

Grievance Resolution Policy

1. Background

The *Fair Work Act 1994*, *Equal Opportunity Act 1984* and *Sex Discrimination Act 1984* require all employees to be treated fairly and justly. Central to this is a sound process for grievance resolution.

2. Purpose

This policy ensures grievance resolution is understood and valued and it informs a fair and impartial grievance resolution process.

3. Scope

This policy applies to Board members and to staff, contractors, volunteers and who are covered under the *South Australian Public Sector Enterprise Agreement: Salaried 2021*. Disciplinary action will be taken for breaches of this policy.

4. Definitions

Grievance	A complaint raised by an employee about an action (including and act or omission) that has occurred in the workplace.
Informal grievance	When an employee wants the organisation or manager to be aware of the issue, but they do not want to make a formal complaint. It involves an informal process such as discussions to attempt to resolve an issue.
Formal grievance	A process for substantiating a complaint with evidence, or formally bringing the staff involved together to try reach an agreement. This process is followed when a grievance cannot be resolved by informal means or when an employee has a serious issue that requires a formal investigation.
Contact Officer / Grievance Officer	An assigned staff member who acts as the initial contact for discrimination and harassment matters
Victimisation	To punish or threaten to punish someone.
Equal Opportunity	Making sure employees are given a fair go while at work.
Wellbeing	A condition of psychological, emotional and physical balance.
Discrimination	To treat a person less favourably under one of the grounds as prescribed in law.
Harassment	Covers a wide range of behaviours of an offensive nature. Commonly understood as the act of systematic and/or continued unwanted and annoying actions of one party or a group, including threats or demands.
Consent	Permission for something to happen or a free and voluntary agreement to do something.
Informed consent	A person who understands the nature and effect of what is going to occur.
Sexual Harassment	Unwelcome sexual advance, request for sexual favours or other conduct of a sexual nature which makes a person feel offended, humiliated and/or intimidated, where a reasonable person would anticipate that reaction in the circumstances.
Bullying	Ongoing misuse of power in a relationship through repeated verbal, physical and/or social behaviour that causes physical and/or psychological harm. It can involve an individual or a group misusing their power over one or more persons. Bullying can be in person or online, and overt or covert.
Workplace Bullying	Behaviour that is repeated, systematic and directed towards an employee or group of employees.
Conflict of Interest	A situation in which a person's professional decisions are influenced by the person's personal interests.



5. Policy Statement

Carclew is committed to inclusiveness, diversity and has a zero tolerance for bullying, discrimination, victimisation or harassment of any kind. We actively prevent and address such behaviours to provide a harmonious, impartial and safe environment. We interact with others fairly and respectfully, regardless of their nationality, gender (including chosen gender) cultural or social background, sexuality, religion, age, physical or intellectual ability.

Resolution of any grievance will be based on consultation, co-operation and discussion in the first instance in accordance with *Section 35 of the South Australian Public Sector Enterprise Agreement: Salaried 2021*.

You have the right to:

- be heard fairly
- have an unbiased decision made by an objective decision maker
- have the decision based on relevant evidence.

5.1 Contact Officer / Grievance Officer

Carclew has assigned Contact Officers (Grievance Officers) who are able to offer support and guidance in the initial phases of a possible grievance, discrimination or harassment matter. Contact Officers are able to assist staff by providing further information, support, and clarifying the appropriate steps to move forward.

5.2 Privacy, Confidentiality and Expectations

Grievances will be treated with strict professional confidentiality. However, for an adequate and fair enquiry, details of a grievance will require discussions with the accused and their representatives, and with management. All formal and informal grievances raised with the Contact / Grievance Officer will be documented.

Information may need to be disclosed to a third party due to legislative regulations e.g. if the complaint is about child protection issues.

All parties will have the opportunity to tell their version and no assumptions will be made and or action taken until all relevant information has been considered.

The complainant's wishes will be taken into account when further steps and actions are determined.

If you are involved in a grievance you must not disclose the details of the grievance, the inquiry or the outcome to colleagues. Disciplinary action may be taken for breaching confidentiality.

5.3 Rights and Responsibilities

Under the *Equal Opportunity Act 1984* managers/supervisors have a responsibility to ensure that the workplace is free of bullying and intimidation at any level.

They must:

- attempt to address potential problems before they become a formal complaint
- attempt to resolve concerns quickly and in the most appropriate manner
- treat all employees fairly and consistently
- treat all grievances seriously, whether raised informally or formally
- support employees to use appropriate avenues to address grievances without fear of intimidation or victimisation.

5.4 Victimisation

You will be protected from victimisation when raising a genuine grievance. Necessary steps will be taken to ensure that no party involved is victimised, intimidated or unfairly treated if they utilise this policy to resolve an issue. Disciplinary action will be taken where there is victimisation of, or repercussion for, any party involved in a grievance.

5.4 False or misleading information

If it is proven you have made false or misleading accusations through the grievance resolution process you may face disciplinary action in accordance with *Section 55 of the Public Sector Act 2009*.

5.5 Conflicts of Interest

You must state any conflicts of interest that may arise during a grievance to ensure an impartial process to resolve grievances equitably and respectfully.

5.6 Grievances with clients, stakeholders and children

Resolution of all grievances will be informed by this policy and the accompanying procedures. A complaint that may involve a child or young person cannot be resolved informally. *For further information refer to Carclew Child Safe Environment Policy.*

5.7 Support

Both the person making the complaint and the person whom the complaint is about are entitled to support throughout the resolution process. The support person can be a friend, family member or other person. They provide moral/emotional support, will not participate in the discussions, and are bound by confidentiality.

5.7.1 Employee Assistance Program

Carclew provides an Employee Assistance Program for staff and their immediate family to assist with work-related or personal queries that may impact job performance, health, mental or emotional well-being. *For further information see Carclew Administration.*

5.8 Record keeping

Records of a grievance and the steps to resolution will be made and maintained as outlined in the accompanying procedures.

5.9 Evaluation

On resolution a fair and impartial evaluation process for all parties involved in a complaint or grievance will be undertaken.

6. **Responsibility for implementation**

The Chief Executive will advise staff upon endorsement by the Board. The policy and procedures will be available on the Carclew server, listed on the Carclew policy webpage and included in induction.

7. **Legislation and Supporting Documents**

<i>South Australian Public Sector Enterprise Agreement: Salaried 2021</i>
<i>Work Health and Safety Act 2012</i>
<i>Equal Opportunity Act 1984</i>
<i>Fair Work Act 1994</i>
<i>Sex Discrimination Act 1984 (Cth)</i>
<i>Racial Vilification Act 1996</i>
<i>Public Sector Act 2009</i>
<i>Whistleblowers Protection Act 1993</i>

Code of Ethics for the South Australian Public Sector
Carclew Code of Conduct
Carclew Respectful Behaviours Policy
Arts South Australia Respectful Behaviours http://arts.sa.gov.au/respectful-behaviours
Department of State Development Respectful Behaviours Policy: http://arts.sa.gov.au/system/files/documents/DSD%20Respectful%20Behaviours%20Policy.pdf
Australian Human Rights Commission www.humanrights.gov.au
SafeWork SA https://www.safework.sa.gov.au/health-safety/health-wellbeing/bullying-violence-conflict/bullying-inappropriate-behaviours and https://www.safework.sa.gov.au/health-safety/health-wellbeing/discrimination
Employee Assistance Program: LifeWorks by Morneau Shepell www.lifeworks.com/au

Acknowledgment

In developing this policy Carclew has drawn on resources prepared by Arts South Australia and the Department for Education.

Disclaimer

This policy does not represent legal advice. If you have any queries about your obligations, you should seek your own independent legal advice.