

Grievance Resolution Procedure

Section 1 – Background and Purpose

Preamble

(1) Grievances can result from work related problems which a staff/committee/board member or volunteer (staff) believe to be unfair, inequitable, discriminatory and/or creates an unsafe work environment. They are often the result of unresolved work related issues, problems, or conflicts that have been avoided or not addressed to the satisfaction of those involved. Examples include staff:

- a. feeling they have been unfairly treated by others;
- b. feeling afraid to complain about something because they fear the consequences from other staff;
- c. feeling a decision about them doesn't take into consideration all facts, and that their issues or concerns haven't been heard.

(2) This procedure sets out Generations in Jazz Inc. (Generations) position providing means to which our staff can have a grievance resolved in a fair, transparent, timely and one which maintains positive relationships.

Section 2 – Scope

Grievance Coverage

(3) Grievances raised under this procedure are limited to those as detailed in the position description. All other matters must be raised in accordance with the relevant policy/procedure or a position description unless stated otherwise in the relevant policy/procedure.

(4) This Procedure is written in support of the position description.

(5) Disputes relating to the position description are dealt with separately in accordance with 'Dispute Setting Procedures' detailed in the position description.

(6) Grievances relating to schools or students can be raised through this procedure by staff. The assigned investigator will work collaboratively with school/student in resolving this grievance.

Generations in Jazz Inc.

- (7) Students/Schools wishing to raise a grievance against staff must do so through the relevant student/schools' complaints procedure.

General

- (8) Generations is committed to:
- a. ensuring a safe working environment with positive working relationships between staff;
 - b. complying with all applicable laws;
 - c. all staff having access to a grievance resolution process;
 - d. the principles of the grievance resolution:
 - I. providing timely responses
 - II. staff being dealt with sensitively
 - III. all parties are afforded fairness and impartiality
 - IV. support provided for both parties
 - V. the resolution process is victimisation free
 - VI. the principles of natural justice and procedural fairness apply

Section 3 – Policy

- (9) Refer to the [Workforce Management Policy](#)

Section 4 – Procedure

Lodging a Grievance

- (10) Grievances will be managed in accordance with the position description however are detailed below for ease of reference.
- (11) Should the position description require the need to be amended or changed, the new position description will replace the below.

Grievance Handling Procedures

- (12) Staff may be assisted by a representative at any stage in the grievance process, including the lodgement of a formal grievance.
- (13) Where a concern or issue is not resolved at the local work area through informal discussions or is not appropriate to be managed at this level due to its complex or serious nature, the grievance will be formally lodged in writing to the relevant supervisor for action. The grievance will outline the nature concerns and the outcome sought by the staff member. Where the grievance involves the supervisor or team leader, or there is a perceived conflict of interest, the grievance should be logged with the CEO.
- (14) The grievance will be acknowledged in writing as soon as practical and no later than 5 working days from receipt of the formal notification. The supervisor/team leader may provide the CEO with a copy of all relevant information and may consult with them about managing the grievance.
- (15) The supervisor or staff will initially meet with the relevant staff to obtain detailed information about the grievance, explain how the grievance procedure works and identify through discussion the main issues to be resolved or investigated. Wherever possible the complainant will guide the course of action.
- (16) The supervisor or a staff member will then determine the best course of action, which may include the following; relevant information gathering, arranging for conciliation or mutually agreed mediation, or arranging a formal investigation of the matter in consultation with the CEO.
- (17) The grievance handling processes and expected lead times for grievance resolution, the need for confidentiality and their protection from victimisation will be explained to the employee/volunteer. They will be told that should the grievance progress to a formal investigation of other employees/volunteers the relevant details of the grievance will be provided to these party/s to ensure that there is a natural justice.
- (18) If the grievance is resolved the resolution of the grievance will be confirmed in writing to the employee/volunteer and other party to the grievance. If there are any actions arising from this resolution which have an impact on another employee/volunteer or employees/volunteers, these will be explained to them whilst being mindful to ensure the confidentiality of the direct parties.

Generations in Jazz Inc.

- (19) If the grievance cannot be resolved by the Supervisor or CEO, or there has been a delay in resolving the grievance beyond 30 days, or the supervisor or CEO believes that misconduct or serious misconduct has taken place, the matter will be referred to the Board, with information about the resolution steps that have taken place to date.
- (20) The CEO will consider all relevant information, and may request that additional information is obtained and documented, initiate further investigation or where necessary refer the matter. The CEO will issue a written report of the outcome to the person who raised the grievance and others party to the grievance, including any further steps that may be required to resolve the grievance and any steps that are required to prevent a recurrence of the circumstances that gave rise to the grievance.

Withdrawing a Grievance

- (21) Withdrawals must be made in writing to the person handling the grievance.
- (22) Generations may still have an obligation to investigate the grievance pending the nature of the grievance – Refer ‘Legal Issues’ below.

Legal Issues

False Misleading and Vexatious Claims

- (23) If someone is found to have raised a false or deliberately misleading claim against another person they may face disciplinary action which may result in (but not limited to) counselling, a written apology to the person complained about, an official warning or termination of employment/office or position.

Staff Confidentiality

- (24) Confidentiality must be adhered to during and after the process of making and resolving grievances.
- (25) Staff may only discuss the grievance with those legitimately and directly involved in the grievance or in its resolution.
- (26) This requirement seeks to protect the rights and privacy of all involved and to ensure a comfortable and productive working environment. Should staff grievance become more widely known there is the potential for undue embarrassment and workplace tension. In addition, it is likely the grievance will be successfully resolved.
- (27) Breaches of confidentiality could result in disciplinary action being taken.

Generations in Jazz Inc.

Recording Conversation

- (28) Making secret recordings of conversations (on devices such as phones, recorders etc.) undermines the confidentiality and integrity of the process of grievance resolution therefore Generations strictly prohibits recordings without explicit consent from all parties involved in the conversation. Should consent be obtained, such consent to be recorded in writing and on the recording device at the commencement of the recording.

Obligation to Act

- (29) Should a serious allegation be raised, Generations may have a legal obligation to investigate even if the staff member does not wish to pursue the matter.

Victimisation

- (30) Victimisation in the workplace occurs if a person subjects or threatens to subject another person to a detriment, because that other person is:
- a. asserted their rights under legislation
 - b. made a grievance or helped someone else to make a grievance
 - c. refused to do something because it would discriminate against, harass, victimise another person
 - d. intends to provide information as a witness to a grievance
- (31) Generations prohibits retaliation against staff or an external work-related person just because that person is a party to a grievance. Should Generations Staff victimise someone who has raised a grievance or is party to a grievance, Generations will take action in accordance with a breach of policy.
- (32) If someone raised a genuine grievance directly with a person, it should be appreciated that an opportunity is being offered to address an issue and potentially averting a more formal grievance.

Assistance and/or Unresolved Grievances

- (33) Generations staff have the right to seek assistance from an external body/authority at any stage. For example:
- a. South Australian Equal Opportunity and Human rights Commission
 - b. Fair work Australia
 - c. Fair Work Ombudsman
 - d. Worksafe SA

Generations in Jazz Inc.

Support Person

(34) Staff who are party to a grievance have the right to have a support person present at meetings. If staff choose not to have a support person, the process will still continue.

Who may be the support person

(35) A support person can be (other than a practicing solicitor or barrister) a friend, family member or a work colleague. They are nominated by staff to provide support on their behalf, but who is not entitled to make representations or act as an advocate.

The role of the support person

(36) The role of the support person is to provide professional and moral support to the staff concerned. He or she may also act as a witness or observer to the process.

(37) The support person should not disrupt the process, direct the process or otherwise interfere with the meeting. The support person is not there to advocate on behalf of staff.

(38) Should a support person attempt to intervene, direct the process or advocate on behalf of staff, he or she should be warned that this contravenes the role of support person. If the support person persists, the support person may be asked to leave the meeting and the meeting may be terminated and rescheduled, with potentially another support person. If this occurs, the staff will be advised to nominate another support person. However, reasonable attempts should be made to achieve agreed meeting times.

(39) A support person should not have had any involvement in the incident being discussed.

Performance Management

(40) Reasonable management action, carried out in a fair way, is not bullying (albeit some experiences can be uncomfortable for those involved). Managers have a right to direct the way work is carried out, to monitor the work and give feedback on performance.

Examples of reasonable management action may include:

- a. Setting reasonable performance goals, standards and deadlines in consultation with Generations staff.
- b. Deciding not to select someone for promotion, following merit based process
- c. Informing someone about unsatisfactory work performance

Generations in Jazz Inc.

- d. Informing someone about unacceptable behaviour
- e. Implementing organisational changes or restructuring
- f. Performance improvement processes
- g. Reasonable disciplinary action.

Responsibilities

(41) Staff are responsible for:

- a. clearly identifying the issue, giving all available information in support of their grievance and cooperation with the relevant grievance process;
- b. to act responsibly and professionally at all times throughout a grievance resolution process.

(42) Managers/Team Leaders are responsible for:

- a. intervening quickly and acting fairly to resolve grievances and reinforcing standards, making sure relevant parties are heard;
- b. treating all grievances seriously acting responsibly and professionally at all times throughout a grievance resolution process;
- c. monitoring and addressing victimisation issues resulting from grievances;
- d. promoting the [Code of Conduct](#) Generations values and [Workplace Behaviours Policy](#) within their work area;
- e. referring a grievance to another officer if they do not feel that they are the best person to deal with the case (For example, if there is a conflict of interest or if the grievance is particularly complex or serious);
- f. ensuring decisions are based on a thorough and unbiased consideration of all the facts and views expressed by all parties.

Further Assistance

(43) There are people and resources available to assist or support staff and provide information, advice or appropriate referrals. Support options may include:

- a. Manager/Team Leader
- b. CEO
- c. Support Person

Legislation

(44) Generations has listed the most relevant law in Australia relating to this topic however it is not limited to the legislation listed (see Associated information).

Generations in Jazz Inc.

Definitions

(45) For the purpose of this procedure:

- a. grievance is defined as a work-related problem or condition which a staff member believes to be unfair, inequitable, discriminatory and/or creates an unsafe work environment and which is formalised in writing for the purpose of these procedures;
- b. malicious is deliberately harmful, spiteful and intending or intended to do harm;
- c. NES is the National Employment Standards;
- d. principles of natural justice refer to the general procedural fairness in the handling of a grievance that involves all of the following elements:
 - i. the right to a fair hearing;
 - ii. the right to attend hearings with a friend or support person, if required;
 - iii. the opportunity for all parties involved to be heard;
 - iv. the respondent having full knowledge of the nature and substance of the grievance;
 - v. the complainant not determining the outcome, but may be a party to it;
 - vi. the right to an independent, unbiased decision-maker;
 - vii. a final decision that is based solely on the relevant evidence.
- e. vexatious is causing or tending to cause annoyance, frustration or worry to harass.

Related documentation

Generations in Jazz policies:

- [Code of Conduct](#)
- [Conflict of Interest Policy](#)
- Whistle blower Policy
- Workplace Behaviours Policy

Federal legislation:

- Racial Discrimination Act 1975
- Sex Discrimination Act 1984
- Disability discrimination Act 1992
- Workplace Gender Equality Act 2012
- Human Rights and Equal Opportunity Commission Act 1986
- Fair Work Act 2009