



Policy – Managing individual worker grievances

Policy Statement

1. The Mental Health Review Tribunal (Tribunal) is committed to the timely resolution of complaints.
2. The Tribunal's approach to complaint resolution promotes:
 - a) fairness and impartiality
 - b) the principles of natural justice and procedural fairness
 - c) mediation
 - d) timely and informal resolution
 - e) management commitment to preventing and resolving complaints.

Scope

3. This policy applies to all workers, including staff and members, and covers disputes and complaints within the work environment including those in respect of:
 - a) administrative decisions (excluding any administrative decisions made by members exercising their jurisdiction under the *Mental Health Act 2016*)
 - b) worker conduct that is unfair or unreasonable
 - c) worker conduct including bullying, sexual harassment and discrimination
 - d) breaches of the Code of Conduct for the Queensland Public Service
 - e) human rights complaints.
4. This policy does not replace, modify or revoke any legislative requirements that apply to the management of particular types of complaints. For example corrupt conduct under the *Crime and Corruption Act 2001*, public interest disclosures under the *Public Interest Disclosure Act 2010* or complaints under the *Human Rights Act 2019*.

Authority

- Preventing and responding to workplace sexual harassment (Directive 12/23)
- Individual employee grievances (Directive 11/20)
- Workplace investigations (Directive 17/20)
- *Public Sector Act 2022* (PS Act)
- Code of Conduct for the Queensland Public Service
- Administrative Review Council Guide to standards of conduct for tribunal members
- *Work Health and Safety Act 2011*
- Managing the risk of psychosocial hazards at work: Code of Practice 2022
- *Anti-Discrimination Act 1991*
- *Industrial Relations Act 2016*
- *Human Rights Act 2019*
- *Crime and Corruption Act 2001* (CC Act)
- *Public Interest Disclosure Act 2010* (PID Act)
- *Criminal Code Act 1899*



Tribunal's Associated Documents

- Procedure – Managing individual worker grievances
- Policy – Preventing and responding to workplace sexual harassment
- Policy – Human Rights

Policy

5. The Queensland Government is committed to creating positive and health workplace cultures, where workers and managers:
 - a) make decisions and take actions that are fair and transparent, and take responsibility for the consequences of their decisions and actions
 - b) question actions that are inconsistent with the public service values and Code of Conduct for the Queensland Public Service
 - c) treat each other with dignity independent of their status or disagreement
 - d) listen to and show empathy for others
 - e) work together to resolve issues early and as informally as possible.
6. Managers are required to proactively identify workplace issues in accordance with the management principles set out in the PS Act. Regardless of whether an individual worker grievance has been submitted, managers should manage workplace issues effectively by creating a safe environment to conduct courageous and supportive conversations.
 - f) All parties to the complaint process are to be treated with respect and impartiality throughout the complaint process.
 - g) Appropriate confidentiality must be maintained during the process, having regard to the need for a full investigation of the matters to be conducted, the need to provide procedural fairness and any legal requirements for disclosure.
 - h) The complaint process will be conducted expeditiously and endeavours will be made to reach a timely resolution.
 - i) All parties to the complaint process must act in good faith throughout the process.
 - j) Complaint procedures will be applied fairly with appropriate flexibility and integrity.
 - k) This policy will follow the principles of procedural fairness.
 - l) Matters which are, or may be, serious misconduct may be managed in accordance with the applicable provisions of the relevant legislation (e.g. *Industrial Relations Act 2016*, the *Public Interest Disclosures Act 2010* or the *Crime and Corruption Act 2001*).
7. The Tribunal's Procedure - *Managing Worker Complaints* outlines the steps to be taken by a worker who wishes to lodge a complaint and the Tribunal's process for resolving the complaint.
8. As a public entity, the Tribunal has obligations under the *Human Rights Act 2019*. In accordance with these obligations, it is possible for the Tribunal to be the subject of a human rights complaint, to the Queensland Human Rights Commission (**QHRC**). Prior to making a complaint to the QHRC, any human rights complaint should be made internally in the first instance. It is the view of the Tribunal that it is appropriate for any human rights complaints from workers to be managed internally, in accordance with general worker complaints policies and procedures, prior to escalation to the QHRC.
9. For the purposes of this policy, unless otherwise distinguished, worker will mean both administrative staff of the Tribunal and Tribunal members.



10. Any individual worker grievance relating to alleged sexual harassment the Tribunal's Policy – Preventing and responding to workplace sexual harassment and Procedure – Managing individual worker grievances will apply.

Matters that can be the subject of an individual worker complaint

11. In accordance with Public Sector Commission (**PSC**) Directive 11/20 – Individual Employee Grievances, an individual complaint may be submitted by a worker in respect of:
- a) an administrative decision, which they are aggrieved by, that is unfair and unreasonable
 - b) the conduct or behaviour of a worker, agent or contractor that is unfair and unreasonable
 - c) the conduct or behaviour of a worker, agent or contractor constitutes bullying in the workplace, sexual harassment, racial vilification, religious vilification or vilification on the grounds of gender identity or sexuality
 - d) the conduct or behaviour of a worker in breach of the relevant Code of Conduct. For Tribunal administrative staff this is the Public Service Commission Code of Conduct for the Queensland Public Service. For Tribunal members this is the Administrative Review Council's *Standards of Conduct for Tribunal Members*.
 - e) an act or decision that is not compatible with human rights or a decision that failed to give proper consideration to a relevant human right under the HR Act.

Matters that cannot be the subject of an individual employee complaint

12. In accordance with PSC Directive 11/20 – Individual Employee Grievances, the following decisions, conduct or behaviour cannot be the subject of an individual worker complaint:
- a) a decision made under Chapter 3, Part 8, Division 5 of the PS relating to mental and physical incapacity
 - b) a decision made under Chapter 3, Part 8, Division 3 of the PS Act relating to discipline decisions
 - c) a decision relating to the recruitment or selection of a public service employee
 - d) a decision relating to a person's work performance, other than a decision about the person's work performance that is recorded in a formal way as part of a periodic performance review
 - e) a decision relating to the resolution of a grievance under an industrial instrument, other than a decision about the outcome of a grievance
 - f) a decision relating to the development or performance management of a chief executive or senior executive
 - g) a work performance matter that is the subject of an existing review of a procedural matter under the PS Act
 - h) an investigation, suspension or discipline process that is the subject of a current internal or external review under the PS Act and relevant directive
 - i) conduct or behaviour of a worker, agent or contractor, or a decision by an agency that is already the subject of an application, or which becomes the subject of an application, by the same worker to the Queensland Industrial Relations Commission (**QIRC**) in relation to an alleged contravention of a workplace right under Chapter 8, Part 1 (General Protections) of the *Industrial Relations Act 2016*
 - j) conduct or behaviour of a worker, agent or contractor that is already the subject of a complaint, or which becomes the subject of a complaint, by the same employee to the QIRC in relation to alleged racial vilification, religious vilification or vilification on the grounds of gender identity or sexuality under the *Anti-Discrimination Act 1991*



- k) a decision by an agency that is the subject of an existing complaint by the same worker to the Queensland Ombudsman under the *Ombudsman Act 2001* where the Ombudsman investigates the complaint.

13. Under the PS Act, a worker seeking to lodge a fair treatment appeal is generally required to have used their agency's individual worker grievance mechanism prior to lodging an appeal.

14. A worker may choose to not use their agency's complaints mechanism where they are seeking to appeal a finding by the chief executive under the PS Act that a disciplinary ground exists for an employee.

Individual worker grievance resolution principles

15. Workers are required to ensure that individual worker grievances are submitted as soon as reasonably possible after the administrative decision, alleged conduct or alleged behaviour has occurred.

16. Individual worker grievances are to be managed and resolved using a three-step process:

- a) local action
- b) internal review of a decision made following local action
- c) where applicable, external review of a decision made at internal review.

17. The Tribunal will manage individual worker grievances:

- a) in accordance with principles of natural justice, including timely decisions and the provision of adequate resources
- b) in a matter that protects the privacy of the worker who has submitted the grievance subject to any legal disclosure obligations, such as the requirement to provide natural justice
- c) in accordance with the Tribunal's Procedure – Managing individual worker grievances.

18. All parties to an individual worker grievance:

- a) must engage in the individual worker grievance process in good faith
- b) be provided with regular and timely information by the decision maker in relation to the progress of the individual worker grievance.

19. To assist in the resolution of individual worker grievances a worker who submits an individual worker grievance may be:

- c) supported by a person of their choosing
- d) represented by a union representative or member of a professional association.