Employee Complaints

Policy Number: E12 (QH-POL-140)

Publication date: October 2014

Purpose: The purpose of this policy is to outline the process for managing complaints made by Queensland Health employees about their employment (employee complaints).

Application: This policy applies to all employees working for the Department of Health and non-prescribed Hospital and Health Services.

Delegation: The ‘delegate’ is as listed in the Department of Health Human Resource (HR) Delegations Manual and the Hospital and Health Services Human Resource (HR) Delegations Manual – HRM Functions of the Director-General, as amended from time to time.

Legislative or other authority:
- Industrial Relations Act 1999
- Information Privacy Act 1999
- Public Service Act 2008

Related policy or documents:
- Code of Conduct for the Queensland Public Service
- Requirements for reporting corrupt conduct HR Policy E9 (QH-POL-218)
- Queensland Health complaints management system policy
- Public Service Commission protocols for managing complaints notified to the commission chief executive about a chief executive

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Employee complaints

A current employee can make a complaint where the employee has an honest belief, based on reasonable grounds that one or more of the following have occurred:

- an administrative decision is unfair or unreasonable
- the conduct or behaviour of an employee, agent or contractor is unfair, unreasonable or constitutes sexual harassment or workplace harassment
- the decision, conduct or behaviour has a substantial and direct adverse effect on the employee concerned.

An employee complaint can also be made about suspected official misconduct, clinical matters, a breach of Queensland Health policy or the Code of Conduct for the Queensland Public Service.

Making an employee complaint

Employee complaints must:

- be made as soon as reasonably possible after the administrative decision, alleged conduct or alleged behaviour occurred and
- no later than 12 months after the employee became aware of the administrative decision, alleged conduct or alleged behaviour.

If an employee lodges two or more complaints about related matters, or two or more employees lodge separate complaints about related matters, they may be managed as one complaint.

A delegate may choose to accept an employee complaint about any matter at any time if they determine doing so is in the public interest.

Employee complaints cannot be made about particular decisions

The following decisions cannot be the subject of an employee complaint:

- a decision about the policy, strategy, nature, scope, resourcing or direction of Queensland Health
• a decision to discipline an employee
• a decision to retire an employee on the grounds of ill-health under chapter 5, part 7 of the
  *Public Service Act 2008*
• a decision about another employee complaint, made by the same employee, whether the
decision was made under this policy or another industrial instrument
• a decision and/or action of another agency.

Employee complaints cannot be made about a matter which is substantially the same matter that was the subject of a previous employee complaint, whether the complaint was made under this policy or another industrial instrument. Complaints cannot be re-raised once they have been dealt with. New concerns or complaints which have not previously been dealt with can be the subject of a complaint.

4 **Employee complaints about the Director-General, Department of Health**

A complaint about the conduct of the Director-General, Department of Health should be made in writing to the Chief Executive of the Public Service Commission.

5 **Complaints about subordinate staff**

Supervisors and managers are encouraged not to lodge a complaint about employees who report to them when there are more appropriate processes to deal with the issues, except where the complaint involves suspected official misconduct or criminal activity.

Supervisors and managers should:

• address performance issues through appropriate performance management processes
• consider other appropriate ways of addressing their concerns
• speak with their manager for advice on how to manage the situation
• comply with any other statutory requirements.

6 **Complaints involving suspected official misconduct**

Supervisors and managers need to be aware of their obligations to report matters of suspected corrupt conduct.

In complaints that involve matters of suspected corrupt conduct no action should be taken to resolve the complaint, either informally or formally, until the matter has been reported to the Crime and Corruption Commission through the appropriate process.

Refer to Requirements for reporting corrupt conduct HR Policy E9 (or equivalent policy) for further information.

Complaints involving criminal activity may require notification to the Queensland Police Service.

7 **Management and resolution of employee complaints**

Employee complaints must be managed:

• in accordance with the principles of natural justice
• in a manner that protects privacy (subject to natural justice requirements)
• in accordance with the process set out in Schedule One of this policy.
8 Parties to an employee complaint

The parties to an employee complaint must:

- engage in the employee complaint management and resolution process
- act in good faith
- be provided with regular and timely information in relation to the progress of the employee complaint.

9 Industrial matters and workload complaints

Complaints and disputes in relation to all industrial matters are defined under the *Industrial Relations Act 1999*.

Workload matters and complaints relating to the interpretation, application and implementation of certified agreements are to be resolved in accordance with the relevant dispute resolution clause of the relevant certified agreement.

In relation to industrial disputes, the normal range of legislative options is available to the parties, especially if service delivery is threatened.

10 Status quo

While a complaint procedure is being followed, work is to continue as it was, prior to the lodgement of the complaint, except in the case of a genuine safety issue or to mitigate any identified risks.

Without limiting an employee’s right to pursue a complaint, no party is to use the complaint procedure to prevent the introduction of the outcomes of organisational change or restructuring undertaken in accordance with the relevant industrial instrument, or to limit matters agreed between the parties in accordance with award provisions.

11 Treatment of employees who make complaints

Appropriate action, including management or disciplinary action, will be taken against any employee who victimises or retaliates against an employee who has made a complaint.

Appropriate action, including management or disciplinary action, will also be taken against any employee found to have knowingly made a false or vexatious complaint.

12 Appeals

An employee may have appeal rights if they are dissatisfied with a decision and should be advised of these options in writing.

An employee dissatisfied with an administrative decision made by the Director-General, Department of Health can appeal the decision to an external body.

An employee who is considering appealing a decision should contact the relevant external agency, e.g. the Queensland Industrial Relations Commission or Queensland Ombudsman for information regarding timeframes for appeals and other information specific to that agency’s appeal process.
13 Compliance with Queensland Health Complaints Management System Policy

Queensland Health is required to ensure an appropriate Complaints Management System is in place in relation to:

- recording and reporting complaints information
- monitoring complaints information to identify trends and resolve ongoing issues
- ensuring the complainant, and other parties to the complaint, are kept updated on the progress of the complaint.

Definitions:

<table>
<thead>
<tr>
<th>Administrative decision</th>
<th>A decision made by the agency in relation to the administration of its affairs and includes the failure to make a decision within a specified timeframe where applicable (for example, a decision to take, or not take action under a directive; a decision to transfer a public service officer).</th>
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<tbody>
<tr>
<td>Complaint</td>
<td>The mechanism for an employee to raise issues of concern and to seek a resolution.</td>
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<tr>
<td>Parties to an employee complaint</td>
<td>Includes the employee complainant (person making the employee complaint) and the respondent (either the agency or employee who is the subject of the employee complaint) to the employee complaint.</td>
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<tr>
<td>Personal information</td>
<td>As defined in section 12 of the Information Privacy Act 2009.</td>
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<tr>
<td>Privacy</td>
<td>The management of personal information in accordance with the Information Privacy Act 2009.</td>
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History:

| October 2014 | • Policy amended to update naming conventions. |
| May 2014     | • Policy formatted as part of the HR Policy Simplification project.  
              | • Policy amended to:  
              |   - reflect change in policy title from “Grievance Resolution” to “Employee Complaints”  
              |   - outline new employee complaints process  
              |   - limit the application to the employees working in and for Department of Health and non-prescribed employees. |
| April 2010   | • Developed as a result of the HR policy consolidation project. |
Employee Complaints – Schedule One
Employee complaints process

The following information is provided as the minimum mandatory standard practice, procedure or process to enable satisfactory compliance with this Queensland Health HR policy.

Local guidelines/procedures may be developed to facilitate implementation of this policy. Any local guidelines/procedures must be consistent with this policy and schedule and ensure employee entitlements continue to be met.

1 Informal complaint resolution (stage one)

Except in the case of suspected corrupt conduct (or a public interest disclosure) or criminal activity, where appropriate and where an employee is comfortable to do so, genuine attempts should be made by an employee to resolve their complaint through discussion and cooperation with their immediate supervisor and/or the person who is the subject of the complaint, before taking the matter further.

If the complaint relates to the employee’s immediate supervisor the complaint can be referred to the supervisor’s reporting officer. If the complaint relates to a senior employee the complaint can be referred to the relevant authorised delegate, as appropriate.

Mediation may be considered as an appropriate means to address the complaint. If the matter cannot be resolved informally the employee may escalate the complaint.

2 Lodging a formal complaint (stage two)

If an employee complaint cannot be resolved locally the complaint should be lodged as a formal complaint with the appropriate delegate (see applicable HR delegations manual).

When an employee lodges a formal complaint, it is to be in writing and specifically address the following:

- The attempts the employee has made to resolve the complaint locally
- The grounds on which the employee believes they have been adversely affected by an administrative decision or by the conduct or behaviour of an employee
- Sufficient information to enable an appropriate action to be determined
- The outcome the employee believes would resolve the complaint.

Action to resolve an employee complaint may include, but is not limited to one or more of the following:

- Conducting preliminary enquiries to determine appropriate options for resolution of the employee complaint
- Facilitated discussion, mediation, conciliation or negotiation
- Investigation
- Other reasonable action in the circumstances.

A written decision must be provided to the complainant and must include:

- the action taken to manage the employee complaint and the outcome of this action
- the reasons for the decision
- any action taken, or proposed to be taken, as a result of the decision
- the option of an internal review.
Action to resolve an employee complaint must be completed as soon as possible, but within 21 days of receipt of the employee complaint, unless:

- the timeframe has been extended by mutual agreement between the parties (a party to the employee complaint is not to unreasonably withhold their agreement)
- reasonable attempts have been made (and can be demonstrated) to progress the employee complaint.

If a decision is not made within 21 days of receipt of the employee complaint the administrative decision which formed the basis of the initial employee complaint may be taken to be confirmed.

3 Review (stage three)

If the employee is dissatisfied with the decision made by the delegate (at stage two) the employee can submit their complaint for internal review.

A request for an internal review shall be made in writing to the Health Service Chief Executive or Director-General, Department of Health, and must:

- be received within 14 days of the employee receiving the written decision on the formal complaint (outcome of stage two)
- clearly state the reasons why the employee is dissatisfied with the decision on the formal complaint, and not merely state a belief that the decision was unfair or unreasonable, and
- clearly state the action the employee believes would resolve the employee complaint.

The Health Service Chief Executive or Director-General may refer the request for an internal review to an appropriate delegate for a decision.

An internal review is to determine whether the decision made about the formal complaint was fair and reasonable in the circumstances.

The internal review should be completed as soon as possible, but within 14 days of receipt of a written request from an employee for internal review unless:

- the timeframe has been extended by mutual agreement between the parties (a party to the employee complaint is not to unreasonably withhold their agreement)
- reasonable attempts have been made (and can be demonstrated) to progress the employee complaint.

If an internal review decision is not made within 14 days of receipt of the request for internal review or in accordance with the above timeframes, the decision made at the formal complaint stage may be taken to be confirmed.

A written decision shall be provided to the employee who made the written request for internal review following the internal review process. This decision must:

- detail the action taken to review the decision made about the formal complaint
- the reasons for the internal review decision
- any action taken, or proposed to be taken, as a result of the internal review
- be capable of review
- outline any avenues for appeal (external review).
4 Appeal

If the employee who made the initial employee complaint is dissatisfied with the decision made at internal review, the employee may appeal the decision. Appeals can be made under the Public Service Act 2008.

Employees may also have appeal rights to other external bodies.

5 No action required

A decision can be made to take no further action in relation to an employee complaint where the relevant decision maker is reasonably satisfied:

- an employee complaint is frivolous or vexatious
- an employee complaint does not meet the definition of an employee complaint
- the employee has unreasonably refused to participate in local action to resolve the employee complaint
- the reasons for seeking internal review are not sufficient.

A written decision that no further action is to be taken must be provided to the employee. An employee may be able to appeal this decision to an external body.

6 Requests for information

When a party to a complaint requests information about progress made to resolve a complaint, where possible this information is to be provided within seven calendar days of the request, unless the request is unreasonable or provision of the information would prejudice the satisfactory resolution of the complaint.

7 Recording complaints information

Information must be recorded on all formal complaints. Hospital and Health Services/Department of Health Agencies/Divisions must provide the Department of Health with information about the application of this policy as requested from time to time.

8 Employee Assistance

Queensland Health offers a confidential counselling service which is free of charge to all employees for up to six sessions per calendar year. Access to this service is by self-referral. Please contact Optum on 1800 604 640. Some Hospital and Health Services also offer an in-house counselling service.


9 Further Information

Information regarding employee complaints can be obtained from:

- Managers and supervisors
- Local People and Culture (Human Resources/Employee Relations)
- Workplace Equity and Harassment Officers (WEHOs)