

Grievance

POLICY

Division

People and Culture

Policy number

Updated

October 2022

Implemented

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Reviewed by

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Approved by

Rolf Moses
Chief Executive Officer

Signed 

Date 15 December 2022

1. Policy validity statement

- 1.1. If this document has passed its review date (as shown on the cover page), it may be invalid. Please ensure you're referring to the most current version before relying on its contents.

This policy explains the process and procedure followed at QLS to resolve any grievance or complaint against any individual, expeditiously and where possible, at the lowest organisational level.

2. Scope

This policy applies to all current QLS employees, Councillors, Committee members, work experience students, volunteers, contractors, subcontractors or agents (collectively, **Workers**) in respect of grievances or complaints regarding workplace issues, including but not limited to:

- decisions made by management in relation to a person's engagement with QLS;
- discrimination, bullying, sexual harassment and other inappropriate workplace behaviours;
- terms and conditions of employment; and
- the application of QLS policies and procedures

This policy does not apply to decisions made by QLS to terminate a Worker's employment.

3. References

- 1.1. *Work Health and Safety Act 2011 (QLD)*
- 1.2. *Work Health and Safety Regulation 2011 (QLD)*
- 1.3. *Safe Work Australia: Guide for Preventing and Responding to Bullying*
- 1.4. *Anti-Discrimination Act 1991 (QLD)* and corresponding federal legislation
- 1.5. *Fair Work Act 2009 (Cth)*
- 1.6. *Human Rights Act 2019*
- 1.7. *QLS Workplace Bullying, Sexual Harassment and Discrimination Policy*
- 1.8. Current QLS Council Charter

4. Definitions

4.1. Complaint

A concern, dissatisfaction or frustration with an aspect of QLS. This could include an issue relating to a policy or procedure or the behavior of another individual or group of individuals.

4.2. **Grievance**

An alleged wrong doing or hardship suffered, which is the ground for a complaint. It could include action or inaction from another person, behaviours or decisions which a Worker feels is unjustified or unfair or a repeated course of conduct.

4.3. **Contact Officer**

A Contact Officer is someone who has been specially trained and is available to provide support and assistance on a strictly confidential basis. Our [Contact Officers](#) and their details can be found on the intranet.

The role of a contact officer is to:

- provide information about options
- listen and be supportive
- act as a referral agent
- maintain confidentiality.

The role of a contact officer is not to:

- provide advice
- act as an advocate/judge/counsellor
- report specifics of cases
- investigate or mediate complaints.

5. **Our Grievance Principles**

QLS is committed to ensuring that all Workers are treated justly and fairly by providing a prompt and straightforward process for dealing with complaints and grievances. We seek to foster a culture of respect, dignity and fair treatment for everyone who works with us.

QLS aims to resolve problems and grievances promptly and as close to the source as possible with graduated steps for further discussions and resolution at higher levels of authority as necessary.

Workers are encouraged to act promptly in respect of complaints and grievances and raise them as soon as possible rather than letting issues escalate. Complaints and grievances should be raised in accordance with the procedure set out in this policy.

Workers may wish to keep a diary noting the events giving rise to the grievance or complaint, the names of any witnesses to events and the effect that the events have had on them. This information may be needed as the complaint or grievance progresses.

QLS encourages direct dealing wherever possible but understands that in some circumstances it may not be possible or appropriate for people to speak directly to the person involved or central to the complaint or grievance and in such circumstances the matter may need to be escalated.

All formal complaints and grievances will be taken seriously by QLS and in most circumstances will be the subject of some form of mediation or investigation.

Workers must ensure that they do not make frivolous, false or vexatious complaints or grievances.

When dealing with complaints and grievances QLS will endeavour to ensure that Workers are treated with dignity and respect and that they are afforded procedural fairness and natural justice.

All Workers involved in a complaint or grievance (whether as a complainant, witness or respondent) must keep the details of the matter confidential and must not discuss the matter with anyone other than those involved in resolving the matter.

In the event that a complaint or grievance relates to potentially criminal behaviour, QLS may be required to refer the matter to the police rather than, or in addition to, dealing with the matter under this policy. Examples of such situations may include workplace violence and sexual assault.

6. Procedure

6.1. Stage 1: Direct dealing

In most circumstances the Worker with the complaint or grievance (**complainant**) should speak to the other Worker involved (**respondent**) and try to resolve the matter directly. This discussion should be conducted in a courteous and professional manner.

Sometimes people just need a reminder about their behaviour, or to be told when they have stepped over the line and what you want them to do or not do. This may not work in every situation or you may not feel comfortable about approaching the person.

Other options at this early stage include:

- raising the matter in confidence with your manager, your general manager or People and Culture and seeking advice as to how to best resolve the matter
- seeking assistance of a QLS Contact Officer
- seeking personal support through family, friends or our Employee Assistance Provider LawCare on 1800 177 743.

6.2. Stage 2: Formal complaint or grievance

At times it may not be possible to resolve a matter informally through direct dealing or the nature of the matter requires a more formal approach. Where this occurs you are encouraged to lodge a formal complaint or grievance.

If your complaint or grievance is against:

- the CEO please lodge your complaint with the President
- the President please lodge your complaint with the Deputy or Vice President.
- any QLS Councillor please lodge your complaint with the President or Chief Executive Officer

- any other person, please lodge your complaint with your manager, general manager and/or People and Culture.

The management of any issue affecting the affairs of the Society including grievances against and between Councillors is within the authority of Council. An individual Councillor does not have authority to deal with a grievance or enter into a settlement or confidentiality agreement that binds the Society.

The wider Council will be notified of the mere fact of a complaint about a Councillor, especially where the complainant is another Councillor. This will be assessed on a case-by-case basis. For example, in circumstances where the grievance could impact the performance of the Council or the reputation of the Society or the profession, it may be appropriate to inform the wider Council in greater detail of the particulars of the complaint as determined by the President and Chief Executive Officer.

The Council, the Executive Committee and the Chief Executive Officer all have levels of authority in relation to the resolution of grievances if a financial settlement is required.

Complaints by or against a Council member will be managed by the Chief Executive Officer and the President, the Vice President or the Deputy President depending on the complaint.

The President and Chief Executive Officer should always be informed particularly if a complaint is about a Councillor. The Chief Executive Officer and President should keep records and inform, when appropriate, their successors regarding grievances and other complaints.

A Councillor's role includes the oversight of the discharge of Council's statutory functions and duties and individual Councillors are responsible collectively for Council decisions. A Councillor, acting by themselves without appropriate delegation, does not have authority to deal with a grievance, or enter into any settlement or confidentiality agreement that binds the Society. A Councillor does not have authority to facilitate an agreement that would not permit disclosure to the Chief Executive Officer or the President.

In the event that the person to whom you should lodge the complaint is in some way involved in the subject matter of the complaint or has a close personal relationship with the person to whom you have the grievance with, you may lodge your complaint with the next most appropriate person, for example a Councillor. If in doubt, please discuss with People and Culture.

Formal complaints and grievances may be made orally or in writing. However, where a complaint or grievance is raised orally, you may be asked to put the matter in writing. This will usually be the case where the matter involves allegations of bullying, sexual harassment, victimisation or vilification.

Irrespective of whether the complaint or grievance is made orally or in writing you will need to provide details of the matters alleged, including the times, dates, locations and people involved.

Where a formal complaint or grievance has been raised, a meeting will be held with the complainant as soon as possible to discuss the issue in more detail along with possible options for addressing or resolving the grievance.

Options for addressing or resolving complaints and grievances will vary depending on the nature of the matter, but may include:

- no action being taken (e.g. in circumstances where the complaint or grievance is found to be frivolous, false or vexatious, or where the complainant decides not to progress with the grievance and it is not a serious matter that QLS is obliged to investigate);
- the complainant's manager or People and Culture giving the complainant advice or tips on how to resolve the matter themselves;
- the matter being addressed directly with the respondent.
- round table discussion/mediation between the complainant and respondent; or
- formal investigation by QLS or a third party.

In most cases, grievances regarding bullying, discrimination, sexual harassment, victimisation or vilification will be the subject of a formal investigation.

(a) *Natural justice and procedural fairness*

Where a formal complaint or grievance is raised, QLS will endeavour to ensure that the principles of natural justice and procedural fairness are adhered to. This means that QLS will endeavour to adhere to the following rules:

- the respondent should be fully informed of the nature of the grievance against them as soon as reasonably practicable (this does not necessarily mean that the respondent is entitled to a copy of the written grievance or written witness statements);
- the complainant and the respondent should be given details of the process that will be followed in respect of addressing or resolving the grievance;
- the respondent should be given a reasonable opportunity to provide a response to the grievance;
- the respondent should be treated as innocent until proven guilty;
- the complainant and respondent will be entitled to be supported by a person of their choice (e.g. family member, friend), please refer to the role of a support person outlined in the [Support Person guide](#); and
- the details of the grievance and the investigation/resolution process should be kept confidential and only disclosed on a 'need to know' basis.

Persons dealing with grievances should endeavour to adhere to the above rules and to resolve the matter as quickly as possible.

(b) *Possible outcomes*

In many cases it may be possible to resolve a complaint or grievance by a set of agreed actions with both parties.

However, where it is determined that there has been misconduct or breach of a QLS policy or procedure or the Code of Conduct, the relevant person may be subject to disciplinary action.

Disciplinary action may include but is not limited to:

- requiring a written apology and undertaking that the behaviour will not occur again

- a direction to attend additional training, counselling or coaching
- a warning being issued
- ongoing monitoring of behaviour
- a period of suspension or demotion
- termination of employment.

Potential outcomes for a Councillor found to have breached a policy or the Code of Conduct may be suspension or removal from office under the *Legal Profession (Society) Rules 2007*. In such a case the Councillor may be referred to the Council for appropriate management in accordance with the Society's governance structure.

Grievances about a Council member will be dealt with under this policy.

Former Councillors are also restricted in terms of disclosure of information obtained through their role as Councillor in the administration of the *Legal Profession Act 2007* and fiduciary duties do not end upon termination of their role as a Councillor.

Both the complainant and the respondent will be notified in writing of the outcome of any formal complaint or grievance.

(c) *Appeals*

If you are dissatisfied with the process or the outcome, you may appeal. Appeals should be made within 7 working days of receiving written notification of the outcome of the matter and should be lodged with the relevant party as detailed in 7.2 above.

QLS may decide to review the matter internally or may, at its discretion, appoint an independent party to review the matter.

You will be advised of the results of the appeal in writing.

7. Compliance

All Workers who witness behavior that does not align with our Code of Conduct have an obligation to report it to their manager or People and Culture. Failure to do so will result in disciplinary action.

7.1. Council

Council should be informed of any grievances to the extent necessary to carry out its oversight function. If the complaint is a public interest disclosure confidentiality obligations apply and the information should be de-identified. Where the issues are not significant or they are easily resolved, Council may not need to be notified. If the matter concerns an issue raised by a Councillor about a staff member the Councillor may have a conflict of interest in relation to the management of the issue and should play no part in the matter.

The President and Chief Executive Officer should always be informed, particularly if the matter relates to a Councillor or a former Councillor. Council should be informed to the extent necessary for its oversight function.

If the matter relates to a grievance which raises issues under the *Crime and Corruption Act 2011*, the *Public Interest Disclosure Act 2010* and the *Work Health and Safety Act 2011* notification may need to be made to external bodies. This should be managed by the President and the Chief Executive Officer.

7.2. Managers

Under this policy, managers have a responsibility to:

- act on any complaint or grievance;
- notify People and Culture of formal grievances;
- provide support to Workers involved in grievances;
- where appropriate obtain full details of any formal grievance;
- keep written records of formal grievances and the steps taken to resolve such grievances;
- maintain confidentiality at all times and only disclose information to others as directed by management;
- participate in processes designed to address or resolve grievances;
- ensure that complainants are not victimised or treated adversely as a result of raising a grievance pursuant to this policy; and
- comply with the procedures and principles set out in this policy.

7.3. Workers

Under this policy, Workers have a responsibility to:

- be truthful in their dealings with the Society in respect of grievances;
- participate in processes designed to address or resolve grievances;
- maintain confidentiality of the grievance and the grievances process at all times;
- not make false, frivolous or vexatious grievances; and
- comply with the procedures and principles set out in this policy.

8. Breach of policy

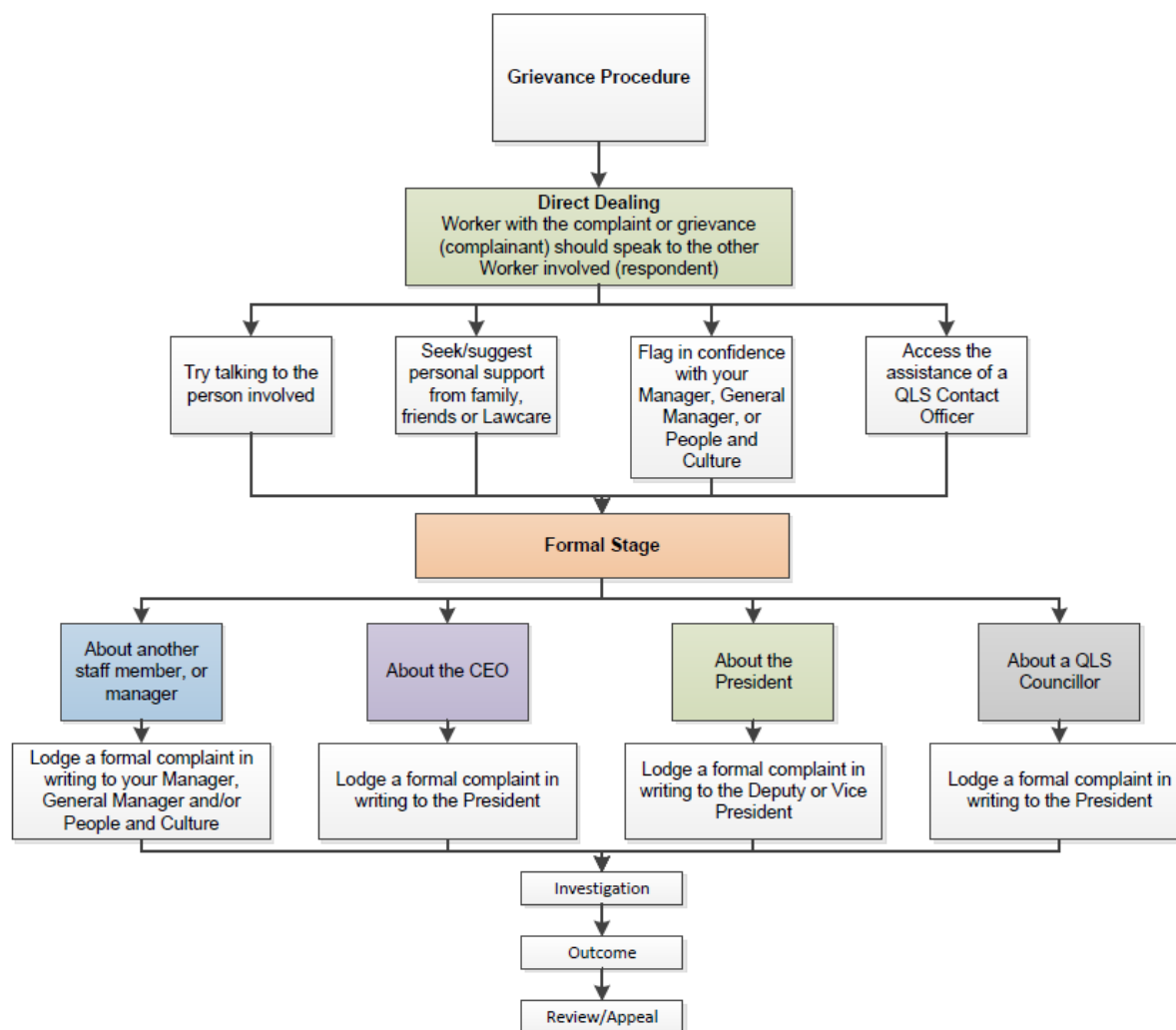
Breach of this policy may result in disciplinary action being taken against the relevant Worker.

No disciplinary action will be taken against a complainant as a result of a genuine grievance or a grievance is ultimately found to be disproven or unsubstantiated, unless the grievance is found to be deliberately false, frivolous or vexatious.

Potential outcomes for a Councillor found to have breached a policy or the Code of Conduct may be suspension or removal from office under the *Legal Profession (Society) Rules 2007*. In such a case

the Councillor may be referred to the Council for appropriate management in accordance with the Society's governance structure.

9. Grievance Policy Flowchart



10. Endorsement

QLS is committed to this policy and its implementation to ensure a healthy, safe and harmonious work environment. Failure of anyone to comply with this policy may result in disciplinary action, including dismissal. For further information, please contact People and Culture.

11. Document History

Document History			
Amended	Amended By	Division	Details
11/12/2009	B Bignell	Human Resources	Updated based on feedback from CEO.
24/12/2009	B Bignell	Human Resources	Updated based on feedback from The Executive Team
07/10/2011	A Ashton	Human Resources	Policy updated in line with Qld terminology.
28/03/2012	A Ashton	Human Resources	Updated with minor changes.
05/12/2012	A Ashton	Human Resources	Updated in line with the Code of Practice and minor grammatical changes.
11/01/2013	A Aston	Human Resources	Addition of reference to unfair dismissal and general protections claims. Updated into new policy template.
18/12/2013	A Ashton	Human Resources	Update in line with the Safe Work Australia Guide and Fair Work Commission changes.
22/06/2015	A Ashton	Human Resources	Bi-annual policy review. Removal of 'principles of grievance handling' table. Minor grammatical changes
21/09/2016	A Graham	People and Culture	Changed to reflect signature of the current CEO and added a link for Contact Officers
12/10/2016	A Graham	People and Culture	Changed to add in a flow chart for raising grievances
7/11/2016	K McMahon	Corporate Services	Amended to incorporate specific references to CEO, President and Councillors
3/02/2017	K Ramsey	External Legal Advisor	Substantive changes made to the policy to expand grievance principles, possible resolution processes and a responsibilities section
7/02/2017	A Ashton	People and Culture	Review and minor revisions
28/2/17	A Graham	People and	Updated the flow chart

		Culture	
6/11/17	N French	People and Culture	Updates in line with CFO and GM of Corporate Services feedback.
18/03/20	M Westbrook L McKern	Office of General Counsel People and Culture	Updated to apply to Council.
06/10/22	C Ellemor	People and Culture	Links updated to include new Contact Officers and other minor grammatical amendments.