



## CW013 Complaint Procedure

### Purpose

CuriousWorks (the 'Association'), aims to provide a working environment which promotes safety, teamwork and respectful treatment. From time to time, issues or conflict arise causing a person to feel aggrieved. The purpose of this complaint procedure is to establish a process for resolving complaints which:

- applies equally to all employees;
- encourages employees to raise their complaint, without fear of victimisation or disadvantage;
- promotes timely resolution of complaints, as close to the source as possible and at an appropriate level having regard to the seriousness and nature of the complaint;
- provides a clear process for addressing complaints; and
- recognises the importance of sensitivity, confidentiality and impartiality in the complaint resolution procedure.

For the purposes of this document, employees are defined as:

- any CuriousWorks employee whether permanent, temporary, full-time, part-time or casual, and;
- any contractor, consultant, volunteer, intern and anyone who works in any other capacity for CuriousWorks.

The principles of procedural fairness apply during the complaints procedure, which means that the respondent is informed of the allegations against them, each party has a chance to have their say and be heard, and that the person handling the complaint is impartial.

### Process

Anyone wishing to make a complaint should follow the Complaint Procedure as set out below:

#### 1. Self Resolution



- If a complainant is comfortable doing so, they should attempt to resolve the issue directly with the person(s) concerned. The complainant should identify the specific conduct which has caused offence, explain the impact of that conduct on them, and request that the conduct stops. It may be that the person was unaware of the impact of their conduct.
- If the complainant is not comfortable attempting to resolve the issue directly with the person(s) concerned, or if self-resolution is not successful, they should make a complaint.

## **2. Making a Complaint**

Complaints should be made to the complainant's immediate supervisor. If the complaint is about the supervisor, the complaint should be made to the next most senior manager, who will handle the complaint or refer it to another manager at an appropriate level.

Complaints can be made verbally or in writing and should include the following information:

- the complainant's name and contact details;
- details of the specific incident or issue being complained about;
- if the complaint is about a person(s), the identity of the person(s) being complained about and their relationship to the complainant;
- the complainant's preferred method for dealing with the complaint (i.e. informal or formal)
- the remedy/outcome the complainant is seeking; and
- any action already taken seeking to resolve the issue.

A sample complaint form to assist with written complaints is attached as Annexure A. This is not a mandatory form – it is a tool for complainants if they are unsure what to include in their complaint.

Complainants should be aware that the supervisor handling their complaint will generally need to disclose details of the complaint to the respondent (if there is one) in order to afford them procedural fairness.

Complainants should consider how they would like their complaint to be handled and indicate their preference. There are two options: informal and formal.

- Informal: The informal complaint procedure is suited to less serious issues, such as interpersonal conflict or the application of policies and procedures. The informal procedure may also be appropriate where the parties are likely to continue working together.
- Formal: The formal complaint procedure is suited to serious issues, such as sexual harassment, discrimination or other unlawful conduct. It may also be appropriate for sensitive



matters or where there is a high level of factual dispute. If the complainant would like their complaint handled under the formal complaint procedure, the complaint must be made in writing and copied to the Chairperson of CuriousWorks.

### **3. Informal Complaint Procedure**

The complainant's supervisor is responsible for conducting the informal complaint procedure. Under the informal complaint procedure there is a broad range of options for addressing the complaint. The focus is on finding a resolution which is acceptable to all parties.

Some options include (not an exhaustive list):

- the supervisor meeting with the complainant and respondent (either separately or together) to discuss the issues and explore possible resolutions;
- the supervisor writing to the complainant and respondent to obtain further information about the complaint and explore possible resolutions;
- the supervisor arranging a mediation or conciliation; or
- the supervisor exploring an issue on behalf of the complainant and options to address the issue (e.g. resolving an OH&S issue or an environmental issue).

If the matter is resolved to the satisfaction of all parties, the matter will be concluded. If the matter is not resolved, the supervisor handling the complaint will determine whether any further action is required. The complainant may also make a formal complaint. For efficiency, information collected during the informal complaint procedure may be provided to the person handling the formal complaint.

### **4. Formal Complaint Procedure**

The person responsible for conducting the formal complaint procedure is the Chairperson of CuriousWorks. Upon receiving the complaint in writing, the Chairperson will direct the appropriate staff member on what (if any) immediate action is to be taken. All formal complaints and subsequent actions to settle that complaint will be dealt in an open and transparent manner at Committee of Management level. A record of how the complaint has been dealt with will be documented in the minutes of the CuriousWorks Committee of Management meetings.

The Chairperson will normally conduct an inquiry into the formal complaint, in order to:

- obtain details about the complaint and assess the seriousness of the allegations;



- determine the level of factual dispute;
- and assess whether there is sufficient evidence to proceed to a formal investigation and/or refer for a possible misconduct proceeding in accordance with the applicable enterprise agreement, AWA or other industrial instrument.

A matter should not proceed to a formal investigation or misconduct proceeding if there is insufficient evidence (i.e. no prima facie case), the matter is not serious enough to warrant a formal investigation or misconduct proceeding or if there is no (or little) factual dispute.

If the matter does proceed to a formal investigation, the Chairperson will refer the matter to an independent investigation officer to conduct a formal investigation.

## **5. Determination of Outcomes**

The outcomes of the informal or formal complaint procedure will vary depending on the circumstances. While the outcomes sought by the complainant will be considered, the Association cannot guarantee these outcomes.

Some possible outcomes include (not an exhaustive list):

- the parties getting a better understanding of the issue;
- an apology;
- a change in working arrangements;
- a commitment to change behaviour;
- guidance, counselling or warnings being issued; or
- disciplinary action (in accordance with the relevant enterprise agreement).

Under the informal complaint procedure, the supervisor handling the complaint is responsible for determining outcomes through discussion and consultation with the parties. Under the formal complaint procedure, the Chairperson is responsible for determining outcomes and advising the complainant and the respondent.

At any stage during the informal or formal complaint procedure, the complainant may withdraw or discontinue their complaint. If the complaint is being handled under the formal complaint procedure, the withdrawal or discontinuance should be made in writing. If a complaint is withdrawn or discontinued the Association may still take action to address the issues raised in the complaint, if the Association considers it appropriate to do so.



## Rights & Responsibilities

The following rights and responsibilities apply to all employees involved in a complaint process, including the complainant, the respondent and any witnesses:

- **Maintain confidentiality:** Employees should not discuss the complaint with other employees or with people outside the Association, such as the media. If a person breaches confidentiality, disciplinary action may be taken against them. Spreading rumours or engaging in gossip may also expose individuals to a defamation claim. Employees can discuss their complaint with people who have a legitimate reason to know, such as an advisor, a counsellor/medical practitioner or their family/partner. However, these people must also maintain confidentiality. Complaint handlers must also maintain confidentiality. However, complaint handlers can disclose the complaint to their manager to obtain advice, to the respondent to afford procedural fairness, to other employees to properly deal with the complaint (e.g. witnesses) and to monitor the complaint process.
- **Work arrangements:** Employees are generally expected to work as normal during a complaint process. In some circumstances, the Association may also make alternative work arrangements (eg: a different work locations, a change in work duties etc.)
- **Representation:** At any stage of the complaint process, employees can be supported or represented by a support person, union representative or legal representative. The support person or representative can attend any meetings and provide advice or support to the person about written documents, process etc.
- **No victimisation:** Individuals should not be victimised or retaliated against because of their involvement in a complaint. If any employee believes they are being victimised, they should immediately contact their supervisor, CEO or Chairperson. Similarly, individuals must not victimise others.
- **Conflict of interest:** Complaint handlers should be impartial and free from any conflict of interest. If the person handling the complaint does not think they can be impartial, they should refer the matter to the CEO. If the complainant or respondent believes that the complaint handler is not impartial or has a conflict of interest, they should raise this with the complaint handler, the CEO or the Chairperson.
- **Complaints must be made in good faith:** This complaint procedure is not to be used for revenge,



retribution or mischief. If a person makes a complaint which is frivolous, vexatious or in bad faith, disciplinary action may be taken against them. Examples of frivolous, vexatious and bad faith complaints include fabricating a complaint, making trivial or petty complaints, or seeking to re-agitate issues that have already been addressed or determined.

- **Procedural fairness:** Complaint handlers should give each party an opportunity to present their side of the story and make known to the respondent allegations made against them and give them an opportunity to respond to the allegations.
- **Communication with the participants:** Complaint handlers should communicate regularly with the complainant and the respondent about the progress of the complaint, including the anticipated timeframes, any delays during the process and the outcome of the process (with due regard to any confidentiality constraints).
- **Record keeping:** Complaint handlers should keep records of the complaint process. For informal complaints, file notes kept at the local level will normally be sufficient. For formal complaints, the complaint must be recorded on the central register, kept by the Committee of Management. A record of how the complaint has been dealt with will be documented in the minutes of the CuriousWorks Committee of Management meetings. It is the responsibility of the complaint handler to ensure that the central file is created and contains all records relating to the complaint, including: the document recording the complaint; any file notes of the complaint handler; the written record of any response received from the Respondent; records of any witness statements obtained; copies of correspondence with the parties to the complaint and a copy of any formal findings or report. All records should be kept confidential and in accordance with CW004 – Employee Code of Conduct (Section 5 - Privacy & Confidentiality).
- **Give reasons for their decisions:** Complaint handlers should give reasons for their decisions, particularly where it has a significant impact on the complainant or the respondent. The Complaint handler should consider the most effective method for communicating reasons (i.e. verbally or in writing). For formal complaints, reasons should normally be communicated in writing.



ANNEXURE A

**EMPLOYEE COMPLAINT FORM**

<b>DATE:</b>
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**Important notes:**

- If you do not have sufficient space on this form, please attach additional pages.
- The Association will treat this information confidentially; however you should be aware that if your complaint is about another person, the person handling your complaint will generally need to disclose details of the complaint to that person to obtain their response.

PERSONAL INFORMATION	
<b>Your Name:</b>	
<b>Your Position:</b>	
<b>Your Contact Details:</b>	

INFORMATION ABOUT YOUR COMPLAINT
<b>Is your complaint about another person?</b> (please circle) YES / NO
<b>If yes, identify the person, their position and how they relate to you</b> <i>For example, my complaint is about Joe Citizen, Administrative Assistant. We work in the same team.</i>
<b>Provide specific details of your complaint</b> <i>Please provide as much detail as possible – for example, what happened, when (give approximate times and dates), who was there etc. If you require more space, please attach additional pages.</i>



**Complaint details (cont.)**

**What impact has this had on you?**

**Has this happened before?** (please circle)

YES/NO

**If yes, please provide details**



INFORMATION ABOUT THE COMPLAINT PROCESS
<p><b>What outcome/remedy are you seeking to resolve your complaint?</b> <i>For example, an apology</i></p>
<p><b>What is your preferred method for dealing with the complaint?</b> (please tick one)</p> <ul style="list-style-type: none"><li><input type="radio"/> Informal Complaint Procedure</li><li><input type="radio"/> Formal Complaint Procedure</li></ul>
<p><b>Have you taken any action to resolve your complaint?</b> (please circle)</p> <p>YES / NO</p>
<p><b>If yes, describe what you have done so far</b></p>
OTHER INFORMATION
<p><b>Is there any other information you would like to include?</b></p>