

4.11 Grievance Procedure Policy

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Reviewed by: Child Care Team

This policy relates to	
National Quality Standards Early Childhood Education & Care	4.2, 7.1.2, 7.1.3

Purpose

Beucare is committed to promoting an organisational culture that is responsive to complaints and grievances. Participants in the program will be assisted to resolve service related conflicts and grievances through the following procedures outlined in this policy. The procedures are designed to promote a fair, timely and confidential process that incorporates the principles of natural justice.

Policy Guidelines

- (1) This policy applies to all staff, volunteers, educators, clients and their families and the Beucare board, and covers grievances that have not been resolved through complaint handling policy.
- (2) The grievance may involve an issue, policy or procedures, another Beucare staff member, participant, volunteer or board member. Grievances that relate to unlawful discrimination, bullying, harassment or allegations of unfair and inequitable treatment on the basis of a person's sex, relationship or parental status, race, religious belief or activity, political belief or activity, impairment, trade union activity, lawful sexual activity, pregnancy, breastfeeding needs, family responsibilities, gender identity, sexuality, age or association with, or relation to, a person who has any of the above attributes should **refer to 4.5 Anti-Bullying Policy**.

Definitions

A grievance can be about anything done, or not done, which affects others. It can be about discrimination or harassment, or any other behaviour or decision which is thought to be unfair or unjust. Grievances may be lodged by an individual or a group.

TERM	DEFINITION
Grievance	Is a dispute, concern, problem, complaint or incident of harassment or discrimination that occurred at, or in connection with, an endorsed Beucare-related activity, on or off site, which a participant considers is unfair or unjust and which has not been resolved through complaint handling processes.

Grievance Procedure	Is a formal investigation of a complaint, or a serious complaint, that could not be resolved through complaint handling processes.
Complainant	Refers to the person raising the grievance or complaint.
Respondent	Refers to any individual against whom the grievance or complaint is made.
Victimisation	Includes any unfavourable treatment of a person as a consequence of their involvement in a grievance under this policy and procedures. Unfavourable treatment could include such things as adverse changes to the work environment, denial of access to resources, work opportunities or training, or ostracism.
Procedural Fairness and Natural Justice	Refers to a process that displays fairness to all parties. It includes the right to be heard, the right to be treated without bias, the right to be informed of allegations being made and to be provided with an opportunity to respond to them and the right to be able to find out about the status of the grievance.
Confidentiality	Means limiting disclosure of information relating to a grievance to as few people as possible, and only to those who are legitimately involved in the process of resolving the grievance. Beaucare staff are also bound to ensure that ' Privacy ' principles are upheld when collecting personal information. For example, staff and volunteers should be informed about what information is being gathered about them, how it is to be used, who will have access to it and how it will be stored.
Mediation	Occurs when an impartial third party hears each side of the grievance separately and acts as an intermediary with the aim of reaching an agreed solution. It is the role of the mediator to fairly manage the power relationship so that both parties are considered equal.
Conciliation	Occurs when a third party, having mediated to the point of agreement, brings together the two parties to a grievance for the final resolution process. To ensure that the documented agreement does not break down, a monitoring process must be included.

Principles of Natural Justice

Principles of Natural Justice as they relate to this policy are:

- Parties should have the opportunity to be heard before decisions are made;
- The process should be fair, impartial, and without bias with clear and transparent procedures;
- Parties involved in a grievance will not be victimized or suffer negative consequences of having made a complaint;
- Opportunities for independent mediation should be made available;
- Information about how to appeal a decision should be clearly outlined.

Policy Principles

- Grievances should be treated seriously and sensitively, having due regard to procedural fairness.
- Efforts will be made to minimise the sharing of information regarding the grievance by observing confidentiality and privacy practices. Requirements relating to confidentiality and privacy extend to the use and storage of any information and records related to a grievance.
- Persons responsible for investigating and resolving complaints have a duty not to be affected by bias or conflict of interest, and must act fairly and impartially. Each party shall be given a fair opportunity to know the case against her or him and to be heard.
- Wherever possible, grievances should be resolved by a process of discussion, raising awareness, mediation and a process of conciliation. Where appropriate, support will be provided to assist the parties to reach agreement or an acceptable outcome that minimises any potential detriment to ongoing relationships. Appropriate steps shall be taken to ensure harmonious working relationships during and after the procedures.
- It is recognised that conciliation may not be appropriate if a party to a complaint holds a reasonable belief that discussion is likely to provoke victimisation, further incidents of harassment, or unnecessary distress. Where conciliation is inappropriate or has proved unsatisfactory, a formal grievance may be made.
- Both the member raising the grievance (*the complainant*) and the person against whom the grievance is made (*the respondent*) will receive appropriate information, support and assistance in resolving the grievance. Beaucare encourages complainants and respondents to have a support person, such as a fellow employee or a representative from a recognised organisation present during any conflict resolution procedures or interviews.

- No person should be victimised because they raise or are associated with a grievance. Staff and volunteers have the right to take action under these procedures if they believe that victimisation has occurred.
- Grievances that are frivolous or malicious should not be instigated and may result in disciplinary action for staff.
- Any of the parties involved may seek at any time advice from outside agencies such as trade unions, Community Justice Centres, the Anti-Discrimination Board, Industrial Commission or the Ombudsman. Staff members pursuing a grievance through alternative/external avenues should advise the General Manager and Board of this.
- The existence of the Grievance Procedure is supported by a manager's obligation to take all reasonable steps to identify and address, as part of their usual responsibilities, practices which may lead to a grievance.

Policy

Differences of view are a natural part of human relations and of workplaces. While differing views can stimulate creativity and promote development and innovation, it is acknowledged that differing views can develop into conflicts and conflicts into grievances. The resolution of grievances is important to maintain cooperative relationships and maintain safe working conditions that are conducive to meeting program aims.

Roles and Responsibilities

All Beucare staff, volunteers and board are responsible for ensuring that their own behaviour contributes to a work environment which is free from discrimination and harassment. Under Beucare's Code of Conduct all staff members, volunteers and board are obliged to observe standards of equity and justice in dealing with others, to treat each other with respect and to refrain from all forms of harassment.

In addition, Beucare supervisors and managers (which includes staff who oversee or direct the work of volunteers or trainees) are responsible for taking all reasonable steps to prevent discrimination and harassment. This includes undertaking training in grievance management, ensuring volunteers and staff are aware of these procedures and related Beucare policies, and responding appropriately to complaints according to policy. It is expected that supervisors and managers will, in their own behaviour, provide a model of good conduct.

Managers are also responsible for identifying and addressing problems through appropriate management practices. Resolution of complaints and grievances is an integral part of a supervisor's duties. Under State and Federal law, Beucare and individual supervisors may be found vicariously liable for discrimination or harassment that occurs unless they can show they have taken all reasonable steps to prevent and deal effectively with grievances.

Persons making complaints (*the complainants*) have the responsibility to participate seriously in attempts to resolve their grievance, not to make vexatious or malicious grievances and to recognise that the person complained about has the right to respond to the allegations.

Persons against whom a grievance has been lodged (*the respondents*) have a responsibility to participate seriously in attempts to resolve the issues, to recognise the complainant's right to raise their concerns and not to victimise or harass the complainant or others involved in resolving the grievance in any way.

Managers are responsible for administering and monitoring these procedures. This includes developing and disseminating publicity material, providing grievance training for staff, volunteers and clients, providing advice and assistance in the implementation of the procedures, monitoring cases and trends, and evaluating and reporting on the overall operation of the procedures.

Procedures

Wherever possible Beucare encourages personnel to attempt to resolve their differences informally using complaint handling procedures. If a satisfactory outcome is not achieved, formal grievance handling processes should be followed.

To initiate a Formal Grievance, the Complainant must submit their complaint in writing to the Manager, General Manager or Beucare President and nominate their desire for the complaint to be treated as a Formal Grievance. The formal grievance must describe the decision, action or behaviour causing the problem and state what action or outcome the Complainant desires from the grievance resolution process. The complainants name must be provided. Anonymous grievances will not be accepted.

The General Manager or Beucare President is required to provide the Complainant with written acknowledgement of receipt of the grievance and processes to be followed.

The General Manager or Beucare President will contact the respondent/s to acknowledge receipt of the grievance to advise of the grievance being lodged and the process to be followed. The Respondent must be provided with details of the Grievance Complaint in order that they have full disclosure of the allegations made against them.

The General Manager will contact the President with full details of the grievance, and the President and Board will review the details of the grievance and determine whether the subject matter of the grievance reasonably constitutes a genuine grievance. If the grievance is not considered to be genuine (i.e. if the nature of the alleged grievance is frivolous, vexatious, or not relevant to the employment relationship), the Board may choose not to proceed with the matter. Should the matter not be proceeded with, both parties involved will be notified of the decision and reasons for the decision.

If the grievance is to be proceeded with, the board will appoint a Grievance Investigator. In exceptional circumstances, the complaint may be referred to an independent external agency or individual for investigation and advice. If the grievance involves the Manager, they would not be eligible to be appointed Grievance Investigator. The Grievance Investigator is responsible for investigating the Grievance and attempting to facilitate a fair and reasonable conclusion as quickly as possible. They will:

- Meet with the Complainant to clarify issues or obtain further information, if required;

- Meet with the Respondent (offering a support person to attend) to discuss issues and seek a written response within 7 days. If the respondent prefers, the written response can be documented at the meeting;
- Meet with any identified Workplace Witnesses that are integral to the issue. Care to be taken that confidentiality of the issue is not breached unnecessarily and that workplace witnesses are advised that they will not be privy to the outcome to the grievance.

The Grievance Investigator will endeavour to complete all investigations in a reasonable time frame. Where investigations will exceed this period the Grievance Investigator will provide a progress report to the Complainant, Respondent and President.

The Grievance Investigator is required to conduct the investigation in a fair and impartial manner and be seen to do so. At all times, the Grievance Investigator must adhere to the Principles of Procedural Fairness and Natural Justice. This means that all persons must be provided with an opportunity to put their case, all relevant information must be considered, and all relevant information must be accessible to all concerned, before a decision is made.

At the same time, the confidentiality and integrity of every person involved must be maintained. All persons involved in the resolution of grievances should ensure that information regarding the grievance is treated confidentially.

The Grievance Investigator shall investigate the grievance and is required to collate, upon completion, all of the available information that has been gathered and compile a report. The Grievance Investigator will refer to applicable legislation, policy, or general management principles which govern the situation.

The Grievance Investigation Report will summarise the information obtained, clearly stating the conclusions reached and the basis for these conclusions, and outlining recommendations. Conclusions may include:

- The grievance has been substantiated and further action is required; OR
- The grievance has not been substantiated and no further action should be taken.

The Grievance Investigation Report is submitted to the General Manager who will review the contents to ensure that the process has been implemented according to the policy and natural justice principles and if so, endorse the report and recommended action. If gaps in the information or processes are identified, these would be referred to the Grievance investigator to provide further information or rectify and provide further written information.

The respondent and complainant will receive written notice of the outcome of the decision relating to the grievance.

Outcomes will vary depending on the nature and circumstances of each grievance. Outcomes may include, but are not limited to, the following:

- The Complainant gaining a better understanding of the situation and no longer feeling aggrieved.

- The Complainant and Respondent engaging in open dialogue about the issue with the outcomes documented.
- One or both parties agreeing to participate in counselling.
- One or both parties agreeing to participate in training.
- Revision of Beaucare policies and procedures (if indicated).
- Disciplinary action where Beaucare policy or Code of Conduct were found to have been breached, and/or where misconduct/serious misconduct or unsatisfactory performance has occurred or where a grievance is found to have been malicious or vexatious, a person victimises another person because of their involvement in the grievance, or unnecessary disclosure of information (a breach of confidentiality) has occurred.

Grievance Resolution

A grievance is regarded as resolved if it is:

- Withdrawn, in writing, by the staff member;
- The Complainant signs an agreement indicating their satisfaction with the outcome. The Complainant must be advised that they may consult with the relevant union (if applicable) before signing any agreement.
- When the outcome report is presented.

The resolution must not be contrary to any relevant legislation, award, agreement, policy or procedure, but can recommend amendment to policy and procedures.

Any determination made by the Board in accordance these Procedures with regard to the grievance will be final. However, the complainant/respondents have a right to pursue the matter outside the organisation. This includes the Human Rights and Equal Opportunity Commission, or the State Equal Opportunity Commission (in relation to discrimination and sexual harassment), the Australian Industrial Relations Commission (in relation to unfair dismissal and breaches of awards and enterprise agreements) and the State and Commonwealth Ombudsman's Office (in relation to the application of policies and procedures and administrative processes). The Ombudsman can also assist Complainants who are seeking to explore alleged criminal or serious wrongdoing of officers or staff. Anonymity is promised under the Whistle Blowers Protection Act Qld 1994. External bodies recommend that grievances should first be resolved internally using documented policies and procedures before seeking external review.

Record Keeping

Where investigatory action is taken, accurate records of the grievance process, including dates of actions, will be maintained under restricted access arrangements. These records will include:

- The formal grievance

- The acknowledgement of receipt of the grievance
- Notice of withdrawal of the grievance (if applicable)
- The Grievance Investigation Report
- The decision reached
- The outcome of the process

The General Manager/Board Secretary will retain such records securely under strict confidentiality. Personal files will be noted with any disciplinary action or warnings that are issued and any work related process that require follow up and evaluation over time.

Where mediation occurs, a written agreement should be made and signed by both parties, and a record of the agreement kept by the mediator, the complainant and respondent. A copy should be provided to the programme manager to allow follow-up up and review within a specified time frame.

Associated Beaucare Policies and Documents

Complaint Handling and Feedback 4.8

[Appendix D Privacy and Communication](#)

Relevant Legislation

National Law

National Regulations

National Quality Standard

Qld Government Department of Justice and Attorney-General: *Resolving Complaints in the Workplace*

<http://www.deir.qld.gov.au/workplace/subjects/harassment/resolving/internal/index.htm>

Australian Government Fair Work Australia: *Best Practice Guide – Effective Dispute Resolution*

<http://www.fairwork.gov.au/BestPracticeGuides/10-Effective-dispute-resolution.pdf>

Family Day Care Australia

www.fdca.com.au