

STAFF GRIEVANCE RESOLUTION POLICY & PROCEDURE

POLICY STATEMENT

Centacare FNQ aspires to a positive workplace culture, which encourages and supports staff to have an understanding of self and others, to undertake collaborative teamwork, to hold strong interpersonal skills, to demonstrate personal integrity and to undertake productive working relationships. *All staff have a responsibility to contribute to a harmonious work environment, and it should not always be necessary to instigate a formal grievance procedure to resolve minor matters.*

It is recognised however that on occasion inappropriate behaviours or matters may occur and that a position is required to support people to handle and resolve grievances.

The Staff Grievance Resolution Policy and Procedure provides a framework and procedure to guide staff members and management in situations where workplace concerns, grievances and complaints arise to work towards resolution. It is an integral part of a managers and supervisors work to assist staff should they raise unresolved concerns with the line supervisor.

The responsibility for identifying, responding to and addressing problems in the workplace and ensuring that victimisation of either a complainant or respondent does not take place sits with managers and/or supervisors.

Where matters come to the attention of Centacare FNQ regarding workplace concerns or complaints, this policy aims to:

- Ensure grievances are treated seriously and sensitively, having due regard to procedural fairness and *confidentiality*
- Ensure a satisfactory resolution is achieved in an ethical, consistent, appropriate and timely manner
- Ensure there is no recurrence of behaviours or conduct that breach organisational, community and legislative standards
- Ensure there are no reprisals for genuine complaints
- Assure compliance with appropriate legislation

The validity of a complaint is determined using the 'balance of probabilities'. This means that for an allegation to be substantiated it must be established as more probable than not.

This policy applies to genuine grievances and attempts to assist resolution through a respectful process. This policy does not exclude or replace any rights and obligations of staff under common and statute law.

Any staff member who makes a vexatious complaint to intimidate others, spread rumours or damage another person's reputation may be subject to disciplinary action, including dismissal.

Any complaint involving physical or sexual assault will be dealt with as a criminal offence and reported to police. In such incidents, the Executive Director may determine to suspend the respondent with pay until the matter is investigated and resolved.

Where a grievance or allegation is made against the Executive Director, the complaint or allegation will be made directly to the Bishop of Cairns or his delegate. The purpose of this role is to ensure that a senior position in the Diocese is able to take complaints about senior executives. The Diocese Grievance Procedures are followed in this instance. The contact number for the Bishop's Office Reception is Ph.: 4046 5620.

PURPOSE

In the first instance Centacare FNQ staff are supported to problem, solve with the person directly to seek resolution to any concern.

If this is unable to occur, the purpose of the Grievance Resolution Policy and Procedure is to ensure a fair and transparent resolution is achieved.

This policy is aligned with the Grievance Procedure in the Centacare Enterprise Agreement 2015 Section 7.2.

SCOPE

This policy applies to “all members of staff” which is the common term used throughout the policy. This policy also applies to:

- All members of staff
- Volunteers
- Individuals who enter into specific relationships with Centacare FNQ for any period of time, for example, student placements and work experience.

AWARENESS OF POLICY

Centacare FNQ supports staff to meet the obligations set out in this policy through the following mechanisms:

- Clear and explicit policies and work instructions
- Training and education
- Staff Development Meetings
- IQBM II
- Other forms of internal staff communication

Staff requiring further explanation, information or assistance in understanding aspects of this policy, throughout their employment, shall seek clarification from their Line Supervisor.

DEFINITIONS

Advocate is an employment, legal or independent advocate who provides support to a complainant or respondent on issues such as working conditions and rights, disciplinary processes etc.

Balance of Probabilities implies that for an allegation to be substantiated it must be established as more probable than not.

Complainant is the person making a claim, allegation or complaint.

Investigation is an impartial information gathering process that can be conducted by an internal or external investigator to determine the facts and circumstances relating to a grievance, and recommend actions necessary to resolve the complaint or workplace concern.

Mediation is a voluntary confidential conference, where the parties to a dispute attend to cooperate to resolve the dispute between them.

Natural Justice is the principles of natural justice concern procedural fairness and aim to ensure the use of just, reasonable and fair processes.

Respondent is the person against whom a complaint or grievance has been initiated.

Supervisor refers to identified staff who have the responsibility to oversee other members of staff.

Support Person is a person who provides moral support to a complainant or respondent, and is not involved or connected to the complaint. The role of a support person is listed below and should be discussed prior to any grievance process.

RESPONSIBILITIES

The Executive Director, Centacare FNQ is responsible for the overall development and continuous improvement of this policy. Team Leaders and Managers are responsible for the appropriate and consistent implementation of this policy.

Centacare Staff are able to make a complaint to the relevant Department(s)/ Funding body at any time.

Each Member of staff

All staff members have a responsibility to:

- Contribute to, and promote a workplace free from discrimination, bullying, harassment, misconduct and conflicts of interest
- Contribute to a harmonious work environment
- Promote and model ethical and appropriate conduct to create working conditions that support this policy and other Centacare FNQ policies, values and standards.
- Ensure they have a knowledge and understanding of this policy and if in doubt ask for an explanation from their supervisor or manager

PROCEDURE

Centacare FNQ recognises the ethos of the Centacare Way in the context of this procedure.

The [Centacare Cairns Enterprise Agreement 2015](#) section 7.2 outlines the dispute resolution process, which should be utilised to settle any dispute that may occur within the workplace. This procedure supports and facilitates the enactment of that process and provides more detailed information with regards to the underlying principles, confidentiality, support and representation.

Raising a Grievance

It may, at times, be difficult to discuss/raise misconduct, grievances, concerns, or other work-related issues, in particular, when it involves a member of staff in a senior position; it is still important to do so whenever the need arises.

Open, honest communication builds trust, and Centacare FNQ believes that many problems can be remedied by simply talking about them with appropriate members of staff. It should be noted that dependent upon a complaint being of an informal nature, this may not warrant action, but as part of a pattern of behaviour may be viewed more seriously.

Stage One: Problem solving to seek self-resolution

A person feeling aggrieved should seek resolution of the problem at the earliest time wherever possible. Unresolved conflict can impact upon workplace culture and teams are affected as relationships become damaged. Ideally, staff will meet with the people involved in the conflict and ensure that they have a clear understanding of the issues, and people's perceptions of the issues, to assist in finding common ground. This might take the form of a direct approach in person, carefully and clearly stating the nature of the concern and once everyone has a full perception of each other's concerns seek out what a mutually preferred outcome might be. The aim is not to judge but to seek resolution by meeting colleague's needs, or understanding any miscommunications or each other's perceptions of the situation.

Stage Two: Assisted Facilitation (Informal)

If a staff member is unable to resolve the issue then the support of their line supervisor should be sought. The supervisor shall seek to discuss the issue with all involved. Whereby the employee may claim to have been aggrieved by their immediate supervisor, the employee may instead inform the next immediate supervisor or the Human Resources Advisor (HRA) who may be able to facilitate one-on-one discussions upon request. If the complaint or allegation is made against the Human Resource Advisor, the complaint or allegation will be made directly to the Executive Director or his/her delegate.

Parties to the grievance should endeavour to amicably discuss the matter, identify all perspectives of the issue at hand and come to a mutually agreeable conclusion. A successful resolution at stage two grievance assisted facilitation provides all parties an opportunity to have presented their story, consensus by all that they feel capable of continuing to work together in a professional capacity.

A timely response is expected. If the matter is resolved, no further action is required. Staff may be offered follow up Employee Assistance Program support, or external supervision.

All grievance facilitation should be clearly documented and maintained in accordance with the [Record Keeping and Archive Management Policy](#).

All grievances shall be notified to the Human Resource Advisor (HRA) whereby they are *unable* to be resolved at Stage Two – Facilitation (Informal) Process.

Stage Three: Mediation or Investigation (Formal)

If the grievance is unable to be resolved following problem solving or through facilitation, it is recommended staff document their grievance on the [Staff Grievance Form](#). This form is forwarded to the manager. If the staff member is verbally lodging a grievance then the person to whom the complaint is being made should also use this form. The manager will advise the Human Resources Advisor at this stage of the lodgement of a formal grievance and provide information and any documentation of discussions that have occurred to date. The HRA or Manager will undertake to resolve the matter through internal mediation or investigation.

Depending on the nature of the complaint, the manager and/or the HRA may determine which grievance resolution procedure applies. *In the case of implied workplace bullying or harassment an investigation must precede mediation* to ensure all facts are established prior to choosing a best course of action (refer to [Workplace Anti-discrimination & Harassment Policy and Procedure](#)).

- **Mediation** – a mediated outcome where the parties use the services of an independent mediator to help them arrive at their own agreement. Everyone gets to have their say and be heard, discussion is led by a neutral mediator. Mediation is voluntary.
- **Investigation** – collect and examine evidence to make decisions about the seriousness and extent of the complaint. Investigation will involve meeting with the parties separately to clarify the details of the grievance in order to gather information to assist with the investigation and determination of the course of action. At the conclusion of the investigation, a meeting will be called with both parties separately to advise them of the findings and seek agreement on a proposed resolution plan.

Principles

The following principles apply in any **mediation** or **investigation**.

a. Natural Justice

Any person against whom an allegation has been made (the respondent) shall be treated in accordance with principles of natural justice and fairness. The respondent shall:

- Be fully informed of any allegations made against her/him
- Be afforded a proper and appropriate investigation of the allegations, where all interested parties have been heard and relevant statements considered
- Be informed approximately how long the process may take

- Be provided the opportunity to respond to the allegations, provide an explanation or put forward a defence
- Have the right to seek legal or industrial advice and representation and/or support
- Be afforded processes, which are unbiased, fair and equitable in reaching a decision and/or determination and/or responding actions.

b. Discloser's Protection

Centacare FNQ will provide all reasonable protective means possible to ensure the 'complainant' and/or 'discloser' is in no way disadvantaged and/or discriminated against and/or suffers detrimental impediments and/or action(s) when making and/or actioning a complaint and/or workplace concern, which is made in good faith.

Detrimental action examples include:

- Action causing injury, loss or damage
- Intimidation, retribution or harassment (both verbal and non-verbal)
- Discrimination, disadvantage or adverse treatment in relation to a person's employment, careers, profession, trade or business, including the taking of disciplinary action.

Stage Four: External Mediation by Fair Work Australia

If the grievance or dispute is still unresolved after the prior steps have been undertaken either party may refer the grievance or dispute to Fair Work Australia for conciliation and, if necessary, arbitration. The Fair Work Commission may deal with the dispute in 2 stages. Firstly, they will attempt to resolve the dispute as it considers appropriate including by mediation, conciliation, expressing an opinion or making a recommendation. If the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then arbitrate the dispute and make a determination that is binding on the parties. An appeals process exists. All parties to the dispute agree to be bound by a final decision made by Fair Work Commission in accordance with this term.

During Resolution

While the parties are trying to resolve the grievance using these procedures:

- (a) a staff member must continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and
- (b) A staff member must comply with a direction given by Centacare FNQ to perform other available work at the same workplace, or at another workplace, unless:
 - (i) The work is not safe; or
 - (ii) Applicable work, health and safety legislation would not permit the work to be performed; or
 - (iii) The work is not appropriate for the staff member to perform; or
 - (iv) There are other reasonable grounds for the staff member to refuse to comply with the direction.

Circumstances of No Action to a Grievance

It may be likely action would not be taken when complaints are made in the following circumstances:

- The conduct set out in the complaint complies with, and adheres to, relevant legislation.
- The grievance or dispute results from a staff member disagreeing with a lawful and reasonable direction given by persons authorised to give such a direction (e.g. Manager or supervisor).
- The grievance or dispute has been resolved previously
- An external body, having jurisdiction, has already investigated the grievance or dispute and any necessary action was taken
- The grievance or dispute is made anonymously
- The complainant wants to remain unidentified to the respondent

If a grievance or dispute is made anonymously or the complainant wants to remain unidentified to the respondent, the HRA will assess whether any alternative action can be taken or is required.

Withdrawing a Grievance

Complainants have the right and option to withdraw a grievance. Investigation of a grievance may, however, need to proceed even if the complainant no longer wishes to pursue the matter, particularly where there has been a clear legislative breach or serious misconduct issue, or a person's health or safety is involved. The Supervisor and the HRA will determine whether or not the investigation and resolution of the grievance continues.

Record Keeping

Regardless of the outcome, detailed records will be maintained of all meetings, discussions with witnesses, responses, emails and considerations relevant to any proceedings, with a copy of all documentation referred to the HRA. All documentation is confidentially filed and maintained in accordance with the Record Keeping and Archive Management Policy and the Privacy Policy.

Support and Representation

Centacare FNQ is committed to providing required support and assistance to *all* concerned parties involved in grievance allegations, including both the complainant and respondent. This may include, but is not limited to:

- Providing staff with copies of all relevant policies and instructions
- Support from the Equity Contact Officer (if relevant - refer [Workplace Anti-Discrimination and Harassment Policy](#))
- Staff members (both the complainant and the respondent) being provided the opportunity to a 'support person' at any stage during a grievance process) Refer to Centacare's Standardised procedures and role statement of *Support Person*.
- External counselling through the EAP.

Centacare FNQ Standard Procedures- Support Person

The following standard procedures apply.

Centacare FNQ will:

- *Notify employees that they may bring a support person to the designated meeting.*
- *Not refuse any employee's request to have a support person present.*
- *Supply a role outline to the designated support person and the employee.*
- *Allow the support person to assist the employee in their designated support role.*
- *Ensure confidentiality in all matters.*
- *Terminate the meeting if the support person acts outside of their role or is disruptive within the meeting.*

The Employee will:

- *Provide adequate notice to Centacare FNQ if they choose to bring, and who will be, their nominated support person so that Centacare FNQ may provide both employee and support person with information in regards to proceedings and their role.*
- *Make themselves familiar with the role of the support person & undertake any preparation with their support person for the meeting.*
- *Ensure confidentiality in all matters.*

The Support Person will:

- *Make themselves familiar with the role of the support person.*
- *Ensure confidentiality in all matters.*
- *Assist the employee with any required preparation for the meeting.*
- *Assist and advise the employee; however not be deemed to speak on their behalf.*

A support person may be a trusted colleague, friend or family member, or a union representative. A support person is not legal counsel. The support person should not be directly or indirectly involved in the circumstance in which the support person is required.

A support person is provided with a copy of this role statement:

Role Statement - What is your role as a 'support person'?

A support person may assist the employee during discussions, which means they may talk to the employee with regards to the matter prior to and during any meeting. They may offer emotional support; however, they cannot speak on an employee's behalf. The support person can help the employee formulate what to say, or assist with other supportive actions such as note taking, consulting with the employee should the employee require a break, and provide emotional support to the employee should the employee become upset. Such a break may allow the support person an opportunity to make suggestions to the employee with regard to the meeting.

Support people are not there to present the employee's case, or to respond to issues raised by the employer, on the employee's behalf. A support person is deemed to be present in this capacity and is there to support, so their presence at the meeting should not get in the way of Centacare FNQs' ability to hold a meeting with their employee. If a support person insists on being an advocate, Centacare FNQ is entitled to curtail the meeting, explain the process and give them another opportunity. If the support person is being disruptive, Centacare FNQ is entitled to ask them to leave.

Exceptional Circumstances

If an employee lacks the ability to properly communicate through a meeting, for example, due to language or a disability, then it is fair to allow someone to advocate on their behalf rather than a support person. In these exceptional circumstances, this may be negotiated with Centacare FNQ prior to the meeting.

Independent Advice

Dependent upon the nature of an allegation, staff members also have a right to access independent advice from the:

- Australian Human Rights Commission <http://www.hreoc.gov.au/>; or
- Anti-Discrimination Commission Qld <http://www.adcq.qld.gov.au/>.
- Fair Work Australia <http://www.fwa.gov.au/>
- Rights in Action – Cairns (for members of staff with a disability)
- Disability Legal Advocacy Service – Cairns (for members of staff with a disability)

Or, a staff member can make a complaint to an appropriate external body, for example:

- Anti-Discrimination Commission, Qld <http://www.adcq.qld.gov.au/>
- Industrial Union or Industrial Relations Commission ([Complaints Information Website](#))
- Australian Human Rights Commission www.hreoc.gov.au
- Relevant Department(s)/ Funding body

RESOURCES

Legislation	Fair Work Act 2009
Related Documents	All Policies Staff Grievance Form All Work Instructions
Useful Website:	http://www.hreoc.gov.au/ http://www.adcq.qld.gov.au/ http://www.fwa.gov.au/
Useful Other:	

REFERENCES:

- [Centacare-Cairns-Enterprise-Agreement-2015](#) [Peters Bosel Lawyers October 2011](#)

VERSION CONTROL-IQBMII				
Version No	Version Date	Status	Approval Date	Details
1.5	13/12/2017	Released	14/12/2017	Inserted staff representation in responsibilities and independent advice. Reviewed & Endorsed by Management Team.
1.4	21/09/2017	Superseded	24/05/2017	Saved to new 'Centacare FNQ' Policy Template IQBMII and name change.
REVIEW FREQUENCY CYCLE		Annually or following any staff grievance proceeding		
Review Due Date:		December 2018		