

Complaints Handling Procedure

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1. Purpose

- 1.1. The purpose of this procedure is to provide MSA workplace participants with clear guidelines as to how complaints will be handled. The procedures seek to ensure that all complaints are handled sensitively, confidentially and in a manner consistent with principles of procedural fairness and natural justice. This document is to be read in conjunction with any relevant industrial instrument.

2. Application of this policy

- 2.1. This policy applies to the following persons, collectively referred to in this policy as ‘workplace participants’:
- all prospective and current full-time, part-time and casual employees of MSA;
 - all volunteers engaged by MSA;
 - all agents and contractors engaged from time to time by MSA; and
 - all office-bearers and members of MSA bodies

3. In the Event of an Incident

- 3.1. Any person who feels they are being bullied, harassed or discriminated against can choose to lodge either:
- An ‘informal’ complaint; or
 - A ‘formal’ complaint.

3.2. Informal Complaints

3.2.1. Informal complaints are complaints which are dealt with either:

3.2.1.1. By the complainant themselves in attempting to resolve the problem directly with the alleged harasser (*Where an alleged harasser is requested to cease engaging in unacceptable behaviour, they should immediately do so*); or

3.2.1.2. With internal assistance, where the complainant seeks support from either: a member of the MSC Executive in the case of the complainant being an elected Office Bearer; or from their direct line manager; one up manager or HR Coordinator if they are an employee.

3.2.2. In investigating an informal complaint, either the Manager (if appropriate), HR Coordinator or the Member of the Executive will conduct an interview with the complainant, and may additionally interview the alleged harasser, as well as interviewing any relevant witnesses.

3.2.3. Confidential formal records will be kept of the investigation.

3.2.4. All complaints will be taken seriously; investigated in a confidential manner; and include the implementation of an action to remedy the complaint. Potential actions can include a wide variety of mechanisms aimed at assisting the parties' working relationship such as:

- a) Mediation between the parties;
- b) Counselling;
- c) Requesting an apology;
- d) Training.

3.3. Formal Complaints

3.3.1. Where either party in an alleged incident believes there is a conflict of interest or if the complaint is particularly serious or complex, a formal investigation will be independently conducted.

3.3.2. An appropriate person appointed by the MSC Exec or Executive Officer will be responsible for conducting an investigation into any formal complaints.

3.3.3. To lodge a formal complaint, report the incident/issue to:

- a) Your direct line manager;
- b) HR Coordinator, or,
- c) A member of the MSC Executive.

3.3.4. A formal investigation usually involves requesting the complainant to provide a written statement outlining the specifics of the problem, a follow up interview being conducted with the complainant, an interview being conducted with the alleged harasser, as well as conducting interviews with any witnesses.

3.3.5. A formal complaint triggers a procedure which includes investigation; decision-making about whether the complaint can be substantiated; and the implementation of an action to remedy the complaint as authorised by the MSC and/ or the Executive Officer, or, where this power has been explicitly delegated, their delegate.

3.3.6. Confidential formal records will be kept of the investigation.

3.3.7. Both parties to the complaint will be informed of the outcome of the complaint.

4. Where an Outcome is Challenged

- 4.1. If the complainant believes that their complaint has not been appropriately dealt with at any stage of the complaint procedure, or should they otherwise decide to do so, the complainant may refer their complaint to the appropriate external tribunal.

5. Rules of Investigation

- 5.1. **Confidentiality** – Only the persons directly involved in making or investigating a complaint, witnesses, or any other person who needs to be involved in the complaint to ensure a suitable resolution is achieved, will be involved in the complaints process and / or have access to information about the complaint.
- 5.2. **Impartiality** – Both sides will have an opportunity to present their version of events. No assumptions will be made and no action will be initiated until all relevant information has been collated and duly considered.
- 5.3. **Support** – Both sides are entitled to have a support person present during the complaint process. Support can be provided by any person chosen by the parties, including a union representative or work colleague.
- 5.4. **Victimisation** – No action will be taken against anyone for making a genuine complaint or helping someone make a complaint. Employees who engage in the victimisation of persons who have made a complaint and/or against an alleged harasser will be subject to a disciplinary process.
- 5.5. **Timeliness** – All complaints are to be dealt with as expeditiously as is practicable.

6. Substantiated Complaints

- 6.1. Disciplinary action will be taken against anyone who engages in discrimination, bullying or harassment (or whose behaviour is discriminatory or harassing). Disciplinary action may involve:
 - a) Providing a written apology to the complainant;
 - b) Further training;
 - c) Performance management including counselling, a written warning, or a final written warning;
 - d) Demotion; or
 - e) Termination of their employment or engagement with MSA.
- 6.2. In some cases, a person may also be held personally liable for their actions and/or behaviour, in which case, they may face external legal action where it is initiated by the aggrieved party. In such circumstances MSA will neither pay nor reimburse individuals for personal monetary penalties or legal fees.

7. Unsubstantiated Complaints

- 7.1. If a complaint is not substantiated (or otherwise is inconclusive as a result of insufficient evidence) the following actions may be initiated:
 - a) Training of employees and/or student representatives undertaken;
 - b) Ongoing monitoring of employee/student representative behaviour.

8. Vexatious Complaints

- 8.1. If any employee, student representative or volunteer is found to be making a malicious complaint, or a complaint without substance, they will be subject to disciplinary action commensurate with the seriousness of the transgression. This could include termination of their employment or engagement with MSA.

9. Related Policies and Procedures

[Anti-Bullying Policy](#)

[Code of Conduct](#)

[Equal Opportunity Policy](#)

[Freedom from Harassment Policy](#)

[Occupational Health and Safety Policy](#)

10. Version History

Current Version

Author: Jennifer Gibson, HR Coordinator
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Prior Versions

Author: Kirsty Jeffery, Executive Officer
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