

Resolving Workplace Issues

Resources for Employees

2019

Note: *This resource provides employees with information on the role of all employees in managing and resolving workplace issues and the mechanisms available if they are subject to, or observe, inappropriate behaviour or misconduct. More information is available in:*

- *Resolving Workplace Issues: Work Bullying Harassment and Discrimination*
- *Resolving Workplace Issues: Resources for Managers and Supervisors*
- *Guidelines to the Misconduct Process*

Directorates may have additional resources and policies that apply. Refer to your local HR area for more information.

WHAT ARE WORKPLACE ISSUES?

Workplace issues are incidents that are seen as inappropriate by the person experiencing or observing the issue; they can arise every day and in many different situations (e.g. social networking forums, face-to-face). Workplace issues can vary in terms of seriousness; they may be low level or a one-off incident that is inappropriate in nature, or they may be more serious incidents such as work bullying. Workplace issues include a wide range of behavioural, environmental, cultural, relationship and performance issues, such as:

- communication – staff attitudes, assumptions, rudeness, misunderstandings;
- information – inadequate or incorrect information;
- process – inadequate procedures, failure to provide sufficient information, or a failure to consult in decision-making; and
- professional conduct.

While everyone will react and respond differently to workplace issues, some examples of the negative impact that inappropriate behaviour or misconduct can have includes:

- an impact on the individuals involved, such as stress, anxiety, panic attacks, sleeping problems, loss of self-esteem and confidence, isolation, strain on relationships, absenteeism, reduced work performance and work dissatisfaction, impaired concentration or ability to make decisions and decreased productivity;
- an impact on the wider team, such as reduced team morale and increased tension at work; and
- an impact on the organisation, such as decreased productivity, increased turnover, reduced performance, absenteeism, decrease morale, damage to brand and reputation, work disruption and costly workers compensation claims and/or legal action.

Disagreement or differences of opinion between employees do not always result in inappropriate behaviour or misconduct. The ACTPS promotes respectful, robust discussion between employees to enhance productivity, which is a characteristic of a mature workplace culture. This can involve challenging each other's opinions and may sometimes be frustrating for those involved. Similarly, not everyone in the workplace will always get along easily.

In each case, your tone, body language and choice of language when engaging with others can significantly impact the outcome of any given situation. Remaining patient, courteous and respectful to each other will help minimise the likelihood of workplace issues arising.

Reasonable Management Action

Managers and supervisors have a responsibility to direct and maintain work flow and ensure both service delivery and client outcomes are achieved. Reasonable managerial actions may include:

- providing reasonable directions about work and setting reasonable goals;
- providing appropriate and constructive feedback about an employee's work performance and managing the performance;
- allocating work in a fair and equitable way;
- ensuring workplace policies are implemented;
- addressing unacceptable workplace behaviour;
- allocating particular hours of work to meet operational requirements (e.g. 8.30am commencement, having regard to the employment framework);
- making justifiable decisions related to recruitment and selection for an employee's promotion and/or other opportunities;
- applying organisational change or restructuring;
- transferring or re-deploying an employee for operational reasons;

- being objective and confidential when informing an employee of unreasonable or inappropriate behaviour;
- following the principles of Respect at Work, Natural Justice, Procedural Fairness and Confidentiality and Privacy; and
- acting in accordance with the ACTPS Values and policies.

Although some of the above actions may be challenging or confronting for some employees, this does not automatically make them inappropriate or unreasonable actions.

The Preliminary Assessment

A Preliminary Assessment is an objective and impartial assessment that a manager or supervisor should undertake once alerted to a workplace issue that may involve inappropriate behaviour or misconduct. A Preliminary Assessment is **not** an investigation; it is an expedient means of determining the relevant facts to decide if, and how, to proceed with the matter. The assessment should be conducted as soon as possible, be as short as is practical and should cease as soon as it becomes evident how best to handle the issue.

Outcomes of a Preliminary Assessment

The following outcomes of a Preliminary Assessment are possible:

- if the manager/supervisor is satisfied that no further action is necessary, no further action need be taken; or
- if the manager/supervisor determines that alternative action, including remedial/restorative options for resolution is appropriate, they may implement that action; or
- if the allegations are better resolved through the internal review procedures set out in ACTPS Enterprise Agreements or other alternative mechanisms (e.g. as a Public Interest Disclosure), the matter may be referred accordingly; or
- if the allegations relate to performance issues, they may be addressed through an underperformance process in accordance with H4 (Underperformance); or
- if the manager/supervisor determines that the allegations require investigation a referral may be made to the Public Sector Standards Commissioner, in accordance with clause H7 (Dealing with Allegations of Misconduct) of the ACTPS Enterprise Agreements; or
- where the manager/supervisor considers the allegation/s to be vexatious or knowingly false, they will recommend to the delegate that action may be taken in relation to the person who made the allegations.

WHAT CAN I DO TO RESOLVE A WORKPLACE ISSUE?

If you experience or observe a workplace issue which you believe to be inappropriate, or which may constitute misconduct, there are several steps you can take to address it – either by yourself or with the support of your manager, supervisor, Executive, or HR team. In all cases it is important that you address workplace issues in a timely and mature manner to support the likelihood of a positive resolution.

How you address the workplace issue depends on factors such as:

- the type of behaviour;
- the context in which the behaviour occurs;
- the seriousness of the behaviour;

- the frequency of the behaviour or similar behaviours; and
- the impact of the behaviour upon yourself or others.

Resolving less serious workplace issues

Resolving less serious workplace issues at the local level is a key means by which all employees can contribute to the ACTPS goal of creating positive work cultures. The features of a less serious workplace issue can include:

- one-off or irregular occurrence;
- not serious in nature;
- a series of low level, minor events;
- inappropriate in nature;
- does not appear to constitute misconduct as outlined in ACTPS Enterprise Agreements; or
- able to be resolved easily and quickly at the local level.

Often you can address and resolve these issues yourself. Employees are encouraged to do so because this provides the best opportunity for a positive resolution in terms of maintaining and/or improving working relationships and continuity of work. The actions you can take to resolve a workplace issue include:

- take no further action but monitor the situation;
- seek support and advice from a trusted and confidential source, including RED Contact Officers;
- seek counselling from an Employee Assistance Program (EAP) provider;
- seek personal development (e.g. training for resilience, having difficult discussions etc);
- have a direct conversation with the individual/s with whom you are experiencing the workplace issue; or
- have a discussion with your manager/supervisor about the workplace issue you are experiencing (or, if the issue is with your manager or supervisor, consult with next level of management).

Resolving more serious workplace issues

Workplace issues of a more serious nature that may constitute misconduct and workplace issues where remedial options for resolution have already been attempted without success will most likely be managed through the misconduct investigation process. More serious workplace issues can include:

- repeated behavioural lapses;
- complex workplace issues where facts are not known or are contested; or
- the workplace issue appears to involve:
 - a breach of Section 9 of the PSM Act;
 - engaging in conduct that has or may bring the ACTPS into disrepute;
 - unauthorised absence/s where no satisfactory reason is provided;
 - convictions of a criminal offence, an offence where no conviction is recorded or failure to notify the ACTPS of criminal charges; or
 - making vexatious or knowingly false allegations against another employee.

In addressing any workplace issue, a Preliminary Assessment must always be undertaken to determine the appropriate way to respond to the issue. If the manager or supervisor conducting the assessment determines that an investigation may be required, this recommendation is forwarded to the relevant delegate for consideration and consultation with the local HR team. The delegate may then refer the matter to the Public Sector Standards Commissioner for an investigation. The investigation is conducted by the Professional Standards Unit, who will assign an investigator to

uncover the facts relevant to the workplace issue, and may involve interviewing all relevant employees, reviewing documents and other fact finding measures. The findings of the investigation are forwarded to a misconduct delegate who determines whether or not misconduct has occurred. If misconduct is found to have occurred the matter will be referred to the appropriate delegate for a decision on an appropriate resolution. This can include a decision to resolve the matter in a non-disciplinary way, or to take disciplinary action against any person/s found to have conducted the alleged behaviour. The types of disciplinary actions include:

- a written reprimand;
- a financial penalty (e.g. reduction in classification level, deferment of incremental advancement, fine or removal of existing monetary benefits);
- temporary or permanent transfer to another position at level or to a lower classification; or
- termination of employment.

The desired outcome is that the issue is successfully resolved, either through the use of disciplinary action, or remedial actions. If the issue is not resolved, or the employee adjusts behaviour appropriately but resumes behaviour of a similar nature at a later point, then further action will be taken as appropriate.

WHAT CAN I EXPECT FROM THE ACTPS WHEN RESOLVING WORKPLACE ISSUES?

If you are subject to, or have witnessed, workplace issues that may be inappropriate or may constitute misconduct and you raise your concerns with an appropriate contact, you can expect:

- to be treated in accordance with the guiding principles of Respect at Work, Procedural Fairness, Natural Justice and Confidentiality and Privacy;
- to be offered advice and support;
- to have your concerns responded to promptly and resolved efficiently and effectively in accordance with ACTPS Enterprise Agreements, whole-of-government resources, and other relevant policies or procedures;
- to be given an opportunity to explain your version of events;
- that those managing and resolving the issues (e.g. supervisors, managers, delegates) will demonstrate neutrality and impartiality towards everyone involved;
- to be given the opportunity to have a support person present at any related interviews and meetings (e.g. a friend, health and safety representative or union representative);
- that records will be kept of relevant conversations, meetings and interviews;
- that those managing and resolving the workplace issues will attempt to do so using local and non-disciplinary options wherever appropriate; and
- that the workplace issue will be treated seriously and appropriate action will be taken.

WHAT IF I AM ACCUSED OF INAPPROPRIATE BEHAVIOUR OR MISCONDUCT?

If you are a respondent to an allegation of inappropriate behaviour or misconduct, you should always keep in mind that you are not obligated to accept any complaint raised against you as being true, and that you will be given an opportunity to provide your version of events. Furthermore, if you believe you are being unjustly accused or the complaint is malicious, you can discuss this with your supervisor, manager, Executive, HR team or a RED Contact Officer.

However, in general terms, as a respondent in a process to resolve a workplace issue, you should:

- respond to the situation appropriately and professionally;
- be aware of your statutory obligation to respond truthfully and to participate in good faith;
- actively listen to the person's concerns and genuinely reflect on how your conduct may have been perceived by the other person/s involved;
- be provided all information about the allegation and be given a reasonable amount of time to consider the information provided to you and an opportunity to make a response;
- consider discussing the matter confidentiality with someone you trust or an EAP;
- reflect on the information provided to you and decide how you will react or modify your behaviour, with the primary focus being to effectively resolve the issue and support productive working relationships; and
- if appropriate, apologise for the offence caused and work with the other person to agree upon a resolution and means of continuing to work together effectively.

RESPONSIBILITIES

ACTPS directorates, Executives, managers, supervisors and employees have various responsibilities associated with managing and resolving workplace issues, as outlined below:

Directors-General/Directorates

- Must promote the ACTPS Values and Signature Behaviours as per the ACTPS Code of Conduct to create positive workplace cultures where workplace issues are resolved efficiently and effectively at the local level as they arise, where appropriate.
- Must actively prevent workplace issues of an inappropriate or misconduct nature, including work bullying, discrimination and harassment by adhering to whole-of-government procedures and guidelines, providing supervision and training for staff and undertaking ongoing risk management.
- Must identify, assess, and eliminate or control the risk factors that contribute to a work culture where work bullying is likely to occur.
- Must ensure that directorate specific guidelines and procedures are in accordance with ACTPS Enterprise Agreements and whole-of-government resources to support employees to raise workplace issues and access mechanisms to resolve inappropriate behaviour and misconduct.
- Must ensure that executives, managers, supervisors and employees know what to do if work bullying, discrimination or harassment occurs.
- Must investigate work bullying, discrimination or harassment as soon as possible in accordance with the procedures set out in ACTPS Enterprise Agreements and other applicable procedures.
- Must ensure that all parties of an investigation under Section H of ACTPS Enterprise Agreements are aware they will be informed of the outcome with due regard being given to privacy concerns, the nature of the complaint and the proportionality of information applicable to each party.
- Must keep accurate records of complaints of work bullying, discrimination and harassment.

Executives, Managers and Supervisors

- Must model and promote the ACTPS Values and Signature Behaviours as per the ACTPS Code of Conduct to create positive workplace cultures where workplace issues are resolved efficiently and effectively at the local level as they arise, where appropriate.
- Must treat staff with respect and ensure that their own conduct is above reproach, examining their own preconceptions, biases and stereotypes concerning workplace issues that are of an inappropriate nature or may constitute misconduct.
- Must "call out" inappropriate behaviour as soon as they see it or become aware of it.

- Must communicate the whole-of-government resources and related procedures to staff to ensure that they are aware of their rights and responsibilities.
- Must actively prevent work bullying, discrimination and harassment by addressing workplace issues and taking necessary corrective and preventative action.
- Must treat all issues of work bullying, discrimination or harassment seriously and respond promptly and confidentially in accordance with ACTPS Enterprise Agreements and whole-of-government resources.
- Must take all reasonably practicable steps to prevent employees that are involved in the management and resolution of workplace issues from being victimised.

All employees

- Must commit to and promote the ACTPS Values and Signature Behaviours as per the ACTPS Code of Conduct to create positive workplace cultures and treat others with respect.
- Must comply with lawful and reasonable directions given to them by any person having the authority to give the direction.
- Must understand their own behaviour and consider how it may be perceived by, and impact upon, others at work.
- Should actively prevent workplace issues from recurring by talking to the person/s conducting inappropriate behaviour, or raising concerns about workplace issues with their manager, supervisor or executive, a RED Contact Officer, Work Safety Representative or relevant HR team.
- Should familiarise themselves with their directorate's relevant guidelines and procedures relating to management and resolution of workplace issues.
- Should offer support to anyone who is subject to inappropriate behaviour or misconduct, and if possible let them know where they can obtain help and advice.
- Must not raise workplace issues that are frivolous or malicious.
- Must participate in the management and resolution of workplace issues in good faith and with confidentiality.

APPENDIX A: Options for Resolving Workplace Issues

Seek support and advice from a trusted and confidential source

When dealing with an inappropriate workplace issue, it may be difficult to be objective about what is happening to you and clear your mind. Sometimes having a conversation with a trusted and confidential source who is not involved in the issue can help you to remain objective. Examples of a trusted and confidential source include: family and/or friends, a close colleague (preferably from another team or area), a RED contact officer, or your union representative. Whoever it is, they should be able to listen to you and help clarify the situation and offer support, discuss options to deal with the inappropriate behaviour, act as a point of referral, maintain confidentiality and be neutral.

Have a direct conversation with the employee with whom you are experiencing the issue

Having a direct conversation with the individual involved can be one of the best options – but it might also be something which makes you nervous. You should only have a direct conversation if you feel comfortable to do so and it must be respectful and professional.

Approaching the individual may be possible early in the process however it may get more difficult if the issue is not addressed and worsens over time. If the person has never been challenged about their behaviour they may not be open to feedback, preferring instead to allocate blame to someone else. In contrast, some individuals are unaware of the effect their behaviour is having upon others and they may respond quickly to adjust and improve their behaviour. You should therefore be prepared for different possible outcomes of your conversation, such as:

- the individual accepts your feedback positively;
- the individual finds your feedback challenging and takes some time to process it and respond; or
- the individual rejects your feedback entirely.

Remember: Even though such conversations sound challenging, they can be a quick and efficient solution to the issue.

Counselling

If you need help in dealing with the issue and its impact upon you, seek assistance through the Employee Assistance Program (EAP). EAP can help you determine coping and management strategies, stress management, conflict management skills and build your resilience. Refer to your local HR team for the relevant details of your EAP provider. Alternatively, consult with your medical practitioner or a registered psychologist to monitor your health and assist your psychological wellbeing.

Personal development

Personal development courses and training can also help in dealing with workplace issues and their impact on you. Personal development can help build your resilience, self-confidence, conflict management skills, self-esteem, relationship skills and improving communication. These courses (e.g. crucial conversations) can be found online via the HR Shared Services Training Calendar.

Discuss the workplace issue with your supervisor or manager

If you feel that you are unable to resolve the workplace issue directly or through other remedial/restorative options, you can discuss the issue with your manager or supervisor (or, if the issue involves them, consult the next level of management). If you don't want to approach your line

of management, you can also discuss the issue with your local HR team, RED Contact Officer, or an Executive through the Open Door Protocol.

Your manager or supervisor can offer you support and guidance and has the responsibility to address the issue and promote resolution of the issue. They will assess and evaluate the issue by undertaking an objective and impartial Preliminary Assessment that will help to determine the next appropriate steps.

APPENDIX B: How to Succeed in Challenging Discussions

It can be helpful to do some preparation to set yourself up for success when facing a difficult conversation in the workplace. Below are some tips and suggestions that might be useful to help you prepare for a conversation with someone you feel is conducting inappropriate behaviour.

Although the discussion may be difficult; don't avoid it. Have the conversation when you notice the inappropriate workplace issue – otherwise you risk the issue escalating and becoming more serious.

Before the conversation:

- Write down the points you want to discuss
- Ask yourself – what do I hope to gain from the conversation?
- What do I think the ideal situation would be?
- Practice the conversation with yourself or a confidential support person, so you are able to express your thoughts clearly
- Plan what the best environment will be to have the conversation

How to start the conversation – some conversation starters:

- “I'd like to discuss an important issue that occurred “
- “I'd like to talk about I want to also get your point of view on it”
- “I think we have different perceptions about ..., this happened ... and I felt ...”

During the conversation:

- Adopt a structure such as:
 - Naming the issue
 - Identifying what you would like to change
 - Describing the feelings associated with the issue
 - Describe the impact the issue has had (this may be the impact upon you, others, or the workplace in general)
 - Identify how you may have contributed to the issue
 - Be clear that you are seeking to resolve the issue
 - Invite a response from the person you are speaking to
- Remember to be professional and stay calm
- Be firm, clear and specific
- Ensure you give the individual a chance to consider your comments and respond with their own comments – offer the individual the chance to return to the discussion at a later point if they need time to digest the information you have provided to them
- Respect the other individual's opinions and points of view
- Control your own reactions and know how to handle them effectively
- Really listen – don't just focus on your issues, listen to what the other individual is saying
- Think of the situation from the other person's point of view
- If the other employee laughs at what you say, tell them you are being serious
- Keep focus on the topic and your outcome – don't let the conversation drag into lots of others issues or go off scope – if this happens, return to the original issues
- Focus on a resolution and moving forward
- If the conversation is getting difficult and confrontational, remove yourself from the situation in a calm and polite manner

After the conversation:

- Write down all the points you remember from the conversation and the outcome in a diary
- The other employee may need some time to reflect on what you said and the issue may still improve later even if they do not accept your view in the beginning
- If there is an agreement to stop the inappropriate issue, monitor the situation and if it occurs again, discuss it with your supervisor or manager
- If the issue is unable to be resolved, discuss it with your supervisor or manager

APPENDIX C: Other Complaints Management

Mechanisms

The strong preference is for the options for resolution available *within* the ACTPS to be fully explored, before these external options are considered. However, a summary of external complaint management options to resolve serious workplace issues is included below:

WorkSafe ACT: If you are unhappy with the way in which your complaint is handled or with the conduct of the ACTPS in relation to your complaint (including if you think the ACTPS is not meeting its obligation to take all reasonable steps to protect employees from harm at work), you can contact WorkSafe ACT. More information is available here: http://www.worksafe.act.gov.au/health_safety

Fair Work Commission (FWC): The FWC may be able to help you resolve issues in the workplace if they cannot be resolved internally. This can include issues such as: discrimination; workplace rights; dismissal; bullying; or disputes arising during the course of negotiating enterprise agreements. More information is available here: <https://www.fwc.gov.au/>

Fair Work Ombudsman (FWO): The FWO can provide you with information about resolving an issue or dispute in the workplace and has a range of online resources that may be of assistance. More information is available here: <http://www.fairwork.gov.au/>

ACT Human Rights Commission: If you believe you are being discriminated against for a particular reason such as your sex, disability, race or another attribute that is protected under the *Discrimination Act 1991*, or if you are experiencing bullying of a sexual nature, you can contact the ACT Human Rights Commission to discuss the matter or lodge a complaint. More information is available here: <http://hrc.act.gov.au/>