation will be held in a secure location by the Human Resource Manager. Should a particular complainant, or respondent be involved in multiple complaints over a period of time, the Human Resource Manager may refer that history of involvement in complaints to the Secretary to consider whether any action is required to address the repeated nature of the conduct.

4.5 Documentation relating to a complaint that results in disciplinary action, including any outcomes, will be attached to the relevant officer or employee's personal file.

4.6 Complaints that are proven and follow the process for disciplinary action under the *State Service Act 2000* should be destroyed after seven years, (consistent with the Disposal Schedule of the *Archives Act 1983*). If the Secretary determines that records are to be retained for a longer period, the reason shall be recorded on file.

4.7 Files relating to investigations and/ or disciplinary action taken will not be transferred to other agencies where a respondent is promoted or transferred to another agency.

4.8 All records will be treated in the strictest confidence with access limited to authorised personnel as follows:

Secretary	Unlimited
Director, Corporate Services	Unlimited
Manager, Human Resources	Unlimited
Investigating officer	Limited to records and documentation related to the specific complaint under investigation
Supervisor	All records gathered and any formal agreements reached between the parties
Divisional Head	All records gathered during endeavours to resolve a grievance

## 5. LEGISLATION

Outlined below are the relevant Acts governing this Policy and Procedures.

- 5.1 *State Service Act 2000*
- 5.2 *Anti Discrimination Act 1998 (Tas)*
- 5.3 *Racial Discrimination Act 1975*
- 5.4 *Disability Discrimination Act 1992*
- 5.5 *Human Rights & Equal Opportunity Commission Act 1986*

## 6. EXTERNAL AGENCIES

It is a complainants right to pursue external avenues of redress at any time, however complainants are encouraged to pursue the Department of Premier and Cabinet's internal grievance procedures first. *Commissioner's Direction 7* concerning applications for a review of a state service action provides that excepting a selection decision in relation to a permanent appointment, employees will normally be expected to utilise internal Agency grievance resolution systems in an attempt to resolve their grievance.

Relevant external organisations include;

Anti Discrimination Commission  
Level 1, 54 Victoria Street Hobart Tas 7000  
GPO Box 197 Hobart Tas 7001  
Tel: (03) 6233 4841. **Statewide local call** 1300 305 062  
Fax:(03) 6233 5333  
Email: [AntiDiscrimination@justice.tas.gov.au](mailto:AntiDiscrimination@justice.tas.gov.au)

Human Rights and Equal Opportunity Commission  
Telephone 6234 3599 or 1800 001 222

State Service Commissioner  
Phone: (03) 6233 6543

Fax: (03) 6233 2693

Email: [ossc@dpac.tas.gov.au](mailto:ossc@dpac.tas.gov.au)

(The State Service Commissioner's role with State Service employees under the provisions of the State Service Act 2000, includes claims of unfair or inequitable treatment in the person's employment.)

### Tasmanian Industrial Commission

4th Floor, Commonwealth Law Courts, 39 - 41 Davey Street, Hobart.

GPO Box 1108, Hobart, Tasmania 7001

Tel (03) 6233 7808 Fax: (03) 6223 8012

Email: [tic@justice.tas.gov.au](mailto:tic@justice.tas.gov.au)

### Ombudsman

Ground Floor, 99 Bathurst Street Hobart Tas 7000.

GPO Box 960

1300 766 725 (Cost of a local call from anywhere in Australia)

Fax: (03) 6233 8966

Email: [ombudsman@justice.tas.gov.au](mailto:ombudsman@justice.tas.gov.au)

### Tasmanian Court System

## 7. WORKPLACE BEHAVIOUR CONTACT OFFICERS.

Hereunder is a list of Workplace Behaviour Contact Officers within your particular division. You can however, contact any one of the persons listed.

Address	WHC Officer	Phone
Multicultural Tasmania Level 2, 144-148 Macquarie Street, Hobart	Lyn Andersch	6233 6445
	Belinda Bradford	6233 4526
Local Government Division Level 5, 15 Murray Street, Hobart	Margaret Sing	6233 6091
Corporate Services Level 6, 15 Murray Street Hobart	Robert Gunn	6233 2499
	Mark Cook	6233 3322
Training Consortium Level 7, 144-148 Macquarie Street, Hobart	Paul Leitch	6233 4526
Telecommunications and Management Division and Computing Services Level 4, 15 Murray Street, Hobart	Greg Taylor	6233 6799
	Marilyn Bresnehan	6233 7648
Northern Parliamentary Offices 53 St John Street Launceston	Marilyn Murdock	6336 2253

## 8. EMPLOYEE ASSISTANCE SERVICE

The Employee Assistance Service complements the support of your supervisor, Workplace Behaviour Contact Officers and the Human Resources Branch. This service is strictly confidential and free of charge.

Contact can be made in the following manner:

Telephone	1800 337 068
Email	<a href="mailto:itim@itim.com.au">itim@itim.com.au</a>
Internet	<a href="http://www.itim.com.au">www.itim.com.au</a>

# 9. REPORT FORM

## 9.1 Grievance Investigation Report Form

 <p>Tasmania</p>	<p><b>Confidential</b></p> <p>Department of Premier and Cabinet</p> <p><b>GRIEVANCE INVESTIGATION REPORT</b></p>
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Fill out this form if you are the supervisor or manager who is dealing with a grievance.

*At the end of your involvement with the case please forward the form, in an envelope marked confidential to the Human Resource Manager, Department of Premier and Cabinet, 15 Murray Street, Hobart. Contact the Human Resource Manager if you have any questions about the form on 6333 3668.*

### PART A – (To be completed for the Complainant)

#### SECTION 1

SUPERVISOR/ MANAGER'S DETAILS			
Surname:		Given Names:	
Branch/Unit:		Telephone:	

#### SECTION 2

<b>COMPLAINANT DETAILS:</b>		Male: <input type="checkbox"/>	Female: <input type="checkbox"/>
Surname:		Telephone:	
Given Names:		Division:	
Position:		Branch/Unit:	
Age: <20 <input type="checkbox"/> 21-30 <input type="checkbox"/> 31-40 <input type="checkbox"/> 41-50 <input type="checkbox"/> >50 <input type="checkbox"/> Unknown <input type="checkbox"/>			
Person from a Diverse Cultural Background <input type="checkbox"/>		Aboriginal/Torres Strait Islander <input type="checkbox"/>	Person with an Identified Disability <input type="checkbox"/>



**WITNESS(ES) DETAILS**

Surname(s):	Given Names:	Position(s)

**RESPONDENT(S) DETAILS**

Surname(s):	Given Names:	Position(s)

**SECTION 5**

**Has the complainant requested the presence of a Workplace Behaviour Contact Officer  
–Yes/No –  
If Yes, who \_\_\_\_\_**

Signed: \_\_\_\_\_  
(Supervisor/Manager )

Signed: \_\_\_\_\_  
(Complainant)

Date: / /

Date: / /



***PART C – (To be completed by the Investigating Supervisor/Manager)***

**SECTION 7**

**What action was taken to deal with this complaint?**

- a) Information given, no further action requested by the complainant
- b) Attached written request by complainant withdrawing complaint
- b) Complaint dealt with directly by complainant

- Please provide brief details of actions taken to resolve the matter and the outcome  
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.....

- Did you undertake any follow up? (give date and details)  
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- c) Complaint dealt with by supervisor/manager

- Please provide brief details of action taken to resolve the matter and the outcome  
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- Did you undertake any follow up? (give date and details)  
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d) Complaint dealt with by Divisional Manager

- Please provide brief details of action taken to resolve the matter and the outcome

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- Did you undertake any follow up? (give date and details)

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.....

e) Complaint referred to Secretary for investigation

- Please provide brief details of action taken to resolve the matter and the outcome

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**What was the outcome?**

**Resolved - by agreement**

**Resolved - by other means**  (please explain)

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.....

**Unresolved**  Why?

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.....  
.....  
.....

**Referred to external agency**

When? .....

Who? .....

Outcome:.....  
.....  
.....

**Any further details or comments:**

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.....  
.....  
.....  
.....  
.....

Signed: \_\_\_\_\_ Position: \_\_\_\_\_

Date: / /

**THIS DOCUMENT IS STRICTLY CONFIDENTIAL & MUST BE STORED  
IN A SECURE PLACE**