Grievance management policy

**Acknowledgement**

The Victorian Curriculum and Assessment Authority proudly acknowledges and pays respect to Victoria’s Aboriginal and Torres Strait Islander communities and their rich and enduring cultures.

We acknowledge Aboriginal and Torres Strait Islander people as Australia’s first peoples and as the Traditional Owners and custodians of the lands and waters on which we rely. We pay respect to Elders past and present of the lands where we conduct our work and recognise their ongoing contributions as the first educators on the land now known as Victoria.

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1. Overview

Where an employee considers they have been treated unfairly or unreasonably in any matter related to their employment, the Victorian Curriculum and Assessment Authority (VCAA), and the grievance management policy provide for access to appeal, review, grievance or dispute resolution processes depending on the nature of the matter.

This policy applies to all employees within the Victorian Curriculum and Assessment Authority (VCAA). For the purposes of this policy, the term 'employees' encompasses VCAA employees of the direct workforce, as well as any individuals or groups undertaking an activity for or on behalf of the VCAA, including:

* all employees (fixed term, casual, sessional) employed under Ministerial Order No. 1451 – Victorian Curriculum and Assessment Authority employees (Employment Conditions, Salaries, Allowances, Selection and Conduct) Order 2023 (referred to as ‘The MO’)
* Board members
1. Objectives
* **Fairness and equity:** Ensure all grievances are addressed in a fair, unbiased, and consistent manner, maintaining impartiality and integrity in the process.
* **Confidentiality and transparency:** Protect the privacy of all parties involved while providing a clear, understandable, and transparent process for resolving grievances.
* **Timeliness and accessibility:** Resolve grievances promptly to minimise disruption, ensuring the process is easily accessible to all employees, including those with barriers.
* **Support and continuous improvement:** Offer support to employees throughout the grievance process and use the outcomes to identify areas for organisational improvement and prevent future grievances.
1. Principles
	1. Natural justice and procedural fairness

Ensure that all grievance processes adhere to the principles of natural justice, where decisions are made impartially and fairly, and all parties have the opportunity to be heard.

* 1. Confidentiality

Maintain strict confidentiality throughout the grievance process to protect the privacy and dignity of all employees involved.

* 1. Transparency and accessibility

Ensure the grievance process is transparent, clearly documented, and easily accessible to all employees, providing clear information on the steps involved and their rights.

* 1. Timeliness

Address and resolve grievances promptly to prevent escalation and reduce the impact on the workplace and the individuals involved.

1. Roles and responsibilities
	1. The employer
* Facilitating the resolution process through guiding and assisting employees through both formal and informal resolution stages. This includes initiating the grievance procedure upon receiving a written complaint and promptly acknowledging its receipt.
* Ensuring fairness and confidentiality through conducting the investigation fairly and maintaining confidentiality throughout. Providing the respondent with an opportunity to respond and ensure privacy is upheld as required.
* Documenting the process and maintaining comprehensive records of each step in the resolution process, detailing actions taken and providing responses. Providing complainants with a written response that outlines the actions taken.
* Providing support through offering guidance to both complainants and respondents regarding available support mechanisms and resources.
* Supporting employees throughout the resolution process.
	1. Employees
* Raising workplace concerns informally, to their manager or authorised delegate.
* Engaging and participating actively and honestly in both informal and formal resolution stages, including mediation and open communication.
* Using support mechanisms offered by the VCAA if required during the resolution process.
* Understanding the outcomes made by the VCAA, respecting confidentiality where applicable.
* Using rights to seek reviews or further appeals if dissatisfied with the resolution in accordance with internal processes outlined in this policy.
1. Expectations
	1. What is a grievance?

A grievance is a work-related complaint raised by an employee. Grievances should be used to bring issues to the employer’s attention for the matter to be investigated and resolved fairly.

Examples of reasons for making a work-related grievance can include:

* health and safety concerns
* harassment from another employee
* the behaviour of a manager, or;
* worries over changes in work conditions.

Employees are generally expected to raise any workplace concerns informally, usually to their manager or authorised delegate. In most cases, the issue will be satisfactorily resolved.

Where the employee is not satisfied that the issue has been addressed, they have the right to raise a formal complaint (‘grievance’). The employer must then respond to the complaint by following a fair and lawful grievance procedure.

* 1. Grievance resolution procedures

The grievance resolution procedures available to employees will differ, depending on whether a grievance is raised and resolved on either an informal or formal basis.

An informal grievance is where an employee has raised a problem or made a complaint verbally and is satisfied with the employer dealing with the matter informally, this approach is usually limited to minor grievances.

In contrast, a formal grievance is where an employee puts the matter in writing, in response to which an employer should follow a formal grievance resolution procedure. A formal approach is required for more serious or ongoing complaints, for example, where an informal approach is not satisfactory, or minor issues where the employee would prefer the matter to be dealt with formally.

* + 1. Informal grievance procedure

In the instance where an employee raises a grievance with the employer, informal attempts should be made to resolve the grievance directly with the individual concerned if it is appropriate to do so.

The informal grievance procedure is as follows:

* **Direct approach:** Preliminary discussion with a manager or authorised delegate.
* **Discussion:** Conversation with a manager or authorised delegate to discuss the grievance, and the steps that may be taken to initiate a resolution.
* **Negotiation or mediation:** Individuals involved can decide on how they want to address and resolve the grievance, a neutral third party (mediator) may facilitate further discussions. Negotiation or mediation can help parties find common ground and agree on a solution.
* **Open communication:** Both parties are encouraged to express their concerns, needs, and expectations directly to each other.
* **Agreement:** Once an agreement is reached, it is documented and signed by the involved parties. The terms of the agreement should be clear and actionable.The employer must retain a record of the nature of the grievance, how it was dealt with, and the outcome.
* **Follow up:** At the conclusion of an informal grievance, the employer should follow up on the matter shortly after. If the grievance has not been fully resolved, the employer will need to explore why the informal procedure has not been effective, together with what else can be done. The employee should also put the matter into a written letter, so that a formal grievance procedure can be instigated.
	+ 1. Formal grievance procedure

Where the matter is unable to be resolved informally or it is not appropriate to do so, the formal grievance process may commence.

The formal grievance procedure is as follows:

* **Responding to a grievance letter:** Where an employee has raised a grievance informally without a satisfactory outcome, the employee is to write a grievance letter to the employer, providing the nature of the grievance and any evidence in support. Once received, the employer should respond to the employee confirming receipt of the letter. The response should also provide assurance that the matter will be investigated, and outline the next steps, including timeframes.
* **Investigation:** To determine the facts of the grievance, the employer should conduct an investigation. The investigation should be carried out by the VCAA Human Resources manager. A written record should be kept of all information gathered, contact and communications with all parties, decisions or outcomes reached, actions taken and the response of the employee who raised the grievance. Any personal information should be kept confidential to protect the rights of all concerned.

Where the grievance could result in disciplinary action being taken against another employee, it is advisable to delay such action until the investigation is complete and the grievance hearing has been held.

During the investigation, the employer may conclude that the grievance can be resolved without further formal action if there is agreement with the employee and this action is seen as fair to all concerned. Should it be decided that there is a case for the grievance to be upheld, the next stage involves the grievance hearing.

* **Grievance hearing:** At the grievance hearing, all evidence and statements should be examined to allow the employer to decide on the grievance outcome. Copies of all relevant documents, including statements, should be provided to the employee before the hearing. The employee may ask their witnesses to attend the hearing. The employer may also call witnesses to the hearing.

The grievance hearing should be held in a private room without interruptions. Notes should be taken during the hearing. The employee should be asked to review the notes and sign and date a copy at the end of the meeting as a record of their concurrent agreement.

* **Grievance outcome:** After a formal grievance procedure, the employer should decide on what is fair and reasonable based on the findings from their investigation(s) and the hearing. If a grievance is upheld, further steps may need to be taken to resolve the matter complained of, for example, taking disciplinary action against another employee where allegations have been raised against them.

The employer must keep a record of the grievance and its outcome, including the employee’s complaint, the decisions made, the actions taken and the reasons for this.

* **Grievance outcome letter:** Following a grievance hearing, the employer’s decision and the outcome of that hearing must be set out in writing. Regardless of whether the grievance is upheld or rejected, the employer must set out the reasons for their decision and, where appropriate, the steps that will be taken.

The employer must also inform the employee of their right to appeal. The employee can appeal a grievance outcome if they feel that the action decided upon will not resolve the problem, or that any stage of the grievance procedure was wrong or unfair.

* + 1. Appeal process

Where an employee believes a grievance has not been reasonably resolved during the informal and formal processes, and the decision be made not to uphold the grievance, the employee has the right to appeal the employer’s decision, as well as any part of the grievance process that they believe was unfair or incorrect. The appeal should be made in writing.

An appeal meeting should then be held and the employer makes a final decision. If the employee decides to appeal, the employer must make every effort to arrange the hearing without undue delay.

Should the employee remain unsatisfied with the employer’s decision, their options may include resigning and claiming constructive dismissal.

* + 1. Appeals hearing

Prior to an appeals hearing, the employer must:

* plan an appropriate time and location for the appeal hearing
* arrange a minute-taker to be present during the hearing
* ensure to hold all necessary information and records, particularly if new evidence has come to light since the initial hearing
* allow the employee advance notice so they can gather evidence and consult with any representatives, and inform the employee that they can attend the hearing with a friend or colleague
* interview any manager and/or witnesses may be essential if the appeal involves new evidence; this may include obtaining further statements
* avoid any delays in arranging the appeals hearing. If an employee is legitimately unable to attend the appeal hearing, such as due to illness, the employer must offer the employee an acceptable day and time as a substitute. If the employer is unable to attend the rescheduled hearing, they must provide the employee with an alternate hearing date and time no later than 5 working days following the rescheduled hearing date.
	1. Alternative dispute resolution

In some cases, the employer and employee may decide that it would be beneficial to enlist a third party in the grievance resolution process, such as VCAA Legal counsel, to mediate between both parties and arrive at a mutually agreeable solution. The grievance process may be temporarily halted in such cases. The grievance procedure should specify where and when mediators may be used in this situation.

* 1. Further assistance

Where further assistance is required, employees can contact:

* VCAA Human Resources via phone: 1800 718 320 or via email: vcaa.hr@education.vic.gov.au, or;
* Employee Assistance Program (EAP) via phone: 1300 361 008
1. Managing this policy
	1. Authorisation

This policy is issued under the authority of the Chief Executive Officer.

* 1. Accountability for the policy

The owner for this policy is VCAA Human Resources. The owner reports to the Chief Executive Officer on the management of this policy.

The owner is responsible for:

* development and regular review of this policy
* development of protocols, processes and guidelines to support implementation
* monitoring compliance of applicable employees, organisational units, and/or locations.
	1. Important dates

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| Date of adoption:  | July 2024  |
| Date of last amendment:  | July 2024  |
| Date of next review:  | July 2026  |