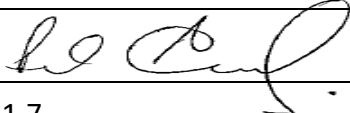


# STANDARD OPERATIONAL POLICY AND PROCEDURES



TOPIC	Employee Complaints and Grievances – SOPP 35.12		
RESPONSIBILITY	Human Resources		
AUTHORISATION	Chief Executive		
SIGNED		DATE	17/5/2023
VERSION	1.7	LAST REVIEWED	May 2023
EFFECTIVE	October 2002	NEXT REVIEW	May 2026

## 1. PURPOSE

To provide a mechanism for the prompt resolution of complaints, grievances or problems raised by employees in relation to employment matters.

- It is the objective of this procedure to ensure that complaints or grievances are resolved by negotiation and discussion between the parties.
- Complaints or grievances against another staff member need to be resolved in the interest of good working relationships.

## 2. DEFINITIONS

- **Complainant** – a person who makes a complaint against another party, alleging harm by that person.
- **Grievance** – any problem, concern or complaint related to work or the work environment.
- **Informal grievance** – a grievance made verbally.
- **Formal grievance** – a grievance made in writing.
- **Investigation process** – standardised system of enquiries designed to discover the facts of a series of events. Repeatable, consistent process.
- **Natural justice** – ensuring all parties affected by a grievance have a fair hearing prior to attempting a resolution.
- **Procedural fairness** – lack of bias, use of evidence to support decisions, process directed by procedures, investigation appropriate to the circumstances and history.
- **Respondent** - a person called upon to issue a response to a communication made by another, such as a complaint.
- **Support person** – a person to assist the employee to prepare for an investigation interview and to be with them in the meetings to provide industrial advice (if attending in that capacity) and to take notes. They cannot speak on the person's behalf.

## 3. SCOPE

This policy and procedure applies to all employees of EGHS regardless of level within the organisation.



Integrity



Excellence



Community Focus



Working Together



Learning Culture

#### 4. POLICY STATEMENT

East Grampians Health Service (EGHS) is committed to providing employees with a healthy and safe work environment. All employees, consumers and their visitors are entitled to be treated with respect and dignity.

EGHS provides an [Employee Complaint and Grievance Form – 35.12.00](#) for employees to raise a complaint or grievance in relation to employment related matters. These procedures emphasise an approach to complaint resolution through informal facilitation and mediation, and are designed to lead to a prompt resolution.

#### 5. PRINCIPLES

This procedure is governed by the following principles:

- The Employee Complaints and Grievances procedure will not be used to challenge decisions of management, or procedures required by legislation or regulations.
- Where the complaint relates to serious misconduct, harassment, sexual harassment, and/or bullying, the Manager will refer immediately to [Serious Misconduct, Harassment, Sexual Harassment, Bullying - SOPP 35.18](#)
- Where the Employee or their Nominated Representative, the Chief Executive and Human Resources agree, the time-limits set out in these provisions may be extended and/or the grievance process may begin at the Second Level of these procedures.
- Where two or more Employees believe they have an identical or common problem, they may take action together and the matter will be dealt with as a single grievance.
- A matter raised within these procedures may be withdrawn by the Employee or their Nominated Representative, at any stage during these procedures by notice in writing, to the Chief Executive or Human Resources.
- Offers of compromise as well as agreements reached during the complaints and grievance procedure will not constitute precedents in regard to similar complaints and grievances, and are without prejudice to positions taken in similar circumstances or more general issues.
- Where staff use the [Compliments and Concerns – Generic – 16.01.01](#) form to raise a complaint or grievance about another staff member, Human Resources will be advised as soon as possible and in turn advise the appropriate supervisor/ manager within 24 hours during the working week or within 24 hours of the first working day following a weekend or public holiday.

##### 5.1 Complaints and Grievances

In the first instance the employee shall communicate their complaint or grievance in writing using the [Employee Complaint and Grievance Form – 35.12.00](#) to their immediate Supervisor/Manager/Director/Human Resources.

The receiver will acknowledge receipt of this form within 24 hours during the working week, or within 24 hours of the first working day following a weekend or public holiday.

Dependent on the type of complaint the procedure will vary as noted below.

##### 5.2 Social Media

If the complaint or grievance is relating to Social Media and breaches the [Social Media – SOPP 7.06](#) then an investigation will take place following procedures in section 7.

### 5.3 Bullying and Harassment

If the complaint or grievance is relating to Bullying or Harassment (including Sexual) and breaches the [Serious Misconduct, Harassment, Sexual Harassment, Bullying – SOPP 35.18](#) then an investigation will take place following procedures in section 7.

### 5.4 Conflict

If the complaint or grievance is between two parties is deemed to be in relation to a workplace conflict, the supervisor/manager will arrange a meeting with both parties to come to an agreement and way forward. See section 6.

### 5.5 Breaching Privacy and Confidentiality

If the complaint or grievance is relating to Privacy and Confidentiality and breaches the EGHS [Privacy, Confidentiality and Security Agreement – 26.01.08](#) then an investigation will take place following procedures in section 7.

### 5.6 Poor Communication and Unprofessional Behaviour

If the complaint or grievance is relating to Poor Communication and Unprofessional Behaviour which breaches the EGHS Values - Above and Below the Line behaviours then an investigation will take place following procedures in section 7.

## 6. CONFLICT RESOLUTION PROCEDURE

- 1) **Define** the problem in terms of both people's **needs**; each person identifies what the conflict is in terms of his or her own needs, using the "I" message format and avoiding blame.

What is "I" message?

- I feel ..... (identify the feeling)
- When you ..... (tell what caused the feeling and/action or behaviour)
- Because ..... (how the behaviour affects you)
- What I need ..... (tell what you want to happen instead – action or behaviour)

Example: **I feel frustrated when you interrupt me because I'm trying to talk. What I need is for you to listen.**

- 2) **Restate** the problem in such a way as to include both person's **needs**. Both persons must agree with this definition of their needs. Continue with this until both persons agree about the nature of the problem.
- 3) **Brainstorm** alternative solutions. Think creatively. Everyone participate. List all suggestions. Continue until each person sees on the list several acceptable (or more or less acceptable) solutions.
- 4) **Evaluate** these solutions. Each person in turn evaluates the solutions, and eliminates those that are unacceptable to them. It is essential that each person continue to be honest about their own needs throughout this process. Encourage each one to state their own feelings and needs. Never try to tell another person what their needs **are**. Use of active listening is effective and appropriate here.

The result of this step is a list of solutions acceptable to both people.

- 5) **Decide** on the best solution acceptable to all. Usually one solution will appear better than the rest; don't latch on to this one without at least evaluating the others. Choose the best solution and make a mutual commitment to try it.

Now think together through the implications and details of the solution. Who will do and not do what, and when? How will things be different? How will things be better? Set up a time when all will evaluate how well the solution is working.

- 6) **Evaluate** how it is working. Find out how each person feels about this solution. If some adjustments are needed, try to make them. Check to see whether all persons still agree with the original statement of the problem. The problem may have become different, or clearer, or may have disappeared. If people are unhappy, or feel it's unfair or not working, start over and do it again.
- 7) **Referral** of interpersonal conflict situations that cannot be resolved within the work area and when the situation has:
- Resulted in unsatisfactory care standards
  - Caused any degree of hazard in the workplace
  - Occurred more than once

Referral must be documented in writing to the Director/CE.

## 7. INVESTIGATIVE PROCEDURE

- a) The purpose of an investigative procedure is to conclude whether, on balance, concerns regarding conduct are well founded and supported by evidence. An investigation procedure must be fair including proper regard to procedural fairness. (Note: dependent on the severity of the complaint the matter may be investigated by an external investigator, otherwise the investigation will be conducted by Human Resources).
- b) EGHS will:
- i) conduct an extensive review within 14 days of the complaint;
  - ii) advise the Employee of the concerns and allegations in writing;
  - iii) provide the Employee with any material which forms the basis of the concerns before seeking a response;
  - iv) ensure the Employee is provided a reasonable opportunity to answer any concerns including a reasonable time to respond;
  - v) advise the Employee of their right to have a representative, including a Union representative;
  - vi) ensure that the reason for any interview is explained; and
  - vii) take reasonable steps to investigate the Employee's response.
- c) Where EGHS has complied with subclauses (b)(i)-(b)(iv) and the Employee does not dispute the concerns, the Employee may opt to decline the opportunity to be interviewed.

## 8. POSSIBLE OUTCOMES

If the complaint is substantiated appropriate outcomes may include but are not limited to:

- a) Mediation between the parties (where both parties agree to mediation and to the mediator).
- b) An apology.

- c) Seeking a commitment from the person who committed the behaviour to cease.
- d) If disciplinary action is warranted then refer to the [Disciplinary Procedure - SOPP 35.33](#) with possible outcomes noted below. \*\*

Where the allegations are not substantiated by the investigation, all parties involved will be told of the outcome and management will consider if any further action is appropriate.

If a complaint is considered to be vexatious or frivolous, or with the intention to annoy or upset the respondent (or for some other related reason), or it has no factual basis, the person making the complaint may be subject to disciplinary procedure.

\*\* Where it is determined that having followed the procedures in this clause that disciplinary action is warranted, EGHS may take any of the following steps depending on the seriousness of the Conduct and follow the [Disciplinary Procedure - SOPP 35.33](#)

- i) Where the conduct does not constitute Serious Misconduct:
  - a) Counsel the Employee; plus
  - b) Give the Employee a first written warning; or
  - c) Give the Employee a second written warning in the event that the Employee has previously been given a first warning within the previous 12 months for that course of Conduct; or
  - d) Give the Employee a final written warning in the event that the Employee has previously been given a second written warning within the preceding 12 month period for that course of Conduct; or
  - e) Terminate the Employee's employment on notice in the case of an employee who repeats a course of Conduct for which a final warning was given in the preceding 12 months as per [Dismissal – SOPP 35.23](#).

At any stage of these procedures either parties should be made aware of the support available through the Employee Assistance Program (EAP). Refer to [Employee Assistance - SOPP 35.22](#).

## 9. REFERENCES

Castlemaine Health Service – Grievance Policy

Workplace Relations Act 1996

Australian Commission on Safety and Quality in Health Care. National Safety and Quality Health Service Standards guide for hospitals. 2nd ed - version 2. Sydney: ACSQHC; 2021

## 10. RELATED DOCUMENTS

[Employee Complaint and Grievance Form – 35.12.00](#)

[Compliments and Concerns – Generic – 16.01.01](#)

[Disciplinary Procedure - SOPP 35.33](#)

[Employee Assistance - SOPP 35.22](#)

[Serious Misconduct, Harassment, Sexual Harassment, Bullying - SOPP 35.18](#)

[Social Media – SOPP 7.06](#)

[Dismissal – SOPP 35.23](#)

[Privacy Confidentiality and Security Agreement - 26.01.08](#)

[Improving Performance Plan - 35.12.01](#)

[Improving Performance Guide](#)

[Managing Underperformance - SOPP 39.06](#)

['Our Values' Above and Below the Line](#)