

# GRIEVANCE RESOLUTION POLICY



Document Number	
Last Reviewed	<b>November 2019</b>
Next Review	<b>November 2020</b>
Responsible Officer	<b>People, Culture &amp; Safety Manager</b>
Applicable Legislation	<b>Fair Work Act 2009, Fair Work Regulations 2009</b>
Relevant Policies	<b>EEO, Bullying and Harassment</b>
Related Procedures	

## WAFC CORE VALUES

**Our People | Our Relationships | Being our very best | Leading our Industry**

### PURPOSE

The purpose of the grievance resolution procedure is to promote a work environment whereby employees are encouraged to discuss and resolve concerns in a respectful, positive and constructive manner, with a focus on mediation and resolution rather than confrontation and conflict. The aim of this procedure is to contribute towards establishing and maintaining a safe and healthy work environment for all staff.

This document provides guidance on the process by which employees may raise and address concerns, to promote the application of a fair and consistent approach.

This procedure aims to achieve fair and consistent treatment in the handling of grievances in the workplace and sets out a process for reporting, investigating and resolving workplace grievances at the West Australian Football Commission.

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## POLICY DETAILS

Grievances include any type of problem, complaint, issue or concern relating to an employee's work or workplace whereby they feel that an act, behaviour, situation, decision or omission has had an unfavourable effect on them by being unfair, unjustified and/or unlawful.

This may include instances of unlawful discrimination, harassment (such as sexual harassment), bullying, vilification or victimisation, which are further defined below.

It is important to note that perception of behaviours and their consequences may be different from an individual's intent, however behaviours that cause grievances should cease immediately, whether it was intended or not.

### 1. GUIDING PRINCIPLES

The principles which apply to employee grievances are:

- No person is to be subject to victimisation as a result of raising a grievance;
- Everyone has a right to be treated with respect;
- The WAFC supports the right of any employee to make a legitimate complaint without suffering victimisation, harassment, recrimination or detriment as a result;
- Employees should be encouraged to come forward with any grievance and all parties are to be dealt with in a supportive manner;
- Grievances will be dealt with in a reasonable timeframe;
- Supervisors/managers have a legal responsibility to take all reasonable steps to identify and attempt to prevent and resolve problems in the workplace. Anyone involved in investigating a grievance either via informal or formal mechanisms should observe the Principles of Natural Justice which include:
  - People should know about any matters affecting them.
  - People cannot be decision makers about matters that will affect them.
  - Decision makers must act fairly and without actual or perceived bias.
  - All parties to a decision should be heard and all relevant arguments be considered before a decision is made.
  - People affected by the matter should have an opportunity to present their point of view before a decision is made.
  - People should have an opportunity to respond to any adverse material, which will influence a decision affecting them.
- Grievances/complaints will be treated promptly (see timeframes);

- Wherever possible, complaints will be resolved departmentally and informally (naturally this will depend on the seriousness of the complaint), and with the fewest people possible involved to protect the reputation of the individuals involved;
- Wherever possible, complaints will be resolved through discussion, facilitation and mediation. The aim is to find an outcome that minimises the detriment to ongoing relationships;
- Complainants and respondents may have at all times a support person involved. The representative however may not have a representative lodge a complaint on their behalf;
- Ill-founded complaints that are misconceived, or lack substance, will not be pursued;
- Unlawful discrimination, harassment, victimisation or bullying can lead to disciplinary action including termination on the grounds of misconduct, or serious misconduct. Complaints that are malicious, or intended to intimidate or harass the respondent can lead to disciplinary action against the complainant;
- The grievance procedure is completely confidential. Only the people involved in making or investigating a complaint will have access to information about the complaint. Anyone involved is instructed to maintain confidentiality and not to discuss the complaint with any other person except during the course of the investigation;
- Wherever possible, a non-adversarial and non-judgmental resolution will be pursued;
- At any stage during the process, the parties to the process may appoint a support person to accompany them;
- Appropriate documentation should also be maintained throughout the process, as applicable;
- Grievances will be treated in confidence and where confidentiality cannot be guaranteed this will be clearly indicated; and
- All WAFC employees' can at any time seek confidential counselling and support via our Employee Assistance Program (EAP).

## 2. RAISING & RESOLVING A GRIEVANCE

Grievances may be raised and resolved by either an informal or formal process; the decision as to whether to follow a formal or informal process is made by the employee who is affected by the behaviour (whether they raised the grievance or not), except in cases where the serious nature of the alleged misconduct warrants a formal investigation.

While it is expected that the employee concerned will usually be the one to raise the grievance, in some circumstances a manager or supervisor may observe unacceptable conduct occurring with regards to an employee and take independent action to address the issue (i.e. through speaking to parties involved to try and resolve) even though no complaint has been made.

Employees also have the right to raise concerns relating to sexual harassment, bullying and discrimination in the workplace with the Western Australian Commissioner for Equal Opportunity.

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## 2.1 Documentation & Record Keeping

It is important to always keep a secure and accurate record of incidents, noting what happened, when and the names of witnesses, if any.

## 3. INFORMAL GRIEVANCES

The different ways in which an informal resolution process can take place include self-resolution, management assisted resolutions and People & Culture facilitated resolution.

### 3.1 Self-Resolution

The complainant is encouraged first to talk to the person involved to try to address their concerns directly with the person(s) who they feel has acted inappropriately, as soon as possible and in a professional manner.

This contact may be verbal or in writing; informing them of the concerns, that their behaviour is unacceptable and requesting that it stop immediately, along with further discussion as required to enact a change; the employee may also wish to seek advice on possible strategies from the People, Culture & Safety Manager.

If this is difficult or if the response is dissatisfying the person is to report the grievance to their supervisor/manager.

### 3.2 Management Assisted Resolution

If the employee feels they are not able to resolve the matter directly on their own or their attempts to address it are not successful, they should discuss the matter with their manager who can either;

- facilitate a meeting and act as a mediator between parties to find a resolution; or
- speak to the person on the employee's behalf, in which case they will privately convey their concerns and reiterate any applicable WAFC policy relating to their conduct and behaviour without assessing the merits of the case.

Depending on the seriousness or nature of the matter, the supervisor/manager may liaise with the People, Culture and Safety Manager and/or People and Culture Specialist for the best approach to resolve/address the grievance. If the grievance cannot be resolved at this level the supervisor shall, within three days refer the matter to their relevant Executive Manager. Where the matter is referred to the Executive Manager, the Executive Manager will be required to address/deal with the grievance within one week of it being referred to him/her.

At any stage, the complainant can contact the People, Culture and Safety Manager and/or People and Culture Specialist, or an external legal advisor to seek advice on how and with whom to raise the matter.

## 3.3 HR Facilitated Resolution

Where manager involvement is either not possible, appropriate or successful, the next stage is to contact the People, Culture & Safety Manager who will appropriately deal with the grievance.

*Note:* At this stage, the grievance may be informal or formal. This is the employee's choice. If the employee wishes to proceed with a formal grievance they will need to follow the formal grievance process.

Once any grievance has been made either formally or informally with the People, Culture & Safety Manager, the focus will be on conciliation as the preferred model for resolution.

## 3.4 Informal Resolution Outcome

In the event that the informal process is unsuccessful, the employee may decide to escalate the issue, which may include deciding to make a more formal grievance.

## 4. FORMAL GRIEVANCES

This procedure assumes that the informal resolution of the grievance has been unsuccessful, or informal resolution is inappropriate, and the nature of the matter is serious enough to warrant a formal investigation/resolution.

1. The formal grievance will need to be in writing and should be made to the People, Culture & Safety Manager, who will provide advice and support with respect to the process, as required. The written statement should include the following information (if known):
  - (a) the name of the person whom the grievance is about;
  - (b) the nature of the alleged conduct or issue;
  - (c) the dates and times when the alleged conduct or issue occurred;
  - (d) the names of any witnesses;
  - (e) any action taken by the employee to resolve the grievance; and
  - (f) the outcome being sought.
2. Notwithstanding clause 4.1 above, the WAFC may at its sole discretion decide to apply the formal grievance resolution procedure to a grievance that has not been reported in writing, due to the seriousness of the alleged conduct or issues.
3. The People, Culture and Safety Manager and/or CEO (whichever is appropriate based on the grievance) will appoint an Investigations Officer. The designated Investigations Officer will undertake a preliminary investigation of the grievance and depending on the seriousness/nature of the grievance/complaint, the Investigations Officer will take the following steps - with consent of complainant:
  - Mediation: the Investigations Officer, hears each side of the story separately and acts as an intermediary or go-between until an agreed resolution is reached.

- Conciliation: means that the opposing parties meet in the presence of the Investigations Officer. Conciliation is used when the Investigations Officer, having mediated separately to a point of agreement, brings the two parties together for the final resolution process, including the establishment of a monitoring process to ensure the agreement does not break down. While mediation is often sufficient to reach a resolution, successful conciliation is usually the preferred option especially if the two parties work together.
  - Formal investigation: In this instance, the appointed Investigations Officer investigates the matter via formal interview and statements. The Investigations Officer presents facts and reports to the Chief Executive Officer who makes a decision on the outcome/action, in consultation with the People, Culture & Safety Manager if appropriate. Depending on the seriousness of the grievance/complaint, the outcome of investigation can result in disciplinary action being taken. Resolution/mediation/decision following investigation should not exceed the period of five weeks of the matter being referred to the Investigations Officer. If it is impossible to meet this timeframe, the Investigations Officer should advise all parties about an alternative timeframe.
4. Should the grievance be substantiated as a result of the investigation, the People, Culture & Safety Manager and the CEO will determine and then take appropriate remedial and/or disciplinary action. The disciplinary action will depend on the circumstances of the case but can range from counselling the individual to more formal disciplinary action, including but not limited to:
    - (a) disciplinary action, including a verbal or written warning;
    - (b) termination of employment;
    - (c) demotion;
    - (d) training and education;
    - (e) formal apology;
    - (f) changing work arrangements; and/or
    - (g) counselling.
  5. All parties to the grievance will be advised of the outcome.
  6. A decision of the WAFC is final and binding.
  7. If the complainant is not satisfied with the outcome, the complainant can bring the matter to attention of: Equal Opportunity Commission (when grievance relates to EEO), the Australian Industrial Relations Commission (when grievance relates to Industrial Relations matter) and Worksafe (when case relates to bullying or safety matter) or other appropriate forums.

## 4.1 External Resolution

Where the internal informal and formal grievance resolution processes have been either unsuccessful in achieving a suitable resolution or are deemed inappropriate, the WAFC may determine that the matter is to be referred to an external independent third party for mediation or conciliation, and if

necessary arbitration (where the neutral third party is presented with the information and acts as judge by making the final determination of what is to occur to resolve the matter).

## 4.2 Investigations & Employee Obligations

Each person in the workplace shall comply with this grievance procedure in good faith and raise a grievance under this procedure in good faith. That is, an employee should:

- Fully co-operate with the designated Investigations Officer in any investigation;
- Truthfully answer any questions asked by the Investigations Officer;
- Provide any document, including without limitation computer records in a person's possession or control relevant to the matter being investigated;
- Not make any false or misleading statement or act in any manner calculated to or which is likely to mislead the Investigation Officer; and
- Not raise matters in a frivolous, vexatious, malicious or reckless manner.

An employee who does not raise a grievance in good faith may be subject to disciplinary action, up to and possibly including termination of employment.

## 5. CONFIDENTIALITY

Any accusation, in particular those of sexual harassment, bullying or unlawful discrimination, can be potentially defamatory, especially if confidentiality is not observed and a person's reputation may be unfairly damaged. Discussions, information and records related to grievances will remain factual and confidential. Minimal but sufficient documentation will be kept. All documentation and details of grievances will be kept securely by the Investigations Officer.

The WAFC will endeavour to maintain confidentiality so far as is reasonably practicable during the handling of any grievance. However, it may be necessary to speak with other people or disclose details of a grievance, for example, to determine what happened, to gather information, to afford fairness to those against whom the grievance has been made and to resolve the grievance. This may include disclosure to an external person or entity for the purposes of independently investigating the grievance. In such circumstances, the WAFC will take steps to ensure any external party is aware of and agrees to treat the matter confidentially.

All employees who are involved with a grievance under this Procedure must maintain confidentiality, and shall not discuss the grievance, the grievance handling process or the outcomes with others. Workplace gossip must be avoided.

Any employee who breaches the confidentiality requirements of this Procedure may be subject to disciplinary action, up to and including termination of employment.

## 6. VICTIMISATION

The Equal Opportunity Act 1984 prohibits the victimisation of a person who makes a grievance, or intends to make a grievance, of either discrimination or harassment under the legislation. Victimisation occurs where a person subjects, or threatens to subject, another person to detriment on the basis of that person's involvement in the grievance under the relevant legislation; whether due to them having raised a grievance (or proposing to), providing information or documentation (or witness testimony) for either party, or if the person has refused to do something because of it being discrimination, sexual harassment or victimization.

For further information about Victimisation, refer to the EEO, Bullying and Harassment policy.

A complaint of victimisation will form a separate grievance to the original complaint of discrimination or harassment. The success or otherwise of the victimisation grievance does not depend on the outcome of the original grievance of harassment. As a result, it is conceivable that an employee could be absolved of liability in respect of the original grievance (because the employee has established a valid defence, for example), but is still liable in respect of the victimisation grievance.

## 7. POSSIBLE GRIEVANCE OUTCOMES

Depending on the nature of the grievance and result of the process and/or investigation, the WAFC will make a determination of the grievance outcome, including what action may need to be taken to resolve the matter (which may include corrective or disciplinary action, where the alleged misconduct is substantiated and it is deemed appropriate).

Example of possible outcomes include, but are not limited to:

- The person against whom the grievance is directed to acknowledge, apologise for and modify their behavior (this may include a performance improvement plan, where appropriate);
- Training, or a new policy or procedure is implemented to address the issue;
- Monitoring to ensure that the misconduct does not happen again;
- Making changes to the employees' working arrangements and/or environment; or
- Disciplinary action up to and including termination of employment.

## 8. TIMELINES

Employees are encouraged to raise any grievance as soon as possible after the alleged misconduct has taken place, to enable the matter to be adequately investigated and/or addressed.

Appropriate and reasonable timelines shall be set in any investigation of a formal grievance.



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## 9. VARIATION

WAFC reserves the right to vary, replace or terminate this Procedure from time to time.

## 10. QUESTIONS/FURTHER INFORMATION

Any questions about this policy should be directed to the People, Culture & Safety Manager.

Further information about related legislative requirements and provisions may be found [www.fairwork.gov.au](http://www.fairwork.gov.au).

### 10.1 External avenues of support include:

Western Australian Equal Opportunity Commission – (08) 9216 3900

Employee Assistance Program – Benestar provides free, confidential support and counselling to WAFC employees and eligible family members on 1300 360 364.

Worksafe WA - provides employees with free counselling regarding bullying and harassment on (08) 9327 8800 or 1300 307 877 or [www.docep.wa.gov.au](http://www.docep.wa.gov.au).

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## APPENDIX 1: PROCEDURAL WORKFLOW CHART

