

Guide to Resolving Grievances and Complaints for DECS Employees

active participation
ethics
relationships
resolution



Government of South Australia

Department of Education and
Children's Services

Guide to Resolving Grievances and Complaints for DECS Employees

Introduction

In today's changing workplace, people, systems and processes are continually under pressure to adapt, learn and innovate. Success increasingly depends on our ability to create and maintain a wide range of productive working relationships. In such a dynamic environment, issues, problems and conflicts are inevitable.

Fostering a culture and practices that support vibrant working relationships is a complex, ongoing task to which everyone contributes. It includes encouraging a climate and culture that addresses and resolves disagreements and relationship challenges and, whenever possible, reduces the risk of issues and potential conflicts becoming entrenched grievances or complaints.

In committing to fostering a safe, harmonious and productive environment for its employees, DECS has developed a broad strategy that is designed to improve the way we manage complaints, thereby building trust and confidence in the resolution process. This strategy includes:

- this booklet, *Guide to Resolving Grievances and Complaints for DECS Employees*, which provides helpful information and resources for those involved in resolving grievances and complaints;
- the *Complaint Resolution for Employees Policy and Procedure (2007)*, available at www.decs.sa.gov.au/HR1/pages/default/docs;
- a training program that will build the capability and confidence of people in managing complaints.

There are five sections in this booklet:

- 1 **Resolving grievances at the local level:** information and tools to assist people to resolve a grievance constructively and in a way that contains its escalation to the stage of making a complaint. (See pages 2–5)
- 2 **Making a complaint—the complainant:** information and tools to assist those who may have a grievance to explore options for resolution. (See pages 6–8)
- 3 **Responding to a complaint—the respondent:** information and tools to assist those named as the party against whom a complaint has been made. (See pages 9–12)
- 4 **Managing complaints—the Complaint Manager:** information to assist Complaint Managers to act confidently in their role and to access the resources and support they require. (See pages 13–15)
- 5 **Where can I get help?:** a list of useful contacts and sources of assistance. (See page 16)

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1 | Resolving grievances at the local level

Workplace grievance or conflict situations involve two or more people with different expectations and views, each one taking a position and acting on what they believe is right. In addition, the organisation has a perspective that must also be taken into account.

The purpose of this section is to assist employees to resolve grievances in the workplace before they escalate to the stage of making a complaint. The objective is to provide information that enables them to act constructively on their own behalf to:

- clarify and understand their situation
- access the help they may need
- choose the best approach to suit their situation
- know when it's appropriate to escalate to a formal process.

What is a grievance?

Grievances are often the result of unresolved issues, problems, or conflicts that have been avoided or not addressed to the satisfaction of those involved. Examples include a person:

- feeling they have been unfairly treated by others;
- being excluded or experiencing discrimination;
- being the butt of a colleague's continual jokes and/or taunted in a way that they find offensive;

'The purpose of this section is to assist employees to resolve grievances in the workplace before they escalate to the stage of making a complaint.'

- fearing that decisions or processes in their group are unethical, or even illegal;
- feeling afraid to complain about something because they fear the consequences from another person;
- feeling that a decision that directly affects them doesn't take into consideration all of the facts, and that their issues or concerns haven't been heard.

What does the policy say about dealing with grievances?

In the first instance, resolution of issues through personal actions at the local level is encouraged. Where employees feel that an action is unreasonable, unfair or has an unduly negative impact on an individual or group, they should take up their concerns directly with the people involved where possible. Early action at this level generally provides the best opportunity for positive resolution.

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Many issues arise every day. Which ones should be addressed?

It's important to differentiate between a minor issue that creates passing annoyance or irritation and an issue that is more serious. Issues that affect our sense of worth, challenge working relationships, or threaten our future are examples of issues that need to be dealt with.

A way to decide if an issue needs to be addressed is to determine whether it is causing a problem that is likely to become worse if nothing is done to resolve it. For example, are increasing numbers of people becoming involved? Is there a feeling of hopelessness? Is the situation intolerable? Is avoidance no longer an option?

'A way to decide if an issue needs to be addressed is to determine whether it is causing a problem that is likely to become worse if nothing is done to resolve it.'

What might be personal considerations when addressing grievances?

Many of us feel reluctant to address things directly. We're busy, or the whole thing just seems 'too hard'. We may feel trapped because the issue relates to someone in a position of power, such as a leader or line manager. At the personal level, we may feel apprehensive about making ourselves vulnerable or dealing with strong feelings. In these situations, because the outcome is uncertain, we may be unsure as to whether or not to proceed and the best way to do so.

What may be done about it?

- 1 Clarify the grievance—the toolbox exercise on the following page may help.
- 2 Seek assistance; go to the help page.
- 3 Take personal responsibility in the situation.
- 4 Discuss confidentially.
- 5 Be open to new solutions.
- 6 Make the first move towards a reconciliation.
- 7 Create constructive solutions that will work for each person involved.
- 8 Remain flexible and adapt to the process as it unfolds.

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Toolbox exercise

Clarifying a grievance situation

This reflective exercise can be undertaken by each person directly or indirectly involved in a grievance situation. The aim is to broaden the perspective and understanding of the situation from all positions, and to help each person decide how to proceed.

- a) Describe or map the grievance situation:
 - What factors led to this situation?
 - What continues to happen that is offensive or exacerbating the situation?
 - What attitude do you hold, or what do you do to contribute to the situation?
 - What is the effect of this situation on you and your work?
 - How does the situation affect others?
- b) Describe what would be happening differently if the situation were satisfactorily resolved:
 - How would you feel and how would you be acting?
 - How would other people be feeling and acting?
 - What would this mean for working relationships?
- c) Look at the questions in a) and b) above again, this time answering them from the perspective of the other person involved in the situation.
- d) Determine the negative potential of the situation (will it worsen if left unresolved?), and decide whether to take action or let it heal with time.
- e) Plan to act constructively:
 - Identify your concerns. Consider the prospect of facing the situation. What is your greatest concern; for example, 'It's not a safe environment', 'I'll be made to look stupid', 'I'll be punished by the manager', 'The result will impinge negatively on my future employment', 'The decision was reasonable, but I don't like it'.
 - Describe the most positive outcome to be gained by directly addressing the problem/conflict or taking other action.

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Toolbox exercise

- Choose the people and resources that could help to address the issue.

For example:

- more information about the DECS policy, procedure etc.
- assistance and advice from a line manager or other DECS officer
- someone to act as a mentor, or coach or to offer counsel
- someone to act as a mediator or observer.

f) Summarise the factors that are clear or stand out for you, for example:

- how the problem appears now
- the outcome you desire and next steps
- what you might do differently.

Who can help?

There are many people and resources to assist those considering their options and acting on their own behalf to address the situation; for example, a friend, manager, mentor, or professional help. If unsure about where to go for assistance, the help page at the end of this booklet provides a useful list of contacts.

When is personal resolution of a grievance not an option?

Some things should not be confronted or addressed at a personal level but should immediately be reported. These include unlawful or criminal acts such as physical or sexual assault, fraud, threatening behaviour or verbal abuse.

How can safety and confidentiality be ensured?

The policy states that people have the right to have their privacy protected and to be supported in dealing with grievances and complaints. In addition, they are encouraged and expected to act constructively on their own behalf. If you discuss a sensitive issue with an internal staff member, request that they respect your confidentiality and be prepared to show the same respect for others.

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2 | Making a complaint—the complainant

The purpose of this section is to assist you to lodge a complaint confidently. The objectives are to:

- provide information that enables you to seek formal intervention by a representative of DECS to facilitate a satisfactory resolution of your issue(s);
- assist you to understand the complaint resolution process;
- ensure you know how and where to get help.

What is a complaint?

A complaint is a notice to DECS that an employee is protesting against what she/he perceives to be an inappropriate, unfair or offensive act against her/him by another employee, and that intervention by DECS is requested or necessary. Formalising a protest against someone in this way is a serious step.

What are the consequences of making a complaint?

When you lodge a complaint, you are essentially requesting that DECS takes control of the complaint resolution process. This means that while you are engaged as an active participant and contribute to the final outcome, the DECS representative may need to take responsibility for making the final decision in the matter.

'In the final analysis, it is your decision whether one or more of these indicators justifies escalating the grievance to lodge a complaint with DECS.'

How do I decide whether to proceed with a complaint?

Consider the following indicators to assist you to decide whether making a complaint is justified and appropriate:

- You have explored and tried different ways of raising or confronting the issue to no avail.
- The issue has become untenable; for example, it involves others, divides people, and/or continues to grow unabated.
- The behaviour of another is having a negative impact on you and continues without regard to your expressed wishes.
- Raising the issue with your direct line manager/principal would expose you to further abuse.
- You have tried different approaches but have been unable to resolve the issue satisfactorily.
- In your judgment, this issue requires intervention at a more formal level.
- The serious nature of the issue justifies or requires making a complaint.

In the final analysis, it is your decision whether one or more of these indicators justifies escalating the grievance to lodge a complaint with DECS.

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Who will be involved?

Several people may be involved in a complaint resolution process:

- the person who makes the complaint (complainant);
- the person who is named and against whom the complaint is made (respondent);
- the departmental officer who manages the complaint resolution process (Complaint Manager), usually the immediate line manager or appropriate alternative manager;
- any person(s) authorised by parties to the complaint.

How do I begin?

You initiate a formal resolution process by lodging your complaint in writing with your line manager/leader. If your line manager is the subject of your complaint or is perceived to be in some way associated with it, then you may lodge the complaint with the next appropriate senior manager. There may be circumstances (e.g. risk to safety or unlawful conduct) where it is more appropriate to lodge your complaint with an alternative senior officer.

'You may wish to talk through the issue(s) with someone you trust in order to clarify the complaint and consider the outcome or remedy you seek.'

How do I prepare a written complaint?

You may wish to talk through the issue(s) with someone you trust in order to clarify the complaint and consider the outcome or remedy you seek.

Write succinctly, using the following guide to help you:

- Describe the nature of the complaint.
- Give the details of the circumstances (Who? What? Where? When? How?).
- Provide evidence:
 - Do you have documentation?
 - Are there witnesses?
 - How else can you prove your allegations?
- State the outcome you seek.
- If your preferred outcome is not achievable, state a reasonable alternative.

What happens with my complaint?

DECS recognises the seriousness of receiving a written complaint and the need to manage the resolution process and settle the complaint in a timely and responsive way. To this end, considerable effort has been put into producing the *Complaint Resolution for Employees Policy and Procedure (2007)* to assist employees who need intervention in conflict situations. For more detailed information, please refer to these documents which can be accessed at www.decs.sa.gov.au/HR1/pages/default/docs.

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After you have lodged your complaint, the Complaint Manager will:

- acknowledge receipt of the complaint and discuss it with you;
- assess the nature and substance of the complaint;
- work with you to determine the best approach;
- take steps to provide for your safety and wellbeing;
- communicate about the process of resolving the complaint;
- recommend options for a resolution of the matter, for example:
 - conference with the parties to negotiate a resolution
 - formal investigation.
- implement strategies for a final settlement of the matter.

What can I expect of a Complaint Manager?

You have a right to be heard and treated fairly and justly. The Complaint Manager is your point of contact in the process and you can expect to be consulted, given a timeframe for resolution, and kept informed about what is happening with your complaint.

'You have a right to be heard and treated fairly and justly.'

How will my safety and confidentiality be ensured?

You have a right to have your privacy protected, but you also have a responsibility to respect the same right in relation to the other person(s) involved. You also have a responsibility to act with those assisting you, to create a safe environment for yourself during the complaint resolution process. You may, for example, consider having a support person attend any interviews with you.

The *Complaint Resolution for Employees Procedure* expressly states that confidentiality must be adhered to throughout the complaint resolution process. This means that only parties directly involved in the complaint process can discuss the matter. This helps to protect personal privacy and assists in making people feel safe during the complaint resolution process.

What if I'm not happy with the final outcome?

You can apply to the Chief Executive for a single review of the final outcome. However, you must provide sound reasons for your belief that the final outcome was not appropriate, adequate, or reasonable in the circumstances. The Chief Executive then makes the decision either to initiate a single review or to uphold the original outcome. It's important to understand that complaint resolution may not give you the exact outcome you want, but is intended to provide a solution that is both reasonable and acceptable in the circumstances.

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3 | Responding to a complaint—the respondent

The purpose of this section is to assist you to either:

- engage constructively in resolving grievances at the local level
- deal constructively with a complaint made against you.

If you are party to a conflict situation or have had a complaint lodged against you, this means that an action, behaviour or decision by you has been perceived by another person to be offensive, inappropriate or unacceptable. You may be unaware of any impact of your actions on another person and feel shocked, or perhaps you feel frustrated with the complainant and justified in your previous actions.

Regardless of the intent behind your decision or action, the other person has been directly affected in a way that has impeded your working relationship. In the longer term, if such a situation continues, the working relationship may become strained or dysfunctional. Conflict situations may not be welcome or comfortable, but are best approached as opportunities for reflection, learning and positive change.

'Conflict situations may not be welcome or comfortable, but are best approached as an opportunity for reflection, learning and positive change.'

Being engaged in a grievance situation at the local level

Where situations that have a negative impact on working relationships are ignored or remain unresolved, the issues may become blown out of proportion—people become polarised and strong feelings become entrenched. Once people have adopted polarised positions, it takes courage, positive intent, and skill to unravel grievances and find a resolution that satisfies all those involved. Each person involved in a conflict situation or grievance has a responsibility to address the difficulties associated with the situation so that energy is freed for the achievement of positive work outcomes.

How do I approach the situation if I'm perceived to be the cause of a grievance?

Be proactive and, if possible, engage and resolve the situation before positions become entrenched.

- Recognise and address issues and differences at the stage where they elicit questions rather than accusations, and irritation rather than frustration or possibly rage.

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- Respond rather than react. This is not easy if the confrontation comes as a surprise to you. Take a deep breath or take time out to consider the situation (see the exercise below).
- Be part of the solution, try to listen to the grievance from the perspective of the other person.
- Acknowledge the other person's experience and feelings and, importantly, what meaning the situation may have for them.
- State your own position clearly, using evidence to make your case, and describe how you feel rather than becoming defensive.

How do I help myself in this situation?

Few people find it easy to participate constructively in resolving conflict or tense situations involving different views. It may assist you to take time to reflect on your own position and on the wider situation or seek appropriate advice (refer to help page). The following toolbox exercise may assist you.

Toolbox exercise

- a) Describe or map the grievance situation from your perspective:
 - What things led to this situation?
 - What continues to happen that you want to change?
 - What attitudes do you hold and what actions do you take that may contribute to the situation?
 - What is the effect of this situation on you and your work?
 - How does this affect others?
- b) Describe what would be happening differently if the situation were satisfactorily resolved.
 - How would you be acting?
 - How would the other person be acting?
 - What would you feel?
 - What would this mean for you (your working relationships, your career) in the future?
- c) Look at the questions in a) and b) above again, this time answering them from the perspective of the other person(s) involved in the situation.
- d) Determine the negative potential of the situation and choose how to respond.

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Toolbox exercise

- e) Plan to be involved constructively:
- Identify your greatest concern (e.g. the work being done is not satisfactory, the manager's decision affects me negatively).
 - Describe the outcome you want to achieve for yourself and for the working relationship.
 - Choose the people and resources you need to help you address the problem/conflict.
Do you need:
 - more information about the legislation, situation, your rights and responsibilities etc;
 - assistance and advice from your immediate line manager;
 - someone to mentor or support you;
 - someone to act as a mediator or witness?
- f) Write down the factors that are clear now and what you might do differently to affect the behaviour or situation and be willing to raise these in conversations with the parties involved.

If a complaint is made against you

In lodging a complaint, the complainant escalates the situation from possible face-to-face resolution to requesting intervention from DECS. If named as a respondent, you will be contacted by the Complaint Manager and given an opportunity to respond. Depending on the nature of the complaint, you may be invited to participate in a resolution process that will consider your response.

What can I expect?

You can expect, and have a right to:

- fair and impartial treatment
- information about the allegations made against you
- reasonable opportunity to make a response
- communication about the process of resolving the complaint
- confidentiality
- advice and support.

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What if I'm not happy with the complaint process?

If you believe that there has been a serious irregularity in the process, or that you have been the subject of prejudice or treated unfairly during the process, you may apply to the Chief Executive for a single review of the process. You have to provide sound reasons for seeking a review before the Chief Executive will make a decision on whether or not to initiate a single review.

'There are people and resources available to assist or support you and provide information, advice or appropriate referrals.'

Where can I get help?

There are people and resources available to assist or support you and provide information, advice or appropriate referrals. You may wish to have a friend act as a support person for you or seek assistance from an independent professional or impartial third party who has no knowledge of the situation. If you're unsure about where to go for assistance, the help page at the end of this booklet provides a useful list of contacts.

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4 | Managing complaints—the Complaint Manager

The purpose of this section is to assist the Complaint Manager to manage the formal complaint resolution process following receipt of a complaint. The objectives are to:

- provide information that enables you to act confidently in your role
- enable you to access the resources or support you need.

Why have a Complaint Manager?

It's important for a person who makes a complaint to feel confident that DECS will treat that complaint as a serious matter. Once a complaint is received, DECS undertakes the responsibility for managing it from that point through to final resolution. The Complaint Manager assumes the responsibility for the overall management of the resolution process, including actively attempting to restore the working relationship between the parties to a complaint.

'It's important for a person who makes a complaint to feel confident that DECS will treat that complaint as a serious matter.'

'Once a complaint is received, DECS undertakes the responsibility for managing it from that point through to final resolution.'

What is my role?

As the Complaint Manager, your role is to:

- manage the resolution process in accordance with the *DECS Complaint Resolution for Employees Policy and Procedure (2007)*;
- act as a point of contact for the parties involved and actively communicate with them;
- coordinate the tasks that need to be undertaken in the resolution process;
- ensure that all parties are treated fairly and with confidentiality;
- facilitate and support a safe and positive work environment for all those involved;
- recommend and/or implement strategies to bring about a settlement of the matter;
- maintain written records.

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How do I go about it? What does the Procedure say?

The Procedure aims to identify the underlying principles to resolve a complaint and to provide a guide for complaint handling. The procedure is not intended to provide a step-by-step outline of all of the actions that must be taken to resolve a complaint.

As the Complaint Manager you are expected to:

- acknowledge receipt of the complaint in the first instance;
- make an assessment of the complaint;
- determine an appropriate option for resolution;
- consult and clarify with the complainant the issue(s), options and outcome sought;
- provide information/allegations to the respondent;
- ensure the respondent has reasonable opportunity and assistance to respond;
- communicate with the parties and determine a resolution timeline;
- facilitate and coordinate the process (e.g. conduct interviews or authorise another person to act on your behalf);
- recommend strategies and ensure implementation of a final outcome;
- document all aspects of the process and maintain a confidential file.

'The complaint resolution process must be a fair, non-discriminatory and impartial process.'

What should I do if it's inappropriate for me to be the Complaint Manager?

The complaint resolution process must be a fair, non-discriminatory and impartial process. If there is a belief or perception to the contrary, confidence in the process will be eroded and resolution of the complaint will be impeded or even avoided.

If you are a leader or line manager, it will be inappropriate for you to be the Complaint Manager in a situation where you:

- are named in the complaint as the respondent
- are, or seen to be, associated with the complaint
- are perceived as biased
- have, or are seen to have, a conflict of interest.

If, for any of the reasons above, you are deemed inappropriate to manage a complaint, the complaint must be referred to the next appropriate senior manager or an alternative DECS officer.

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How do I manage the strong feelings associated with conflict situations?

Complaint resolution isn't simply about dealing with the facts of a matter. More often, it's about dealing with the experience and feelings of the people involved and what it all means for them. People in conflict situations experience strong emotions—they may feel angry, hurt, shamed, demeaned or similar negative emotions. This should be expected and accepted. People in these situations need to feel safe, be listened to and, most importantly, have their feelings acknowledged.

As the contact person for the parties, your role is central to facilitating good communication and mitigating damage in the course of progress towards a resolution. You need to be responsive and sensitive to both the complainant and the respondent, and take individual needs into account. You must engage with the parties in a way that is helpful and meaningful to them. You may, for example, have to address personal safety issues, seek a counselling or support service to assist either party, or take some other action in responding to a particular need.

'You need to be responsive and sensitive to both the complainant and the respondent, and take individual needs into account.'

What help is available to me?

In the role of Complaint Manager, you will be required to consult with and seek further information and advice from a wide range of resources. Refer to the help page.

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5 | Where can I get help?

Who you decide to contact for help in personally dealing with a grievance, conflict situation or complaint will depend on your particular needs. You may choose to seek professional help or turn to a colleague, mentor or friend.

The following list provides useful contacts to assist you.

Access the documents:

- *DECS Complaint Resolution for Employees Policy and Procedure (2007)*
- *Guide to Resolving Grievances and Complaints for DECS Employees*
- Complaint Quick Reference Guide.

www.decs.sa.gov.au/HR1/pages/default/docs

Ethical Standards and Merit Protection Unit on 8226 1342 for:

- information about the *DECS Complaint Resolution for Employees Policy and Procedure (2007)*;
- confidential advice about grievance resolution at the local level;
- information and advice about the complaint resolution process;
- referral to appropriate DECS services etc.

'You may choose to seek professional help or turn to a colleague, mentor or friend.'

Health and Safety Services for:

Organisational Health Consultants for:

- mediation, conciliation, counselling and coaching

Employee Assist Program (EAP) for:

- counselling and advice
- Manager Assist Program

For further information phone 8226 1440 or go to: www.decs.sa.gov.au/ohs

Australian Education Union (AEU) Information Unit

Phone: 8272 1399 for referral to the appropriate AEU officer.

Public Service Association (PSA) members' rights hotline

Phone: 8205 3227 for initial advice and referral to the appropriate PSA officer.

