

Effective handling of workplace complaints

Good practice complaint handling and investigations

Principles

Complaints handling and investigations procedures are administrative control measures for psychosocial hazards, particularly harmful behaviours like bullying and sexual harassment.

While they may not prevent harmful workplace behaviours, they should be designed to minimise the impact of harmful behaviours and other forms of misconduct on people in workplaces.

They should also be designed to manage the risk of poor organisational justice, which is:

- a lack of procedural justice (fair processes to reach decisions)
- a lack of informational fairness (keeping people informed)
- a lack of interpersonal fairness (treating people with dignity and respect).

Getting your procedural foundations right

1. Consult with workers about existing and proposed complaint handling measures

Inevitably, many complaints relate to safety matters, particularly harmful behaviours¹ and other types of [psychosocial hazards](#).

As such, persons conducting a business or undertaking (PCBU) must, so far as reasonably practicable, consult with workers (which includes anyone else who carries out work for the business and, where possible or relevant, customers, clients, and other persons) to design a complaints process that is fit for purpose.

2. Implement a workplace policy that sets out the PCBU's position on workplace behaviours and complaint handling procedures

Such policies and procedures should set out in concise and plain language for workers to understand:

¹ Harmful workplace behaviours are defined as: Bullying, harassment, sexual harassment, violence and aggression, and conflict or poor workplace relationships.

- definitions of harmful behaviours and that they are not accepted in the workplace;
- a clear position as to what behaviours the PCBU classifies either as misconduct or as expected behaviour;
- the who, what, where, why and how of making a complaint;
- that, where feasible, complainants should seek to resolve their complaint at the lowest level (with the complaint respondent and / or their line manager) before raising it with other internal or external parties;
- options other than line managers to approach to raise a complaint;
- that the process will be undertaken as confidentially as possible, but that parties to a complaint are entitled to be kept informed of the processes and outcomes of the complaint on a need-to-know basis;
- that their complaints or concerns will be taken seriously;
- what immediate action will be taken by the PCBU after a complaint or concern is raised, including expected time frames;
- options available to affected persons to protect their health and safety (e.g. if available, temporary adjustments to reporting lines, access to leave, internal and external support options). These may also be needed for those responsible for managing or investigating complaints;
- informal and formal options available to resolve the complaint where appropriate.
- an outline of possible consequences if a breach of a PCBU's policy or law is found to have occurred;
- processes for handling appeals / reviews of actions;
- [external bodies that workers can approach to resolve a complaint](#); and
- where and how workers can provide feedback about relevant policies and procedures.

3. Regular and accessible communication

PCBUs should regularly communicate the existence of relevant policies and procedures to employees and where they are located.

This should not be an exercise limited to the induction and starter packs for new workers, but part of a wider strategy to ensure workers are embedded with knowledge about the PCBU's expectations and the rules that govern the workplace.

The complaint handling policy and procedures should be accessible and understandable to all workers, regardless of their age, other personal characteristics or limitations in their capacity to understand their rights and obligations.

4. Skills and knowledge

Workers involved in managing complaints (receiving, processing, and investigating complaints and supporting complainants and complaint respondents) should have relevant

knowledge and skills. This is to meet the obligation of PCBU's to manage the risk of poor organisational justice. The risk of harm to workers exposed to harmful workplace behaviours is amplified when complaints are not handled with adequate regard for procedural justice and interpersonal and informational fairness. In short, this is about ensuring a sound procedural and human-centred response to complaints.

5. Awareness of external reporting responsibilities

A complaint may be a matter that needs to be reported to external authorities. To determine this, consider if:

- there is alleged or suspected criminal conduct that should be reported to police, including whether the law requires reporting the suspected offence to police;
- a mandatory report to the statutory [child protection authority](#) is required;
- there is an obligation to [report concerns about someone who works with children or vulnerable people](#); or
- there is an obligation to report to any other authority, including regulatory and contracting bodies.

Good practice investigations

Investigation of complaints should be conducted in a reasonable timeframe within available resources. This is because elements of the complaint may be a potential hazard that the PCBU has been made aware of and needs to address promptly. Failing to act swiftly is the equivalent of not addressing physical hazards that pose a health and safety risk to workers.

A factual investigation is required to determine whether the allegations are more likely to have occurred than not, on the balance of probabilities. It should also involve at least the following steps.

1. Determine whether any workplace adjustments are required to protect the safety of the complainant, and ensure confidentiality

Depending on the nature of the allegations and proximity of working relationship between complainants and complaint respondents, workplace adjustments may need to be made to ensure everyone's safety while the investigation is conducted. Such adjustments may need to consider the means of safeguarding children, young people and others with characteristics or circumstances that may render them vulnerable.

If available and feasible, options include temporarily changing reporting lines, directing one of the parties to work from home, modifying tasks or duties, increased supervision and mediated communication between involved parties or, in serious matters, suspending involved parties from work until further notice.

2. Plan for any unique needs that parties to a complaint may require

Some parties to a complaint may require tailored supports to mitigate any risks to them associated with their age, health or disability status, or other characteristics or circumstances that may impede their capacity to understand their rights and obligations. For example, if a complaint involves a person aged under 18 years, a plan to protect their welfare should be made. Where possible, one person should be identified to be responsible for liaising with the child or young person throughout the entire process. Their parents, carer or guardian should be consulted throughout the process unless there are good reasons not to do so.

3. Determine whether the investigation will be undertaken internally or by an external/independent party, and select an appropriate investigator

Subject to the seriousness of the allegations, it may be appropriate to conduct the investigation internally, by way of desktop review of documents and records. Other options are to seek legal advice and/or engage an external third party to conduct the investigation.

Whatever way the matter is to be investigated, the investigator must be impartial, which means the investigator should not have any conflict of interest (either actual or perceived) – such as a former manager or close colleague – with the parties involved in the complaint. They should have appropriate knowledge and skills to undertake investigations, and the resources and supports to conduct their work in a timely manner. If parties to a complaint include children, young people or other potentially vulnerable persons, one person that these parties trust should be responsible for liaising with them. This may or may not be the investigator.

4. Communicate next steps clearly

Communicate to all relevant parties, that a complaint has been made, who will be undertaking the investigation, what the investigation process will involve – including estimated timeframes – and what some of the potential outcomes could involve.

Other communications with relevant teams may be required to ensure confidentiality is maintained and to minimise risks to procedural, informational and interpersonal fairness.

Communication is key throughout the investigation process to limit prolonged uncertainty and anxiety for all parties involved.

It provides assurance to complainants that their complaint is being treated seriously and managed appropriately and keeps complaint respondents informed of the process.

5. Conduct fair and objective interviews with the complainant, all relevant witnesses, and the complaint respondent

Give all parties the benefit of the doubt. Everyone involved should be treated in a fair and uniform way. Questions should be prepared in advance so interviewees will be able to tell their side of the story fully. Leading questions such as, “You knew what you were doing was wrong, didn’t you?”, should be avoided as they may lead to a biased response.

Where additional witnesses are identified during interviews, care must be taken to determine whether they should be spoken to, to ensure all available evidence is collected before any factual findings are made.

6. Record keeping

Maintain a comprehensive record of all steps taken, including interview transcripts, notes and evidence collected. Ensure they are stored in a secure location that can be accessed only by those with a need to know or access. Ensure parties to a complaint are aware of their right to receive a copy of any statements they have made.

7. Investigation report

In many instances, the investigator should prepare a report at the conclusion of their enquiries. The report must contain the findings of fact and, if asked by the PCBU, make recommendations and/or a determination.

If the investigation has been conducted in order for the PCBU to obtain legal advice, the report should only be provided to the ultimate decision-maker(s) and not to any other parties.

8. Findings

The PCBU should, after receiving the investigator's findings, communicate those findings and any decision appropriately to all the parties involved.

The ultimate decision maker should ensure the final decision is proportionate to the findings made. Where adverse findings and outcomes are proposed, the PCBU should provide the complaint respondent with the opportunity to respond before a final decision is made.

This ensures the complaint respondent is given reasonable opportunity to provide any additional information that may not have been disclosed and could therefore impact the findings and outcome proposed.

Review your approach to managing the risk of workplace behaviours

A complaint about harmful workplace behaviours is an indication that the PCBU's approach to managing the risk of harmful workplace behaviours may be inadequate.

This highlights the legal requirement for PCBU's to maintain and review their control measures to ensure they are effective and fit for purpose.

If a complaint about harmful workplace behaviours is made or upheld, this may indicate inadequate understanding of behavioural expectations or that managers have inadequate skills for managing performance and conduct. It may even indicate that the PCBU's approach to assessing and selecting workers requires improvement.

It is also important to consider the circumstances in which the complaint was made, and what this may indicate about workers' 'faith in the system'. For example, if a complainant did not attempt to resolve their concerns by speaking with the alleged instigator or their immediate

manager, this may reflect fear of recriminations or low confidence in the capacity or will of managers to take their concerns seriously.

Resources

[SafeWork SA website: Managing the risk of harmful workplace behaviours](#)

[Fair Work Ombudsman: Effective dispute resolution \(designed for IR matters\)](#)

[Safe Work Australia guide for preventing and responding to workplace bullying](#)

[National Office for Child Safety: Complaint Handling Guide: Upholding the rights of children and young people](#)