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24 JUL 2008

NSW HEALTH

P08/685

Ms Teresa Robinson
A/Principal Council Officer
Legislative Council
General Purpose Standing Committee No 2
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Ms Robinson

Inquiry into the management and operations of the NSW Ambulance Service

I refer to your letter dated 8 July 2008 concerning evidence provided by the Department of Health, and Ambulance Service of NSW, staff at the 4 July Hearing of the Inquiry into the management and operations of the NSW Ambulance Service.

Firstly, I would like to take this opportunity to clarify a statement I made at the Hearing on 4 July 2008.

In response to a question from the Chair I advised the Committee that I had not received complaints about bullying and harassment by the Chief Executive Officer of the NSW Ambulance Service.

After reviewing records held by the NSW Department of Health I wish to correct this statement. In January 2008 a letter was received from a complainant that principally relates to protected disclosures involving the Ambulance Service Southern Operations Centre and acknowledges the action being taken jointly by the Department of Health and the Ambulance Service to commission an external investigation into these protected disclosures. This letter contained a general statement referring to bullying and harassment by the Chief Executive of the NSW Ambulance Service and other senior staff.

An independent investigation has been conducted by the Internal Audit Bureau (IAB). All complaint material received by the Department as part of these protected disclosures, including to the letter referred to above, was provided to the IAB to assist with its investigation.

The outcome of the investigation has been communicated to the parties who lodged the complaints as well as all persons that were the subject of the investigation or have given statements to assist the investigation.

With respect to the general accuracy of the Hansard Transcript, the officers who attended the Hearing have reviewed the transcript and a copy is enclosed with the relevant alterations made in the margin. Please see Table 1 (attached) for a summary list of alterations required to correct the Hansard record.

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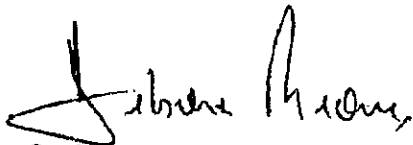
Please find attached responses to:

Tab A: Amended version of the Transcript highlighting changes required.

Tab B: Responses to questions taken on notice during the Hearing and also those questions subsequently attached to your letter of 8 July 2008.

The person to contact at the NSW Department of Health for further information or assistance is Mr Matt Monahan, Manager Parliament & Cabinet Unit on 9391 9328.

Yours sincerely



Professor Debora Picone AM
Director-General

22/7/08

GPSC2: AMBULANCE SERVICE INQUIRY – ADDITIONAL QUESTIONS.

Question 1

A large number of ambulance officers have told the Committee that they have lodged complaints with the Professional Standards and Conduct Unit but have either never received a reply, or that the matter was investigated but no action taken. Can you comment on this claim?

ANSWER

Complaints from staff that are received by the Professional Standards and Conduct Unit are dealt with on an individual basis.

When a complaint is lodged, the Professional Standards & Conduct Unit acknowledges the complaint either by writing or by phone, depending on how the complaint is received. All matters relating to misconduct where action is commenced under the Ambulance Services Regulation (2005) are acknowledged within five days.

Where appropriate, complaints received by the Professional Standards & Conduct Unit may be referred to the Division or to the Workforce unit for management and this is usually done in consultation with the complainant.

Case managers maintain regular contact with complainants in active matters, and complainants are encouraged to contact the Professional Standards and Conduct Unit at any stage of a complaint.

Where a complaint raises issues of misconduct, criminal conduct or unsatisfactory performance it must be managed in accordance with the Ambulance Services Regulation 2005 (available at <http://www.legislation.nsw.gov.au/maintop/scanact/inforce/NONE/0>) and relevant procedural guidelines.

Some complaints are not substantiated and result in no action being taken. Where a complaint is substantiated there are a range of options for disciplinary action and remedial action.

Matters related to staff conflict, grievance, bullying and harassment and their management by the Ambulance Service are outlined in detail in the *NSW Health Submission to the Legislative Council, General Purpose Standing Committee No 2, The Management and Operations of the Ambulance Service of NSW* at pages 21 to 28.

If the Committee has received information that complaints made to the PSCU have not been responded to, the Ambulance Service is happy to review the complaints and respond as a matter of urgency.

Complaint Management Policy

Document Number PD2006_073

Publication date 29-Aug-2006

Functional Sub group Corporate Administration - Information and data
Corporate Administration - Governance
Clinical/ Patient Services - Governance and Service Delivery
Clinical/ Patient Services - Incident management

Summary Support clinicians and managers to respond effectively to clinical and corporate complaints that arise in the NSW Health system.

Replaces Doc. No. Complaints Handling Frontline - better practice guidelines - issued 1998 [GL2005_061]
Complaints Data Collection - Statewide [PD2005_288]

Author Branch Quality and Safety

Branch contact Quality and Safety 9391 9200

Applies to Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations - Non Declared, Affiliated Health Organisations - Declared, Public Health System Support Division, Community Health Centres, Dental Schools and Clinics, NSW Ambulance Service, Public Health Units, Public Hospitals

Audience All staff, including managers, clinicians and contractors

Distributed to Public Health System, Community Health Centres, Dental Schools and Clinics, Divisions of General Practice, Government Medical Officers, Health Associations Unions, Health Professional Associations and Related Organisations, NSW Ambulance Service, NSW Department of Health, Public Health Units, Public Hospitals, Private Hospitals and Day Procedure Centres, Private Nursing Homes, Tertiary Education Institutes

Review date 29-Aug-2011

File No. 05/6761

Status Active

Director-General

This Policy Directive may be varied, withdrawn or replaced at any time. Compliance with this directive is **mandatory** for NSW Health and is a condition of subsidy for public health organisations.

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Title: Complaint Management Policy

1. Introduction

Complaints and compliments provide unique information about the quality of health care from the perspective of consumers and their carers. Management of a complaint provides the opportunity for complainants to have their issues resolved effectively, ensures that any identified risks are managed appropriately and that action is taken to minimise or eliminate those risks.

A key component of complaint management is the systematic recording of issues, risks, complaints, and their resolution, which is achieved through the Incident Information Management System (IIMS).

This policy applies to all complaints about health services made by members of the public or external organisations.

For the purposes of this policy, the term "health services" refers to Public Health Organisations and the Ambulance Service of NSW.

2. Objectives

The objectives of the complaints policy are to:

1. Assist health services with the timely and effective management of complaints.
2. Establish a standard approach to complaints handling including the establishment of performance indicators to monitor compliance.
3. Ensure that health service staff are aware of their responsibilities and are empowered to manage complaints

3. Principles¹

The Complaint Management Policy Directive and associated Guidelines are underpinned by the following guiding principles:

- Health services are committed to consumers and quality improvement.
- Consumers and their carers are encouraged and enabled to provide feedback about the service, including complaints.
- All complaints are acknowledged and responded to promptly and sensitively.
- Complaints are assessed by considering risk factors, the known facts, the wishes of the complainant and accountability of health service staff.

¹ Based on 2004 Better Practice Guidelines on Complaints Management for Health Care Services - A product of the Australian Council for Safety and Quality in Health Care (the Council) sponsored "Turning wrongs into rights: learning from consumer reported incidents project", endorsed by the Australian Health Ministers Conference in July 2004

- All complaints are dealt with in a manner that is effective, complete, fair to all parties and provides just outcomes.
- Complaint information is openly communicated while protecting confidentiality and personal privacy.
- All complaints are recorded to enable review of individual cases, to identify trends and risk and report on aggregated complaint information.
- Complaint management policy, practices, and data are regularly evaluated and the information is used to improve services.

4. Roles and Responsibilities

Effective complaint management requires a whole-of-organisation approach with clear points of accountability for reporting and feedback, as follows:

4.1 Chief Executive is responsible for:

- Encouraging an environment where complaints are handled seriously and thoroughly.
- Ensuring an effective complaint management system is developed and in place for the health service.
- Ensuring appropriate resources are available and utilised for effective complaint management.
- Reporting to registration boards in accordance with the provisions of the Health Services Act 1997.
- Ensuring appropriate actions are implemented to eliminate or minimise similar problems from occurring.
- Nominating an executive staff member within the health service who is responsible for:
 - Ensuring monitoring and risk rating of all complaints.
 - Ensuring local actions are implemented to eliminate or minimise similar problems from occurring.
 - Reporting trended complaint data at least every quarter to the Health Care Quality Committee and other relevant groups within the health service.
 - Providing a copy of the report tabled at the Health Care Quality Committee to the Quality and Safety Branch, NSW Department of Health.
 - Implementing policies and local procedures that support staff, including staff training on complaint management.

4.2 Director of Clinical Governance is responsible for:

- Providing a single, publicly recognisable point of contact for the receipt and management of serious complaints from members of the public and staff, regardless of whether those complaints are of a clinical or corporate nature.

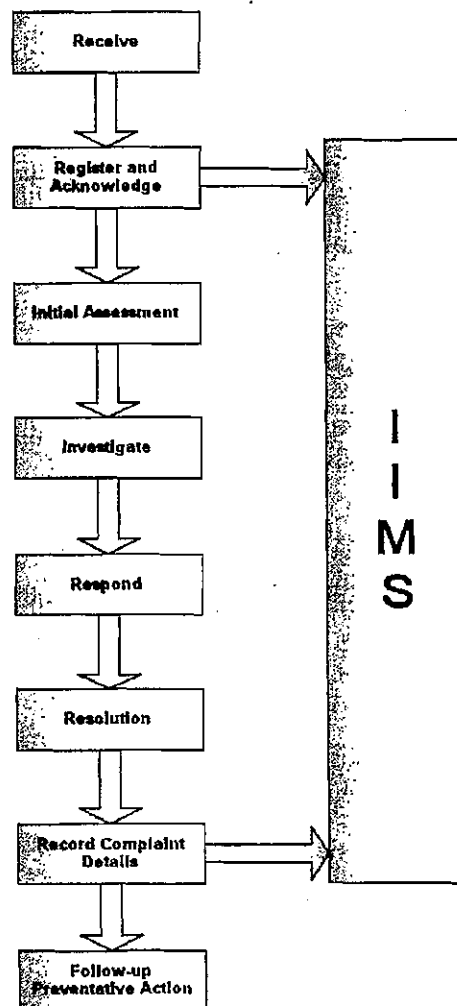
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- Having a designated AHS Senior Complaints Officer available 24 hours a day, 7 days a week.
- Ensuring the proper process for managing complaints is followed by the organisation.

4.3 NSW Department of Health is responsible for:

- Reviewing and evaluating the implementation and effectiveness of complaint management policy.
- Reviewing reports provided by health services on complaint data and trend analysis.
- Ensuring a statewide report on complaint information is produced annually.
- Providing advice to the system in response to specific queries about complaint management.
- Providing advice to the Minister for Health on issues of public concern/media or public attention that arise from complaint management.

5. Steps in the Complaint Management Process



5.1 Receiving Complaints

Complaints may be received in person, over the telephone or in writing. Staff at all levels must accept complaints and know what action they can take to resolve them.

With complaints received verbally staff should:

- Give a calm explanation of what happened if they do know why it happened.
- Offer an apology if warranted.
- Encourage the complainant to discuss their concerns with the relevant clinician or other staff.
- Speak to the relevant clinician or other staff on behalf of the complainant.
- Advise the complainant of the complaint management process.
- Know when to refer the complaint on.
- Comprehensively record the conversation and concerns, along with all necessary details (names, addresses, hospital numbers, identified providers, etc.)
- If possible, provide a copy of the completed record to the complainant to ensure they agree that it is factually correct.
- Advise them of the appropriately identified person if they wish to send any written correspondence.
- Commence actioning the complaint if possible.

5.2 Registering and Acknowledging Complaints

As soon as a complaint is received:

- It must be registered in IIMS via the Complaint Notification Form. If it involves a clinical incident, the complaint form must be linked to the Clinical Incident Form.
- Acknowledge its receipt within five calendar days. Acknowledgement may be verbally or in writing. Written acknowledgements should:
 - Explain the complaints process
 - Identify contact person/details for the complainant
 - Expected timeframes and what might be requested from the complainant, eg patient authorities.
- Assess the complaint and assign it to the relevant person to co-ordinate its management.

5.3 Initial Assessment

The purpose of the assessment process is to:

- classify the complaint appropriately to determine appropriate action
- ensure the process is commensurate to the seriousness of the complaint and the issues raised
- ensure fairness to any clinicians/staff concerned.

Title: Complaint Management Policy

There are several steps a health service must take in assessing a complaint:

Identify the issues raised

- Identify the issues for resolution, which includes the key concerns raised by the complainant, as well as any other issues that arise or are identified by the health service.
- If any or all of the issues are unclear, before progressing the matter, clarify them with the complainant.

Identify the parties involved

- The relevant parties are those key people involved with the complaint plus those involved with the incident that is the subject of the complaint. They may not always be a respondent to the complaint, but may be key people in the provision of service under inquiry.
- If individual clinicians are identified in a complaint then they must be advised of the concern in keeping with the directives of the Management of a Complaint or Concern about a Clinician PD2006_007.

Obtain Patient Authorities

Patient authorisation is required whenever:

- The complaint relates to the treatment received by the patient and the complainant is not the patient.
- The complaint is made by a Member of Parliament on behalf of their constituents.
- The complaint investigation requires information outside the Health Service

In these instances, an authority to release information is required in order to provide confidential information to the third party.

Health services are to:

- Have the patient sign the authority
- If the patient is a child, is deceased or too ill, the person responsible, guardian, person with power of attorney or executor is able to sign on the patient's behalf.
- Obtain an authority when information on the patient's health status and history must be obtained from outside the health service, for example from private practitioners or hospitals, or from another Area Health Service.
- Explain to the person signing the authority how the information is to be used.

Rate the severity of the complaint

Rating the severity of the complaint may be assisted by using the Severity Assessment Code (SAC) as per the Incident Management Policy (PD2006_030).

The notifying staff member will give the complaint an Initial SAC rating in IIMS that will be subsequently confirmed by a manager with an Actual SAC rating.

Title: Complaint Management Policy

The initial severity assessment will help determine:

- who will deal with the complaint,
- who needs to be notified both internally and externally and
- the best method to achieve resolution.

Assessment results include:

- Provide information, reassurance, or an apology for perceived unsatisfactory conduct or service.
- Conduct a face-to-face meeting using facilitated resolution or mediation.
- Conduct an investigation using Root Cause Analysis or other investigative methodology.

5.4 Investigate the complaint

Information collection

All complaints require to a greater or lesser degree a fact-finding process in order to determine what has happened and what course of action is required in response. Consideration is required to determine:

- what information to obtain
- where it is to be obtained
- how it should best be collected (interview, site inspection, phone call, e-mail), and
- how it is communicated (report, statement)

Health services should:

- Consider who may be appropriate to provide specialist or expert advice/review.
- Consider whether information is needed from external agencies or from other areas in the hospital.
- Consider whether information needs to be secured.
- Construct a chronology of events, or flow chart, particularly if the matter is complex.
- Identify who may be interviewed and the appropriate order of interviews.
- Consider if an interpreter is required.
- Consider whether an on-site investigation is appropriate.
- Develop questions for the key parties based on the analysis of the issues and information required.
- Determine the applicable standards/procedures/policies and whether they were adhered to.

Analysis and review

As information is collected, it must be analysed and reviewed. Analysis includes identifying:

- what can be agreed upon between the parties
- what facts are in dispute
- is information provided relevant and reliable
- sufficient information has been gathered to determine whether particular standards have been met

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- whether there are inconsistencies
- whether independent verification has been obtained
- what systemic and performance factors led to the outcome.

5.5 Respond

Once the information has been analysed, the person managing the complaint makes findings and recommendations for action. Actions taken by a health service to resolve a complaint must be based on the evidence, address any system, process or practitioner issues, and are informed by the principles of public interest and good clinical governance.

Options for appropriate action may include:

- Offering an apology
- Waiving fees
- Develop or amend policy/procedure
- Training/education of staff or public
- Modification of the environment
- Requesting a formal Review
- Ongoing monitoring of an issue, or
- No action recommended

The health service must ensure that the outcome and recommendations are clearly communicated to the consumer, staff, and management, and integrated into quality improvement systems through appropriate implementation and subsequent review of effectiveness.

Complaint Resolution - Final Response

The target for finalising complaints is 35 calendar days.

Final responses will be in the form of a letter from the Chief Executive or their delegate. The final response must be factually correct and:

- Include an apology. NB: This is not necessarily about accepting blame or fault, but will sometimes be an acknowledgement of the complainant's experience and their feelings.
- Address each of the points the complainant has raised with a full explanation or give the reason(s) why it is not possible to comment on a specific matter.
- Give specific details about the investigation, i.e. sources of information, what was discovered, etc
- Give details of action taken as a result of the complaint
- Provide the name and telephone number of the facility manager or investigating officer for further queries/discussion.
- Offer to meet the complainant with the key staff involved. If there is a reason why a specific issue cannot be addressed this should be stated.
- Include details of further action available to the complainant.

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As far as possible, the facility/complaint manager should ensure that department heads and staff members who have been involved are given the opportunity to see the final response before it is sent for final signature.

The final response will be:

- Sent to the complainant and include a copy of the Area Health Service Complaints Brochure.
- Copied to the relevant Manager.
- Copied to any requesting parties to which the patient has given consent e.g. Solicitor, HCCC and/or MP's.
- Copies to the corporate record system record.

Any further correspondence from the complainant, which is being dealt with under the local procedure, will be acknowledged within five calendar days. The facility manager/delegated officer will deal with the points raised within the complaint and ensure it is logged in IIMS.

Timeframes for answering further correspondence will be as those for the first response.

6. Framework for Complaint Management

Complaints can be managed:

- At point of service
- Through a staged process
- Through referral to an external body/agency

6.1 Point of Service Complaints

Ideally, most complaints will be dealt with directly and quickly at the point where the problem arises. Escalation of complaints may be avoided where staff have clear authorisation to resolve complaints at first contact.

Often, no changes to procedures are required as many complaints involve an acknowledgement of the complainant's perspective, an explanation of events and validation of the complainant's satisfaction with the explanation.

Complaints should be referred to a line manager if they:

- remain unresolved,
- involve serious consequences,
- involve complex medical issues or a number of different staff,
- need action that is beyond the responsibility of the staff at point of service,
- require escalation or reporting to an external body under any other NSW Health Policy Directive.

6.2 Escalation process

Complaints are referred to the next level of management when the matter is outside delegation or is unresolved.

Title: Complaint Management Policy

The escalation process proceeds as follows:

- Immediate line manager.
- Facility manager and/or Patient Liaison Officer as appropriate.
- Senior Complaints Officer.

In cases where the complainant does not feel comfortable in making a complaint to those directly delivering the service, the appropriate line or senior manager should be sought to speak to the complainant. If the complainant will not speak with a local manager, they must be offered alternative ways to make their complaint, such as to the Senior Complaints Officer. The recipient of the complaint must then inform the complainant of the course of action that will be taken next.

Complaints should be dealt with by the unit involved where possible, with support from a complaints manager. However, for more serious matters or those with broader implications for the health service, senior management and the executive must be notified and participate in the resolution.

Depending on the type of complaint, it may be necessary to alert the health service's insurer or obtain legal advice. This should not interfere with the aim of resolving the complaint quickly and amicably.

7. Complaint Handling Considerations

7.1 Anonymous complaints

Anonymous callers should be advised that an investigation is made more problematic if they do not divulge identities as this severely limits the service's ability to obtain information. They should then be informed of confidentiality, as applied to the complaint management process, to encourage them to reveal their own and/or the subject's identity.

The complainant needs to be informed:

- there will be disclosure of information to any respondents identified;
- there is "nothing off the record" in information provided to the service;
- what will happen with the information given to the service.

However, the complainant's wishes should be respected, as an assurance of absolute confidentiality cannot be given.

Anonymous written complaints may reveal the identity of the complainant or it may be apparent from the complaint details. An inquiry may still be possible and may be warranted if the complaint raises public health and safety concerns or where external agencies may need to be notified.

7.2 Old Complaints

Normally a complaint will be made within 12 months from the event that caused the problem. If the passage of time has been considerable, it may affect the health service's capacity to investigate a complaint and these constraints should be discussed with the complainant. Although it may not be possible to

investigate the facts of the case, attempts should be made to achieve resolution.

7.3 Declining to deal with a complaint

A health service may decide to decline to deal with a complaint because it is:

- vexatious or frivolous,
- is outside jurisdiction, or
- the subject matter of the complaint (or part) has been or is under investigation by some other competent person or body or has been or is the subject of legal proceedings.

Care needs to be taken in assessing these complaints to ensure that every effort is made to understand the information the complainant is attempting to convey.

If a complaint has been declined, complainants should be advised of the reasons for the decision as well other agencies that may be able to assist them with their concerns.

7.4 Mandatory notifications

In some cases a complaint raises issues that require mandatory external notification or referral because:

- the complaint should be managed by another government agency (Department of Housing, Department of Community Services, Commonwealth Aged Care Complaints Resolution Scheme, etc) or
- the complaint requires mandatory notification to another agency, such as the Police, the Coroner or the NSW Department of Health.

This may only become apparent once preliminary inquiries are made.

Other external bodies that may need to be involved in a complaint include:

- Health Care Complaints Commission
- Commonwealth Aged Care Complaints Resolution Scheme
- Coroner – in the case of a reportable death
- Professional registration body, e.g. Medical Board
- Medical defence organisation
- Health provider's insurer or legal adviser
- ICAC
- Ombudsman's Office
- NSW Police
- Audit Office

7.5 Complaints and RCAs

Some complaints will also be subject to a Root Cause Analysis (RCA) investigation. When this is the case, it is often not possible to fully respond to the complaint until the RCA investigation of the complaint is complete. However, during the RCA investigation, it should be remembered that the issues raised in the complaint might not always be the same as those raised in the RCA investigation.

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A separate investigation may be required as the RCA process should not be relied upon, by itself, to address complaints.

7.6 Progress Reports for complaints exceeding 35 days to resolve

If at 35 calendar days from the date of acknowledgement, the complaint has not been concluded; a detailed progress report must be sent, under the signature of the facility manager with:

- An apology for the delay;
- A full explanation of the delay;
- Details of the results of the enquiry to date if possible; the date by which a full response can be expected.

A copy of the letter will be sent to the Clinical Governance Unit and a record made on IIMS.

Should a complaint response be delayed further, a holding letter will be sent every 20 days until the final response is sent, unless otherwise indicated, for example, it will incite aggression from the complainant, will be seen as harassing the complainant, or it is not appropriate as litigation is involved.

Where possible and where likely to be of benefit, the facility manager or the investigating officer should also contact the complainant to discuss the delay and alleviate any anxiety this delay might cause.

7.7 Unresolved Complaints

If a complainant remains dissatisfied following the service's response, they have several options available to them, which may include:

- Review by another senior member of staff or the Senior Complaints Officer
- Independent review by external agency/person
- Referral to HCCC

Complainants have the right to pursue their complaint until it is resolved to their satisfaction. However, there are reasonable limits in terms of dealing with continued contact and correspondence with dissatisfied complainants and matters that might be frivolous or vexatious complaints. Health services should make every attempt to resolve the issues that have been made.

At this stage, where it is felt appropriate, services are encouraged to suggest to complainants that a face-to-face meeting may be helpful. If the complainant agrees, they should be involved in determining who should be present.

7.8 Independent Review Request

Requests for an independent review will only be considered if made in writing. Once received by any member of staff the review request should be referred immediately to the Health service's senior complaints manager.

Title: Complaint Management Policy

7.9 File Maintenance

The delegated officer managing the complaint will be responsible for maintaining the appropriate corporate file or record and the relevant IIMS fields during the management of the complaint.

Copies of letters/memos sent including up-date letters, acknowledgement letters, letters requesting information or clarification, letters notifying parties of a complaint, should become part of the corporate record system. File notes should record the subject matter of telephone conversations and other actions.

These files will be kept in accordance with the State Records Act.

Complaint records are not to be kept with a patient's medical file.

8. Performance Indicators

The following process performance measure is to be developed and reported to the Chief Executive by the health service:

- Documented local policies and procedures consistent with this Policy Directive are in place in each health service by **24th November 2006**

The following performance indicators are to be included in the quarterly reports to the Health Care Quality Committee:

- Within five calendar days acknowledge receipt of each complaint (Benchmark – 100%)
- Within 35 calendar days finalise the outcome of each complaint and advise the complainant (Benchmark – 80%)
- The proportion of complaints received from consumers where matters closed by the health service were reviewed or escalated upon the complainant's request.

9. Definitions

Ambulance Service of NSW

The Ambulance Service of NSW as defined in the Health Services Act 1997.

Apology

An apology is an expression of sympathy or regret, or of a general sense of benevolence or compassion, in connection with any matter whether or not the apology admits or implies an admission of fault in connection with the matter.

Area Health Services (AHS)

Organisations constituted under the Health Services Act 1997 that are principally concerned with the provision of health services to residents within a designated geographic area.

Title: Complaint Management Policy

Clinician

A health practitioner or health service provider regardless of whether the person is registered under a health registration act.

Complainant

Any member of the public or external organisation making a complaint. A complainant may choose to remain anonymous.

Complaint

A complaint is:

1. An expression of dissatisfaction with a service offered or provided, or
2. A concern that provides feedback regarding any aspect of service that identifies issues requiring a response.

Department

NSW Department of Health.

Complaint management

Involves notification and acknowledgement, assessment, information collection, analysis and review, and appropriate action.

Clinical Governance

Clinical governance can be considered as the responsibility of governing bodies to demonstrate sound strategic and policy leadership in clinical safety and quality, to ensure appropriate safety and quality systems are in place and to ensure organisational accountability for safety and quality.

Grievance

A personal complaint or difficulty about a work related issue that affects a staff member and that he/she considers to be discriminatory, unfair or unjustified.

This includes:

- A workplace communication or interpersonal conflict.
- An occupational health and safety issue.
- An allegation of discrimination within the meaning of the Anti-Discrimination Act 1977, including harassment.
- Concerns regarding allocation of work, job design, or performance management.
- Concerns regarding the interpretation and application of conditions of employment.

An employee grievance (i.e. expression of unfairness or injustice) is not a complaint and processes for dealing with a grievance differ from those processes that deal with a complaint.

Health Service

Refers to Public Health Organisations and the Ambulance Service of NSW.

Title: Complaint Management Policy

IIMS

NSW Health Incident Information Management System. A database and system for recording the details of a complaint, including its management and outcomes.

Incident

Any unplanned event resulting in, or with the potential for, injury, damage or other loss.

Incident Management

A systematic process for identifying, notifying, prioritising, investigating and managing the outcomes of an incident.

Investigation

1) Incident investigation

The management process by which underlying causes of undesirable events are uncovered and steps are taken to prevent similar occurrences.

2) Complaint investigation

The process of using inquiry and examination to gather facts and information in order to solve a problem or resolve an issue.

Jurisdiction

A sphere of authority:

- 1) the limits within which any particular power may be exercised, e.g. the NSW Police Service, the Department of Community Services; or
- 2) within which a government or a court has authority, e.g. the NSW Government, the State Government of Victoria, the Coroner's Court of NSW, the Mental Health Review Tribunal.

KPI

Key Performance Indicator.

Notification

The process of entering or documenting data about a complaint into the IIMS.

Parties

Persons or bodies who are in a dispute that is handled through a dispute resolution process.

Public health organisation (PHO)

An area health service, statutory health corporation or an affiliated health organisation in respect of its recognised establishments and recognised services as defined in the Health Services Act 1997. For the purposes of this policy, the relevant statutory health corporations and affiliated health organisations are set out in Appendix B of the Policy Directive (PD2006_030) Incident Management Policy.

Public interest

Anything affecting the rights, health, or finances of the public at large.

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RCA (Root Cause Analysis)

A method used to investigate and analyse a clinical SAC 1 incident to identify the root causes and factors that contributed to the incident and to recommend actions to prevent a similar occurrence.

SAC (Severity Assessment Code)

A numerical score applied to an incident based on the type of event, its likelihood of recurrence and its consequence. A matrix is used to stratify the actual and/or potential risk associated with an incident.

Vexatious or Frivolous Complaints

Vexatious or frivolous complaints are those matters that are clearly insufficient in substance or are not calculated to lead to any practical result having one or more of the following characteristics:

- Essentially illogical, e.g. no cause or relationship is effectively established between an alleged act and its alleged consequences.
- Whilst not logically impossible, requires a great deal of faith to agree to the likelihood, e.g. a complainant alleges they have become caught in a web of conspiracy.
- Can be often characterised by the complainant ignoring requests to provide specific information to back up the original, somewhat illogical, complaint.
- Can be of little or no weight or importance or not worth serious attention.
- Can be one that is manifestly futile.

10. Related Policies

This Policy forms part of a suite of incident, complaint and accountability documents operating in NSW Health. When a complaint is made, managers must consider whether action is also required in accordance with other policies and guidelines.

- **Complaint or Concern about a Clinician - Principles for Action (PD2006_007)** January 2006. Describes the principles for managing complaints or concern regarding all clinicians and outlines the roles and responsibilities for ensuring all complaints or concerns are managed by the health service, and outlines the legislative responsibility for doing so.
- **Complaint or Concern about a Clinician - Management Guidelines (GL2006_002)** January 2006. Sets out an operational framework for the use of health services when dealing with a complaint or concern about an individual clinician and guides for the process for implementing the NSW Health Policy Directive Complaint or Concern about a Clinician - Principles for Action (PD2006_007).
- **Complaint involves system related incidents - Incident Management Policy (PD2006_030)**. Advises staff on how to respond effectively to all clinical and corporate incidents that occur in the health system. It outlines

Title: Complaint Management Policy

the requirements for submission of a Reportable Incident Brief. The requirement for open disclosure is also included in the policy.

- **Disciplinary matters - A Framework for Managing the Disciplinary Process in NSW Health (PD2005_225).** A framework of principles for disciplinary policy and procedures to ensure matters are dealt with effectively in health services.
- **Grievances - Effective Grievance Resolution: Policy & Better Practice (PD2005_584).** Requires the Department of Health and health services to have in place a local workplace grievance management system and procedures that facilitate prompt, fair and flexible management of all workplace grievances, with a focus on effective resolution.
- **Matters relating to child protection - Child Related Allegations, Charges and Convictions Against Employees (PD2006_025), and Protecting Children and Young People (PD2005_299),** noting the specific reporting and investigation requirements outlined in these policies.
- **Harassment matters - Harassment Policy & Procedures (PD2005_223) Procedures and Policy to be followed regarding the non-tolerance of harassment in the Department of Health.**
- **Possible corrupt conduct - Reporting Possible Corrupt Conduct to the Independent Commission Against Corruption (PD2005_173).** Specifies when, what and how corrupt conduct is to be reported.
- **Possible criminal conduct – Criminal allegations, charges and convictions against employees (PD2006_026).** Sets out the mandatory requirements for responding to any allegation, charge or conviction against a Health Service employee where it involves a criminal matter.
- **Protected disclosures – Disclosure by staff of corrupt conduct, maladministration and serious waste – Protected Disclosure Procedures in Health Services (Policy and Guidelines for the Development of) (PD2005_135)**
- **Lookback Policy – (PD2006_070).** Sets out the process for a consistent, coordinated and timely approach for notifying and managing potentially/affected patients when necessary.
- **Open Disclosure Policy – (PD2006_069).** Establishes a standard, direct approach in communicating with patients, families/carers and other stakeholders after incidents involving potential injury, damage, loss or other harm to patients.

GPSC2: AMBULANCE SERVICE INQUIRY – ADDITIONAL QUESTION 2

How many officers are currently on a) stress leave, b) alternate duties, c) suspended or other leave, as a result of grievances?

How long do you expect it will take until these officers can be returned to their normal duties?

ANSWER

Stress means an injury that is a psychological or psychiatric disorder arising out of or in the course of employment.

There are 10 officers (0.27% of total staff) on leave taken as a result of stress. A further three employees are currently on alternate duties as a result of internal grievances and one employee has taken leave without pay.

Three of the *leave related to stress* claims have been declined by the insurer and two claims have yet to be assessed by the insurer. The other 5 claims have been accepted by the insurer.

No employees are currently suspended because they are the subject of a grievance.

Usually the Chief Executive places an employee who is the subject of a grievance at another location pending the outcome of any disciplinary process; however, where the risk of the employee remaining at work is extreme then the employee may be suspended with pay while the grievance investigated and disciplinary processes are underway.

There is limited data available on employees taking other leave as a result of grievances; however one employee has been granted 12 months leave without pay.

It should be noted that actions taken by management around how either the complainant or the respondent are managed during investigation of a complaint is always in the context of a risk assessment (risks to themselves, co-workers, patients, the business and/or others).

Matters related to staff conflict, grievance, bullying and harassment and their management by the Ambulance Service are outlined in detail in the *NSW Health Submission to the Legislative Council, General Purpose Standing Committee No 2, The Management and Operations of the Ambulance Service of NSW* at pages 21 to 28.



GPSC2: AMBULANCE SERVICE INQUIRY – ADDITIONAL QUESTIONS

Question 3.

The Committee has heard of numerous breaches of confidentiality in relation to the investigation of complaints against other officers. What are the confidentiality requirements under your grievance policy, and what is done about breaches of confidentiality?

ANSWER

The Effective Workplace Grievance Resolution Policy and Better Practice for the Department of Health and Public Health Organisations, April 2005 (copy attached) requires that information relating to a grievance is confidential and should be provided only on a 'need to know' basis and should not be provided to third parties.

In a number of circumstances where a complaint is made against another person, it may be impossible to properly investigate without disclosure to ensure both robust investigation and procedural fairness. However, each time this type of complaint is made, the complainant should be advised that their identity will need to be disclosed to the respondent in order to fully and fairly investigate their concerns.

There would need to be a valid reason for other members of the workplace - who are not involved in the grievance - to have access to information about the nature of the grievance, the identity of those involved and the matters that have been raised.

Given the restorative approach used in resolving grievances, breaches of confidentiality may be appropriately resolved locally by an apology. However, there may be circumstances where the breach is serious and impacts on the grievance process and may need to be referred for investigation and sanction. There have been instances in which breaches of confidentiality have warranted action against the person who breached confidentiality – such as a letter of caution being issued by the Chief Executive.

Matters related to staff conflict, grievance, bullying and harassment and their management by the Ambulance Service are outlined in detail in the *NSW Health Submission to the Legislative Council, General Purpose Standing Committee No 2, The Management and Operations of the Ambulance Service of NSW* at pages 21 to 28.

Any claim or concern about a breach of confidentiality can and should be reviewed and, where appropriate, investigated.

If the Committee has received information about a breach of confidentiality relating to a complaint by a member of the Ambulance Service of NSW and that breach has not previously been investigated, or requires further investigation, then the Ambulance Service would be keen to review and investigate the complaint.

Grievance Resolution (Workplace): for the Dept of Health and Public Health Organisations

Document Number PD2005_584

Publication date 17-May-2005

Functional Sub group Personnel/Workforce - Conditions of employment
Personnel/Workforce - Occupational Health & Safety
Personnel/Workforce - Conduct and ethics

Summary This NSW Health policy directive requires the Department of Health, public health organisations and the Ambulance Service of NSW to have in place a local workplace grievance management system and procedures that facilitate prompt, fair and flexible management of all workplace grievances, with a focus on effective resolution. The system must incorporate an initial assessment of all matters raised; ensure that serious matters are not handled as workplace grievances and ensure that those managing grievances are competent to do so. Chief Executives must ensure that local systems and procedures are reviewed and updated to comply with this policy directive.

Replaces Doc. No. Grievance Management Systems (Policy Framework and Best Practice Guidelines - Development) [PD2005_149]
Grievance Resolution Procedures - NSW Department of Health only [PD2005_147]

Author Branch Employee Relations

Branch contact Frances Waters 9391 9305

Applies to Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations - Non Declared, NSW Ambulance Service, NSW Dept of Health, Public Hospitals

Audience ALL

Distributed to Public Health System, Health Associations Unions, NSW Ambulance Service, NSW Department of Health, Public Hospitals

Review date 17-May-2010

File No. 03/11191-4

Previous reference N/A
Director-General

Status Active

This Policy Directive may be varied, withdrawn or replaced at any time. Compliance with this directive is **mandatory** for NSW Health and is a condition of subsidy for public health organisations.

**EFFECTIVE WORKPLACE
GRIEVANCE RESOLUTION**

***POLICY AND BETTER PRACTICE
FOR THE DEPARTMENT OF HEALTH AND
PUBLIC HEALTH ORGANISATIONS***

NSW  HEALTH

April 2005

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1.0 About This Document

- 1.1 Effective Workplace Grievance Resolution** Copies may be obtained at www.internal.health.nsw.gov.au
- 1.2 Responsibility** Employee Relations
- 1.3 Version** Final Version April 2005
- 1.4 Updates and Feedback** Feedback is welcome and should be addressed to the Manager, Employee Relations Policy, NSW Department of Health
- 1.5 Related Policies**
- PD2005_135 Policy and Guidelines for the Development of Protected Disclosures Procedures in Health Services
 - Guideline on the Management of a Complaint or Concern About a Clinician: A Guideline for Policy Development in Area Health Services and Other Public Health Organisations (Nov 2001)
 - Model Policy on the Management of a Complaint or Concern About a Clinician: A Model Policy for Area Health Services and Other Public Health Organisations (Nov 2001)
 - PD2005_109 Procedures for Recruitment and Employment of Staff and Other Persons – Vetting and Management of Allegations of Improper Conduct
 - 2005_299 Protecting Children and Young People
 - PD2005_223 Joint Management and Employee Association Statement on Bullying, Harassment and Discrimination
 - PD2005_145 EEO Program Minimum Standards for Area Health Services and the NSW Ambulance Service (under review)
 - PD2005_409 Workplace Health and Safety: Policy and Better Practice Guide
 - PD2005_315 Zero Tolerance to Violence in the NSW Health Workplace
 - PD2005_234 Effective Incident Response: A Framework for Prevention and Management in the Health Workplace
 - PD2005_568 Employee Assistance Programs: Policy and Better Practice
 - PD2005_130 Principles/Minimum Standards for the Development of Health Service Codes of Conduct (under review)
 - PD2005_201 Management of Employment, Promotion and Transfer where Employees are Closely Related or Have a Close Personal Relationship
 - PD2005_565 Recruitment and Selection: Policy and Better Practice for Public Health Organisations and the Ambulance Service

**1.5 Related Policies
(contin)**

PD2005_187 NSW Health Policy on Orientation

PD2005_337 Reportable Incidents Briefs to the NSW Department of Health

PD2005_225 A Framework for Managing the Disciplinary Process in NSW Health (under review)

PD2005_180 Managing for Performance – A Better Practice Approach for NSW Health

PD2005_173 Reporting Possible Corrupt Conduct to the Independent Commission Against Corruption

Better Practice Guidelines for Frontline Complaints Handling: February 1998

**1.6 Additional
References and
Resources**

Equal Opportunity in Public Employment, Office of the Director
Level 11, 28 Margaret Street Sydney NSW 2000

Ph: (02) 9248 3555

www.eeo.nsw.gov.au

Department of Health

73 Miller Street North Sydney NSW 2059

Ph (02) 9391 9305

www.internal.health.nsw.gov.au

Anti-Discrimination Board

PO Box A2122 South Sydney NSW 1235

Ph (02) 9268 5544

www.lawlink.nsw.gov.au/adb

WorkCover NSW

Locked Bag 2906 Lisarow NSW 2252

Ph (02) 4321 5000

www.workcover.nsw.gov.au

Office of the NSW Ombudsman

Level 3, 580 George St, Sydney NSW 2000

Ph (02) 9286 1000

www.nswombudsman.nsw.gov.au

Independent Commission Against Corruption

GPO Box 500, Sydney NSW 2001

Ph (02) 8281 5999

www.icac.nsw.gov.au

2.0 Introduction

2.1 Purpose and Scope of the Policy and Guidelines

Good workplace grievance management can prevent minor workplace issues escalating into more serious matters.

The policy applies to all public health organisations.

The guidelines include tools to assist public health organisations meet policy objectives.

The purpose of the policy and guidelines is to ensure that the Department and public health organisations have a system in place that encourages early grievance reporting and that ensures, as far as possible, their speedy and effective resolution.

Such a system allows staff to raise legitimate workplace concerns early, with the option for informal resolution where appropriate. A key objective of grievance management systems is to ensure that minor workplace issues are identified and resolved early, before they develop into more serious workplace concerns.

The policy applies to the Department and all public health organisations. The guidelines will assist chief executives and managers to meet departmental and legislative requirements in relation to grievance management, and should be used to review existing procedures to ensure they comply with, and support the key objectives of, the NSW Health policy.

The document also provides some practical tools to assist managers assess initial complaints, conduct further inquiries and maintain the appropriate records.

2.2 Definitions

Complainant

The person making the grievance.

Disciplinary Process

A process for managing allegations of misconduct, serious performance issues or inappropriate behaviour by NSW health staff, usually involving breaches of NSW Health policy, which, if proven, would lead to the staff member being formally disciplined.

Facilitation

The process whereby a manager facilitates a resolution between staff members without the use of formal procedures.

Frivolous Complaint

A frivolous complaint can be defined as one that is trivial, characterised by a lack of seriousness or sense.

Grievance Contact Officer

A staff member in a public health organisation who is available to provide independent assistance and information on the grievance procedures for pursuing workplace grievances. Grievance Contact Officers do not become involved in the direct resolution of a grievance or the investigation of a complaint.

Grievance Management System

A system for appropriately and consistently responding to and managing workplace grievances, with the key objective of speedy and effective resolution.

Information Gathering

A process of gathering relevant information and identifying the relevant facts associated with a grievance, for the purpose of determining the most appropriate method of resolution.

2.2 Definitions (contin)

Initial Assessment

An initial review by the person receiving the complaint, to ensure that grievance management is the most appropriate means to deal with the complaint or whether referral elsewhere is required.

Malicious Complaint

A malicious complaint can be defined as one instituted with the primary intent of causing distress to another, usually the respondent.

Mediation

The process whereby an appropriately skilled, neutral person acts as a 'mediator' to parties to bring about a resolution of a disagreement.

Public Health Organisation

For the purposes of this policy, refers to the Department of Health, Area Health Services, statutory health corporations, affiliated health organisations and the Ambulance Service of NSW.

Respondent

The person (s) against whom the grievance is made.

Staff Member

Any person working in any capacity in a public health organisation including volunteers, students, visiting medical officers and contractors.

Support Person

An individual of the person's choice who provides support to that person during any meetings attended as part of the grievance management process, but does not advocate on their behalf. Examples include co-worker, friend, family member, union rep etc.

Vexatious Complaint

A vexatious complaint can be defined as one instituted without sufficient grounds and serving only to cause annoyance.

Workplace Grievance

A written or oral statement made by an employee regarding a concern arising in the workplace. Examples may include, but are not limited to, interpersonal conflict, the way work is allocated or managed, interpretation of people management policies, or a perceived unfairness in the workplace. The grievance usually involves some concern or personal distress, and will usually, though not always, involve other people.

2.3 Related NSW Legislation

- Occupational Health and Safety Act 2000
- Anti-Discrimination Act 1977
- Freedom of Information Act 1989
- Industrial Relations Act 1996
- Government and Related Appeals Tribunal Act 1980
- Independent Commission Against Corruption Act 1988
- Protected Disclosures Act 1994
- Ombudsman Act 1974

3.0 Policy

3.1 NSW Health Policy

All staff must have access to an effective grievance management system that focuses on timely and appropriate management and resolution.

Local grievance management systems must:

- **Be flexible enough to allow grievances to be managed promptly and in a way most appropriate to their individual circumstances**
- **Adopt a commonsense approach, with a focus on resolution and fairness**
- **Ensure that all matters are initially assessed to determine that grievance management is the most appropriate pathway for resolution**
- **Ensure that serious matters are not managed as grievances, and that the appropriate referrals are made**
- **Ensure that those managing grievances are competent to do so**
- **Encourage early self-resolution where possible**
- **Support the early use of facilitation and mediation, where appropriate**
- **Identify the rights and responsibilities of all staff**
- **Maintain appropriate confidentiality, documentation and record keeping**
- **Provide access to a review mechanism**
- **Be consistent with relevant industrial instruments**
- **Identify a senior staff member with overall responsibility for the effective operation of the system**
- **Include an evaluation and review process for the purpose of continuous improvement.**

3.2 Policy Objective

The objective of this policy and guidelines is to ensure that all workplace grievances are managed in a fair, timely, appropriate and effective manner.

Effective grievance management contributes to positive working relationships and empowers staff to develop skills to manage their relationships in the workplace. Good workplace grievance management can prevent minor workplace issues escalating into more serious matters.

3.3 Responsibility

It is the responsibility of each Chief Executive to ensure that NSW Health policy is implemented in a timely and effective manner, and that the objective of the policy is met.

Crucial to meeting the policy objective is the ability of managers to:

Managers must know how to manage workplace grievances.

- Conduct an initial assessment of the complaint
- Appropriately refer the matter if it is not to be managed as a grievance
- Where the matter is to be managed as a grievance, to gather and assess the relevant information in order to identify and implement the most appropriate grievance resolution option/s.

Therefore, public health organisations must support managers in relation to these capabilities, and provide advice and access to training as necessary to ensure the policy objective is met.

4.0 Guidelines for Policy Implementation

4.1 Introduction

Local grievance management systems must be flexible, fair, focused on resolution, and accessible to all staff.

It is not the intent of this document to prescribe a rigid procedure for how a workplace grievance will be managed, as, by their very nature, grievances can arise in an extensive range of circumstances and across a continuum of seriousness. Rather, the document focuses on the need for local grievance practices to ensure that each grievance is looked at individually at it arises, and is managed in a way most appropriate to the circumstances.

To support this approach, the guidelines identify a range of options that can be used to manage and resolve workplace grievances. This includes, where the opportunity presents itself, the need for managers to make every effort to resolve potential or actual workplace grievances as informally as possible in the first instance.

4.2 Developing Local Procedures

When developing local procedures public health organisations should ensure that they:

- Are developed in consultation with staff and their representatives
- Are tailored to the specific needs of the workplace
- Clearly articulate, and support, the primary objective of prompt, fair and effective resolution of workplace grievances
- Meet the special needs of staff members from racial, ethnic and ethno-religious minority groups, people with disabilities or people of Aboriginal or Torres Strait Islander descent
- Are communicated to, and are accessible to all staff.

When developing local procedures consideration may be given to establishing a number of additional points of contact for complainants, including grievance contact officers, who can assist those involved to understand the resolution process.

4.3 Staff Rights and Responsibilities

Managers and staff must know their rights and responsibilities, so the grievance management system can operate effectively.

All staff need to know their rights and responsibilities in relation to grievance management, as all parties have a significant role to play in resolving grievances.

Key rights of all staff include:

- Being provided with sufficiently detailed information to allow an appropriate response
- Being treated with respect
- Being given a full and fair opportunity to have their say, and the right of reply
- Being provided with information on progress of the grievance and on any decisions made that may affect them
- Appropriate confidentiality and protection from recrimination
- Impartial, prompt and professional management of the grievance to a speedy resolution.

Key responsibilities of all staff include:

- Recognising their role in harmonious workplace relations
- Raising matters of concern at an early stage and actively participating in the grievance resolution process
- Not raising malicious, vexatious or frivolous complaints.

See Appendix 6.1 for more detailed information on staff rights and responsibilities.

4.4 Confidentiality

All parties have rights and responsibilities in relation to confidentiality.

Information relating to a grievance should only be provided on a 'need to know' basis, and should not be provided to third parties. Those involved in a grievance have both the *right* to confidentiality, and the *responsibility* for maintaining confidentiality. This includes confidentiality of the identity of those involved, as well as the subject matter.

The respondent must be provided with enough information to allow for an adequate opportunity to fully respond to the issues raised.

While the respondent is entitled to, and must be provided with, enough information to allow an adequate response to the complaint, there would need to be a valid reason for others in the workplace not involved in the grievance to have access to any information on who is involved, or on the matters raised.

As most workplace grievances usually involve a complaint by one person against another, the subject of the grievance will generally need to know who raised the complaint, in order to be able to adequately respond to the matters raised.

However, the grievance management process is not to be confused with systems for managing performance, protected disclosures or other serious matters, where it may not be appropriate to divulge the identity of the person making the complaint. This reinforces the need for an adequate initial assessment to ensure that grievance management is the appropriate vehicle for resolving the situation.

4.5 Role of Local HR Departments in Grievance Management

It is usually the role of the manager to take the lead in managing grievances raised by their staff. To support this approach, human resource departments in public health organisations are available to provide advice and guidance to managers on the grievance resolution process. As indicated earlier, there is also the option to have designated Grievance Contact Officers to provide policy and process information to all employees.

4.6 Matters Not Covered Under Grievance Management

As the definition suggests (see Section 2.2) grievance management is meant to deal with relatively minor workplace issues or concerns. Therefore it is important to distinguish between workplace grievances, and other more serious matters.

Matters that should not be dealt with under the grievance management system include (but are not limited to):

- Incidents of violence, or of a potentially criminal nature
- Serious bullying, harassment or discrimination (see Section 5.8)
- Serious OHS concerns (see Section 5.9)
- Complaints from clients or patients
- Allegations of serious misconduct, fraud, corruption, maladministration or substantial waste
- Child protection related matters
- Protected disclosures as defined in the Protected Disclosures Act 1994
- Clinical negligence, malpractice or incompetence
- Performance management or disciplinary matters.

Grievance management must not be confused with other management processes.

4.7 Initial Assessment

In order to determine that grievance management is the most appropriate management approach, some assessment of the matters raised will usually need to be made by the person receiving the complaint. Considering the following questions may assist in this process.

- *Does the matter involve clinical negligence, malpractice or incompetence?*
- *Does the matter involve an allegation of fraud, corruption, substantial waste or maladministration?*
- *Is the matter potentially of a violent and/or criminal nature?*
- *Is the matter a protected disclosure as defined in the Protected Disclosures Act 1994?*
- *Does the matter relate to a child protection issue?*
- *Does the matter relate to a potentially significant breach of OHS legislation (see Section 5.9)?*

If the answer to any of the above questions is yes, then the matter should not be managed as a workplace grievance, and should be promptly referred to more appropriate management mechanisms (see Appendix 6.2).

Other factors should also be considered when conducting the initial assessment. This may on occasion require returning to the person who made the complaint to seek further information

- *Does the complaint allege or suggest bullying, intimidation, or offensive, humiliating or threatening behaviour, discrimination or sexual harassment (see section 5.8)?*
- *Does the complaint relate to a breach of workplace policy including the code of conduct?*
- *Does the complaint relate to a work performance issue?*

If the answer to any of the above is yes, then careful consideration should be given to the degree of seriousness of the matter, in determining whether it should be managed as a grievance, or whether the matter needs to be referred. Considering the following will assist with this determination.

- *How often has the undesirable behaviour taken place?*
- *How long has the undesirable behaviour been going on?*
- *How long has it been since the alleged incident/s took place?*
- *How many people are involved?*
- *What are the roles, responsibilities and relationships of those involved?*
- *How is the issue/s impacting on those involved?*
- *Has the same complaint been raised before?*
- *What action, if any, has already been taken in relation to the complaint?*
- *What are the expectations of the complainant?*
- *What are the potential consequences of the matter?*

Serious matters should not be managed via the grievance management system.

As some of the above questions suggest, information relating to the history, frequency, severity, duration and impact of the incident/s or behaviour/s on the individuals or the workplace may determine that the matter has become more serious than a workplace grievance, and needs to be handled accordingly.

In section 5, a number of examples are given to further illustrate issues that need to be considered, and possible options for resolution.

4.8 Grievance Management, Performance Management and the Disciplinary Process

Grievance management should not be confused with performance management or the disciplinary process. Where a matter is assessed as a grievance, it should not be managed by the disciplinary process. However, where investigation of what initially appears to be a workplace grievance uncovers matters of a more serious nature, then grievance management should immediately cease and the matter should be referred to a more relevant management process eg disciplinary process, performance management, child protection, clinical complaints etc.

Grievances should not be used to confuse or interfere with other management processes.

If a staff member raises a grievance, as defined by this document, about the way a discipline or performance management issue is being managed, then the issue should be looked at, but the performance management or disciplinary process should continue independently.

However, where more serious matters regarding the process are raised, that fall outside the scope of grievance management, then action most appropriate to the particular circumstances will need to be taken.

4.9 Information Gathering

Once the initial assessment has determined that it is appropriate to manage the complaint under the grievance management process, the facts of the matter need to be determined as far as possible. The purpose is to determine whether there is a reasonable basis for the complaint, and to help determine the most appropriate option/s for speedy resolution.

While the degree of formality will depend on the nature of the grievance and those involved, when gathering information there are some key principles that need to be considered.

Information gathering should:

- Be undertaken fairly and impartially, by a competent person
- Maintain appropriate confidentiality (see Section 4.4)
- Ensure that both parties are given full opportunity to have their say
- Include speaking to those identified by either party as having information relevant to the grievance
- Focus on gaining all relevant information, with the objective of affecting a prompt and durable resolution of the matter/s
- Include appropriate documentation and records (see Section 5.12 and 5.13)
- Ensure appropriate security of any related paperwork.

Information gathering should be fair, impartial and focused on resolution.

Where the grievance is lodged against the manager, or the manager feels that they may not be able to be impartial or objective, or be seen to be impartial in assessing the grievance or seeking further information, they should seek advice from their manager/director and/or relevant human resource staff on who should assess the complaint, and manage any ensuing grievance.

Other options need to be available where it is inappropriate for the line manager to manage the grievance.

Where it is inappropriate for the immediate manager or supervisor to manage the issues raised ie the issue involves the manager or supervisor, alternate points of contact need to be available such as a more senior manager.

5.0 Grievance Resolution

5.1 Options for Grievance Resolution

A range of options exist to assist managers resolve grievances promptly and effectively. Because of the diversity of issues and personalities that can be involved, it is important that each grievance is considered individually, in order to determine the best option/s to utilise, and the most appropriate way/s to resolve it. Generally speaking, it is desirable that all reasonable attempts should be made to resolve the grievance informally, before moving to more formal processes.

Based on the information obtained, what may be the best way to resolve the grievance?

Do the findings illustrate the need for training, changes to work processes or administrative procedures?

Will mediation or facilitation assist in the resolution of matters?

Options can be as varied as the issues raised, and can include:

- Encouraging the complainant to try and resolve the issue him/herself eg in minor interpersonal matters (see example A)
- Encouraging/facilitating local resolution prior to moving to more formal management of the grievance eg minor workplace matters (see example B)
- Mediation eg where the above options are not appropriate, or have not been successful (see example C)
- Making minor administrative or work process changes eg where there is perceived unfairness in work arrangements, or to address minor OHS issues etc (see examples D and E)
- Provision of information, education and training eg where a lack of knowledge of workplace policies and/or procedures, roles and responsibilities or cultural issues have lead to/contributed to the grievance (see examples F and G)
- A variety of combinations of the above (see example H).

5.2 Self Resolution

Staff should be encouraged to resolve minor workplace matters themselves.

Many minor workplace issues may benefit from encouraging those involved to attempt to resolve the matter themselves. All staff have a responsibility to contribute to a harmonious workplace, and it should not always be necessary to begin the grievance process to resolve minor matters.

Example A

An employee complains to his manager that a second employee plays his radio during the workday, and that it is affecting the complainant's ability to do his work ie is distracting. The manager asks the complainant if he has raised the matter with the second employee, to be advised that he has not. An option would be for the manager to suggest that the matter might be simply resolved by the complainant quietly and politely requesting that the other employee turn his radio down, or use earphones, and explaining why.

5.3 Facilitation

Facilitation is a process whereby a manager attempts to facilitate a resolution between staff members without the use of more formalised procedures. Consideration should be given to using this as a first option, though it may not always be appropriate.

Example B

An employee complains to his manager that he feels his recently appointed supervisor speaks rudely to him, on one occasion in front of other people, which caused him some embarrassment. The employee says he has tried to raise it with the supervisor, but is not quite sure how to go about it, and feels uncomfortable at the thought of it. An option would be for the manager, with the agreement of the staff member, to speak to the supervisor on his behalf, and if necessary, facilitate a two way dialogue between them to resolve the matter.

5.4 Mediation

Mediation is confidential, voluntary and impartial.

Mediation assists complainants to identify and resolve issues themselves.

Using mediation has a number of benefits.

Mediation is a voluntary and confidential process where an appropriately skilled mediator assists people in conflict to identify and isolate issues under dispute, and to identify and if possible agree on potential options to resolve these issues. Mediators are neutral assistants, who do not make judgements. They can be a trained internal person or an outside professional mediator.

During mediation, the mediator aims to assist parties to find their own solution and may, in some instances, offer suggestions for resolution. However, they do not direct a decision or provide advice about likely outcomes. Both parties to a grievance need to agree to mediation. Additionally, both parties need to be able to accept the mediator as being independent and having no vested interest in the outcome of the mediation.

Because mediation is conducted in a confidential, informal atmosphere that encourages participants to discuss issues in a more open manner than might otherwise be possible, there can be many benefits.

Even if agreement is not reached on all issues in dispute, parties are assisted to air their grievances in a constructive manner, and to reach an understanding of each other's position.

The benefits of using mediation to resolve grievances may include:

- Access to an objective and confidential mechanism for solving problems
- Supports the parties in solving their own problems and making their own decisions
- Can provide a useful option for fair, effective and speedy resolution of workplace grievances.

In addition to trained internal mediators, a number of external organisations provide mediation services, including networks of mediators that are able to provide services to rural areas.

Example C

Two senior members of a team working on a significant project, have on occasion over the previous couple of months argued over who agreed to do what, how, and when in relation to the work they were doing together. The situation appeared to come to a head when one employee complained to the manager about the other. The manager investigated the issue, speaking to both staff members and the project support person, and reviewing paperwork related to the project. It became apparent that the two staff members had different styles of working, different styles of communication, and often misinterpreted points of agreement. Added to this was a lack of notes from project planning sessions, including allocation of tasks and agreed timeframes. A range of other interpersonal issues became evident during the fact finding, and history of a very poor working relationship in a previous work area, with unresolved issues, also came to light.

In this circumstance, mediation may be a useful way of allowing the two employees to air their grievances and work on possible solutions and agreed processes when working together.

5.5 Administrative Changes

Sometimes making minor variations to administrative or work practices can provide a solution to certain types of workplace grievances.

Example D

There is a regular collection point near the exit of a work area for disused boxes, which are collected weekly. A staff member complains to the person collecting the boxes that they constitute an OHS issue (blocking easy egress) and should be collected more frequently, to which the collector replies that their collection procedure only allows for a weekly collection. The staff member subsequently complains about this to his manager. As this is a relatively minor matter, an option may be for the managers of both areas to review the location of the collection point and collection procedures, with the objective of putting more appropriate procedures in place.

Note: Serious OHS issues should not be managed as workplace grievances. See section 5.9.

Example E

An employee regularly starts early and takes the easiest and/or most interesting jobs, regularly leaving the more difficult or boring tasks to a colleague, who commences later. The colleague complains to the other staff member, to be told 'first in, first serve'. The colleague, who has child care responsibilities and cannot commence work any earlier, complains to their manager that he is being treated unfairly, and is being discriminated against because of his child care needs. An option may be for the manager to discuss the matter with both staff members in terms of the need for workplace equity, and the increased skills and experience that access to a full range of tasks represents for both of them, and to put protocols in place for improved communications to all his/her staff and fairer allocation of work.

5.6 Provision of Information and Training

On occasion, workplace grievances can arise from being unaware of certain workplace policies or procedures, and/or matters relating to cultural issues, or because of poor communications skills. Where the investigation of a grievance identifies such shortcomings, the focus should be on provision of appropriate instruction, information and training to address these issues.

Example F

A new staff member, previously working in the private sector, has recently commenced work, and on a number of occasions has told sexist jokes in the open plan work environment. Another staff member has requested that this person stop telling such jokes in the open area, to which the person responded that no one else minded and to not be such a whinger. The staff member subsequently complains to their manager, who looks into the matter. The findings suggest that the individual may not understand the potential seriousness of the behaviour, or the workplace policies that address such matters (EEO, code of conduct), possibly because he has not yet attended induction training. These policies should be promptly brought to the attention of the individual. Depending on the individual's response to the information, further training in the area may be necessary. However, it is important that these matters are dealt with in a balanced way, and that the individual is not made to feel belittled or disparaged for what may have been a case of genuine lack of awareness.

Example G

In example E, if the information gathered suggests that the staff member is aware of such policies and procedures but appears to have a lack of understanding, or little respect for, their significance, a different approach may be required. It may still be appropriate to draw attention to the key principles and related policy requirements, but at the same time making it clear that a manager's responsibility is to ensure that such policies are understood and implemented by staff, and outlining the expected future behaviour, and potential consequences should the policies be breached.

5.7 A Holistic Approach

As some of the above examples suggest, the investigation of grievances can raise a number of issues. Therefore it is important that a holistic approach is taken when responding to the issues.

Example H

A part time employee complains to his manager that another employee of similar level, though working full time, is controlling the amount of information that he is receiving, delegating the least interesting tasks to him and basically making assumptions about what training information should be made available to him.

Because this grievance touches on a range of issues, a number of options may need to be utilised, possibly including:

- Development of clear communication protocols
- More formalised interaction between the manager and the part time employee to ensure appropriate task allocation and employee management
- Provision of information to the full time employee on equal opportunity principles
- Ensuring that the part time employee has access to all relevant workplace training and development opportunities
- Depending on the status of the relationship between the two, providing the opportunity for facilitation with the objective of improving the relationship.

5.8 Bullying, Harassment and Discrimination

Bullying and harassment should not be managed as a workplace grievance.

Bullying, harassment and discrimination are serious workplace issues and it is important to be able to judge where a workplace grievance ends and more serious behaviour begins.

For a matter to constitute bullying and/or harassment, the undesirable behaviour will generally meet the following four criteria:

1. It is repeated
2. It is unwelcome and unsolicited
3. The recipient considers the behaviour to be offensive, intimidating, humiliating or threatening
4. A reasonable person would consider the behaviour to be offensive, intimidating, humiliating or threatening.

Where the initial assessment suggests that the behaviour being complained about may be potentially serious, then the matter should not be dealt with as a workplace grievance. Detailed guidelines are currently being developed to assist public health organisations meet the requirements of NSW Health PD2005_223 *Joint Management and Employee Association Statement on Bullying, Harassment and Discrimination*.

Example I

An employee complains to his manager's director that his manager is rude and abrupt, has an autocratic style, was very critical of him when he failed to complete a task on time and would not listen to him when he tried to explain why the task was not completed. The work area is a busy one, with the manager under work pressures of his own. The staff member indicated he tried to raise the issue with the manager, who responded that he did not have time for this and that he should just get on with his work.

Complaints like that illustrated in Example I need to be carefully assessed.

This grievance needs to be initially assessed very carefully, to determine whether grievance management is the most appropriate pathway to manage and resolve this situation. The person receiving the complaint should carefully consider the questions identified in section 4.7 to assist with this determination.

Even when on first glance the situation seems evident, the initial assessment must not be overlooked.

Questions of particular relevance will include:

- Frequency and severity of the incidents eg how often did they happen, what happened eg specific examples
- How long has the undesirable situation been going on eg weeks, months, years
- Impact on the employee eg is it significantly impacting on the employee, is the employee coping
- Impact on others eg are other staff members being affected by this behaviour
- History of any other similar complaints
- Potential consequences of the matter if it is not resolved eg a workers compensation claim.

This may involve seeking further information from the person raising the matter, in the first instance.

Sometimes more detailed information may be required from the complainant to help with the initial assessment.

Where the resulting information suggests that the episodes have been limited to one or two recent incidents and that there is no history of similar complaints against the manager, then managing the complaint as a grievance may be appropriate.

See NSW Health PD2005_223 (Cir 2001/109) 'Joint Management and Employee Association Statement on Bullying, Harassment and Discrimination'.

However, if it appears that there have been multiple episodes over the long term of potentially significant bullying, intimidation or unfair treatment and/or there is a history of other similar complaints, then the situation should not be managed as a grievance.

A single incident of verbal abuse, if it is serious enough, with significant consequences, should not be managed as a grievance.

If the initial assessment suggests a single incident where there was a serious episode of threatening, humiliating or abusive behaviour such as the individual being abused and/or humiliated, particularly in front of others, then there may have been a serious breach of the code of conduct, and grievance management in this instance would be inappropriate.

Example J

The supervisor of a work team made up of Aboriginal and non Aboriginal members has on occasion told jokes that could be construed as racist, in full hearing of Aboriginal team members. One of the Aboriginal team members complains about the jokes to the manager, and requests that the manager intervene, as the Aboriginal health worker does not feel comfortable raising the matter with the supervisor directly. The initial assessment suggests that there are no other inappropriate behaviours and no overtly malicious intent, so at this point it appears that it may be appropriate to manage the matter as a grievance. The manager subsequently discusses the issue with the supervisor, who expresses surprise that anyone was offended, explaining that it was all just 'in fun'. In this situation it may be appropriate to advise the supervisor of NSW Health policy in relation to these matters, give a clear instruction that the behaviour is to cease and possibly arrange provision of information to the supervisor, and probably the entire team, on cultural respect.

While there may have been some suggestion of discriminatory behaviour in the above scenario, given the full circumstances, managing the matter as a grievance is appropriate. However, serious cases of discrimination should not be handled as a workplace grievance.

Example K

A supervisor manages a number of work teams, each with a specific specialty area. One of the work teams is composed entirely of Aboriginal workers, and there are no Aboriginal workers in the other teams. The supervisor has a very demanding job, and often makes decisions with little consultation with the relevant teams. The supervisor has regularly made jokes and negative comments about Aboriginality. The supervisor also speaks openly to other teams about the poor performance of the Aboriginal team and their inability to 'catch on' to how things should be done, even though poor work performance issues have not been raised with the Aboriginal team members. A number of the Aboriginal team members complain to the manager, following the supervisor requiring that all members of their team are to be at work by 8am, and that during lunch breaks, work phones must be diverted to mobiles. There are no such requirements for the other teams.

Work performance issues should not be managed as a grievance.

The above scenario raises a number of potentially significant issues that need to be considered as part of the initial assessment. They include the type and frequency of the behaviour and its discriminatory nature (cultural disrespect and the imposition of conditions on the Aboriginal team that are different to the non-Aboriginal teams for no apparent valid reason), its effects on those raising the complaint and possible industrial implications. There is also a suggestion that there may be work performance issues with the supervisor, if he is failing to effectively manage the performance of the team, identify training and development needs etc.

The above circumstances suggest that the seriousness of the matter falls outside of the grievance framework. Therefore the matter would be more appropriately addressed as a performance management issue, unless more serious matters emerge during that process that may potentially result in disciplinary action.

5.9 Occupational Health and Safety (OHS)

The OHS legislation in NSW requires employers to ensure, as far as practical, the health and safety of all employees. Where an employer is convicted of a breach of the legislation, this is a criminal offence. However, when initially assessing a complaint, care must be taken not to confuse workplace grievances that may have a minor OHS aspect (see Example D), with significant OHS issues.

One way of assisting in this determination is looking at the risks associated with the complaint, including implications for affected employees, and the public health organisation itself if it fails to take the appropriate action.

Example L

An employee working in a laboratory is required to decant a classified hazardous substance. On donning the required personal protective equipment (PPE), the employee notes that the respirator is damaged, and he is unable to secure it properly. He is unable to locate another respirator, so notifies his supervisor that he is unable to complete the task until an appropriate respirator is available. The supervisor tells him that the substance is needed now, and instructs him to continue the task. The employee refuses, an argument ensues and the supervisor threatens the employee with disciplinary action. The employee complains to their manager.

Serious OHS issues should not be managed as grievances.

By requiring the employee to continue the task without the required PPE, the supervisor is attempting to coerce the employee into breaching safe operating procedures, when in fact the supervisor should be ensuring compliance.

See NSW Health PD2005_409 (Cir 2004/87) 'Workplace Health and Safety: Policy and Better Practice Guide'.

5.10 Using External Experts

The judicious use of external experts can assist in solving high level or complex grievances.

The supervisor is potentially placing the employee at risk of injury from inhaling the fumes, and placing the employer at risk of WorkCover regulatory activity, particularly as it is within the employee's rights to make a complaint directly to WorkCover. These are serious matters, and should be managed under performance management guidelines, or the disciplinary process if it is warranted eg if it is a repeat offence.

There may be certain circumstances where there is a need to consider using an external expert to investigate a grievance, or facilitate or mediate a solution.

While it is expected that such circumstances would not be common, it may be appropriate where:

- It is difficult to identify an internal person who is able to be impartial, or who does not have a conflict of interest, particularly in smaller facilities
- Where very senior staff are involved
- Where there is a lack of appropriately skilled personnel
- Where the situation may come under external scrutiny.

This is a high level decision for the employer to make, after considering all the relevant factors.

5.11 Review Process

An effective review mechanism assists in ensuring that the grievance management and resolution processes are fair and impartial, and can stand up to scrutiny.

The resolution of most grievances will usually be determined and managed by the appropriate manager. On occasion, some or all parties to the grievance may not be happy with the process followed and/or the outcomes of the process. Therefore, there needs to be access to a review mechanism.

The process for requesting a review should be based on the following:

- That the initial grievance management process has been completed, and findings communicated to both parties
- That review of the grievance management process is requested within a reasonable time frame eg within two weeks of its completion
- Sound reasons for requesting the review are identified. It should not be assumed that just because a party to the grievance may not accept the outcome, that there is an automatic right of review
- That, where a review is warranted, it is conducted within an identified, and reasonable, time frame
- That the review is conducted impartially by someone who was not involved in managing the initial grievance
- That the review focuses on the process followed to resolve the grievance eg was it impartial, fair, inclusive and appropriate
- That the findings of the review and their reasons are communicated in writing to the relevant parties.

5.12 Documentation

Those managing grievances need to maintain the appropriate documentation. The type of documentation and level of detail will depend on the type of grievance, whether it was managed formally, level of complexity, and those involved. This can range from a simple diary note to more detailed notes kept locally, or to dedicated files.

The level of detail will depend on the circumstances.

Documentation should include:

- Key step/s taken to manage the grievance
- Key points of information obtained when looking into the matter
- Options activated to resolve the grievance, and time frames
- Any process review.

The person doing the information gathering should keep a record of the findings and the process followed to manage and resolve the grievance.

The purpose of such documentation is to:

- Allow for a review of the management of a grievance if the review process is activated
- Provide access to relevant information if the same grievance is lodged again at a future time, or the grievance worsens despite all efforts to resolve it
- Provide information to support the organisations' actions, should the grievance end up in an external forum.

5.13 Reporting on Workplace Grievances

Reporting should be high level and de-identified.

There needs to be a mechanism in place for employers to determine if the system is operating effectively and in a timely manner. This information should be de-identified, aggregated, high level information for its use when evaluating the effectiveness of the local system.

The sort of information that should be provided includes:

- Date the grievance was first raised
- Employment groups of those involved eg cleaner, manager etc
- Number of times the grievance has been raised (is this the first time, or has the same matter come up a number of times)
- Work location (may need to go up a level if the particular work unit is small and identifying it may lead to the identity of those involved in the grievance)
- Nature of grievance (interpersonal, perceived unfair practices etc)
- Options utilised by the manager to resolve the grievance (self-resolution, mediation, facilitation, administrative changes etc)
- Timeframes
- Whether the review process was activated.

This information can be collected via a simple reporting form, and forwarded to an identified central location. A sample reporting pro forma is at Appendix 6.3.

5.14 Evaluation, Review and Continuous Improvement

As the above suggests, the grievance management system should be regularly reviewed and evaluated, usually under the auspices of the person with overall responsibility for the local grievance management system. The objective of the review is to identify any areas that need updating or improving, and to ensure that the appropriate improvements are then made to the system.

6.0 APPENDICES

6.1 Rights and Responsibilities in Grievance Management

Rights and responsibilities of all staff include:

- The right to a safe and healthy working environment
- The right to seek appropriate external support and assistance in dealing with their work related concerns, including the advice and support of their union
- Taking prompt action on work related grievances in accordance with public health organisation policy and procedures
- Not taking part in, or condoning victimisation and other inappropriate behaviour
- Taking responsibility for their own actions in the workplace, and where the actions of others are disagreeable to them, to attempt to settle matters, where appropriate, with that other person/s in the first instance
- Taking responsibility for assisting in the resolution of the grievance
- Accepting that a resolution may not always satisfy their personal wants
- Not making frivolous, malicious or vexatious complaints
- Cooperating with any grievance procedure.

Rights and responsibilities of those raising issues of concern include:

- To be provided with information regarding their rights and responsibilities
- To seek management counselling without making a formal complaint/grievance
- To withdraw from the grievance at any stage, although the complainant may be advised that management will continue to pursue the complaint if the matter is considered serious or impacts on the organisation's duty of care
- To identify desired outcomes
- To have the issues treated in a fair and impartial manner
- To be informed of all decisions and progress made which may affect them, with consideration given to the privacy of other parties
- To be given protection against any victimisation or harassment because they have raised a grievance
- To raise their grievances at an early stage and providing as much information as possible to assist in the effective resolution of the grievance
- To have a support person present at any meetings they attend relating to the grievance;
- To place comment on the file that contains the record of their involvement
- To not to make malicious, vexatious or frivolous complaints
- To have access to records of meetings which they attended to enable them to confirm that they are an accurate and true record.

Rights and responsibilities of those responding to the issues raised include:

- To be provided with information regarding their rights and responsibilities
- To be provided with protection against any vexatious or malicious complaints
- To be informed promptly of the substance of the grievance
- To be provided with sufficiently detailed information to allow them to respond to the grievance
- To have an opportunity and sufficient time to respond to the grievance
- To seek advice and management counselling
- To have the issues treated in a fair and impartial manner
- To be informed of all decisions and progress made which may affect them, including any evidence found against them, with consideration given to the privacy of other parties
- To provide as much information as possible to assist in the effective resolution of the grievance

Rights and responsibilities of those responding to the issues raised include: (continued)

- To have a support person present at any meetings they attend relating to the grievance
- To have access to records of meetings which they attended to enable them to agree that they are an accurate and true record
- To place comment on the file that contains the record of their involvement.

Supervisor/Manager rights and responsibilities include:

- To be trained in effective grievance management
- To ensure all staff are aware of their rights and know how to access the grievance resolution process
- To proactively identify and resolve, as far as practicable, causes of concern to staff members without waiting for a grievance to be raised
- To treat all workplace grievances seriously, fairly and impartially. If circumstances prevent a person from remaining impartial, the grievance should be referred to the next manager in line or another appropriate person
- To document the process undertaken to resolve a grievance
- To ensure that all documentation in their possession remains confidential and is kept in a secure place
- To ensure that each stage of the grievance is handled as expeditiously as possible
- To ensure that whilst the grievance procedures are being followed, there should be as little disruption to work as possible
- To ensure that professional interpreters are made available to people who do not speak English as their first language or who use sign language
- To make reasonable instructions in relation to work
- To protect staff members from victimisation, harassment and discrimination.

Support Person rights and responsibilities include:

- To provide support to the person they are attending the meeting with, not advocate on their behalf
- To be provided with a copy of the grievance policy and procedure
- To be a witness to the procedure undertaken
- To attend meetings with the party they are supporting, related to the grievance, unless the party no longer requires their involvement.

6.2: A Tool to Assist with Initial Assessment of Complaints Made by Staff

Staff must refer to local policies/procedures reflective of the relevant NSW Health documents. Depending on the nature and complexity of the matters raised, more than one policy may be relevant to the management of the issue, and different pathways may be followed for different aspects of the matters raised.

Nature of Complaint	Guiding NSW Health Policy Directives
<i>Does the complaint primarily consist of a workplace matter raised by an employee that is causing them concern or distress eg interpersonal conflict, the way work is allocated or managed, a perceived unfairness in the workplace?</i>	See NSW Health PD2005_584 Effective Workplace Grievance Resolution: Policy and Better Practice for the Department of Health and Public Health Organisations.
<i>Does the complaint primarily relate to bullying, harassment, threatening or discriminatory behaviour?</i>	See NSW Health PD2005_223 (Cir 2001/109) Joint Management and Employee Association Statement on Bullying, Harassment and Discrimination.
<i>Does the complaint primarily relate to behaviour or activity that, if sustained, is likely to result in disciplinary procedures?</i>	See NSW Health PD 2005_225 (Cir 2001/112) A Framework for Managing the Disciplinary Process in NSW Health.
<i>Does the complaint primarily relate to a work performance issue?</i>	See NSW Health PD2005_180 (Cir 2000/68) Managing for Performance – A Better Practice Approach.
<i>Does the complaint primarily relate to the clinical behaviour or performance of a clinician or public health organisation?</i>	See NSW Health publications: Guideline on the Management of a Complaint or Concern about a Clinician Model Policy on the Management of a Complaint or Concern About a Clinician. Better Practice Guidelines for Frontline Complaints Handling February 1998
<i>Does the complaint primarily relate to matters that may be criminal, or may constitute corrupt conduct, maladministration or substantial waste?</i>	See NSW Health policy directives: PD2005_ (Cir 2000/41) Reporting Possible Corrupt Conduct to the Independent Commission Against Corruption; PD2005_109 (Cir 97/80) Procedures for Recruitment and Employment of Staff and Other Persons – Vetting and Management of Allegations of Improper Conduct; PD2005_315 (Cir 2003/48) Zero Tolerance Response to Violence; PD2005_135 (Cir 98/101) Policy and Guidelines for the Development of Protected Disclosures Procedures in Health Services.
<i>Has the complaint been lodged as a protected disclosure, as defined in the Protected Disclosures Act 1994?</i>	See NSW Health PD2005_135 (Cir 98/101) as above.
<i>Does the complaint primarily relate to allegations of sexual, physical or emotional abuse of a patient or client by an employee?</i>	See NSW Health policy directives: PD2005_109 (Cir 97/80) as above. PD2005_299 (Cir2003/16) Protecting Children and Young People.
<i>Does the complaint primarily relate to allegations of sexual, physical or emotional abuse of a child by an employee, or others?</i>	See NSW Health PD2005_109 (Cir 97/80) as above.
<i>Does the complaint primarily relate to a serious breach of the Code of Conduct?</i>	See NSW Health PD2005_130 (Cir 98/79) Principals and Minimum Standards for the Development of Health Service Codes of Conduct (under review).

6.3 Sample Workplace Grievance Reporting Pro forma

1. **Date Grievance Lodged**.....
2. **Is this the first time this grievance has been lodged by either party? (please circle)**
Yes No
3. **Work Location**.....
4. **Work Category /Type**
Complainant.....
Respondent.....
5. **General Nature of the Grievance**
.....
(eg interpersonal, unfair treatment, work systems or procedures etc)
6. **Option/s Utilised to Resolve Grievance**.....
.....
(eg self resolution, administrative actions, mediation etc)
7. **Date Grievance Finalised**.....
8. **Was the complainant satisfied with the:**
 - a) *Process followed to resolve the grievance (please circle)*
Yes No
 - b) *Outcome of the grievance (please circle)*
Yes No
9. **Was the respondent satisfied with the:**
 - a) *Process followed to resolve the grievance (please circle)*
Yes No
 - b) *Outcome of the grievance (please circle)*
Yes No
10. **Was there a request for a review? (please circle)**
Yes No

Contact Person for the Grievance _____

GPSC2: AMBULANCE SERVICE INQUIRY – ADDITIONAL QUESTIONS

Question 4.

A number of submissions claim that bullying and harassment is worse for female officers, particularly in rural areas. Please comment.

ANSWER

Both employers and unions have a key role to play in ensuring a working environment free from bullying and harassment. Unions help to ensure that no support is given to those who bully and harass. Employers ensure that it does not take place and respond appropriately.

In 2007/08, bullying and harassment complaints referred to the PSCU represented 0.24% of total staffing.

The available data for the Ambulance Service of NSW does not suggest that bullying and harassment is worse for female officers, nor worse for female officers in rural areas.

- 32% of all Ambulance Service of NSW staff are females with only 14.2% of all complaints made by females.
- 51% of the Ambulance Service of NSW staff are rurally based with only 28% of the rural workforce female.
- 45% of female Ambulance Service of NSW staff work in rural areas with only 40% of rural complaints made by females.

Allegations of bullying and harassment are often raised as grievances. A grievance is a written or oral statement made by an employee regarding a concern arising in the workplace such as interpersonal conflict, the way work is allocated or managed, interpretation of people management policies, or a perceived unfairness in the workplace.

Workplace bullying is defined as "unreasonable, undesirable behaviour at the workplace, or in the course of or related to employment," that generally meets the following criteria:

1. It is repeated;
2. It is unwelcome and unsolicited;
3. The recipient/s consider/s the behaviour to be offensive, intimidating, humiliating or threatening; and
4. A reasonable person would consider the behaviour to be offensive, intimidating, humiliating or threatening.

The Ambulance Service is covered by Guideline GL2007_011 'Bullying – Prevention and Management of Workplace Bullying: Guidelines for NSW Health' (copy attached). The Guidelines provide detailed information on how to prevent workplace bullying using a risk management approach, and how to effectively manage and resolve workplace bullying complaints. In addition, Policy Directive PD2005_223 *Bullying, Harassment and Discrimination – Joint Management/Employee Association Policy Statement* (copy attached) specifies that Health Services are to ensure that bullying, harassment and discrimination has no place in NSW Health. The Statement was signed by the Director-General, Labor Council of NSW, and the

major NSW Health unions, and covers all NSW Health entities including the Ambulance Service of NSW.

Matters related to staff conflict, grievance, bullying and harassment and their management by the Ambulance Service are outlined in detail in the *NSW Health Submission to the Legislative Council, General Purpose Standing Committee No 2, The Management and Operations of the Ambulance Service of NSW* at pages 21 to 28.

If the Committee has received information regarding bullying and harassment, which is not currently subject to investigation, the Ambulance Service would be keen to review and investigate. General issues raised by public submissions related to bullying and harassment of women working in rural areas will be investigated.

Guideline

NSW HEALTH

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Bullying - Prevention and Management of Workplace Bullying: Guidelines for NSW Health

Document Number GL2007_011

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Functional Sub group Personnel/Workforce - Occupational Health & Safety
Personnel/Workforce - Conduct and ethics

Summary The Guidelines support NSW Health policy directives PD2005_223 and PD2005_250, which direct that workplace bullying will not be tolerated in NSW Health. The Guidelines provide detailed information on how to prevent workplace bullying using a risk management approach, and how to effectively manage and resolve workplace bullying complaints.

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Applies to Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations - Non Declared, Affiliated Health Organisations - Declared, Public Health System Support Division, Community Health Centres, Dental Schools and Clinics, NSW Ambulance Service, NSW Dept of Health, Public Hospitals

Audience HR professionals, all managers, all staff

Distributed to Public Health System, Community Health Centres, Dental Schools and Clinics, Health Associations Unions, NSW Ambulance Service, NSW Department of Health, Public Hospitals

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Guideline

NSW⁺HEALTH

**PREVENTION AND MANAGEMENT
OF
WORKPLACE BULLYING**

**GUIDELINES
FOR NSW HEALTH**

June 2007

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1. About this document

- 1.1 **Prevention and Management of Workplace Bullying** Copies may be obtained at <http://www.health.nsw.gov.au/policies/index.html>
- 1.2 **Responsibility** HR Policy
- 1.3 **Version** June 2007
- 1.4 **Updates and feedback** Feedback is welcome, and should be addressed to the Manager, HR Policy, NSW Department of Health.
- 1.5 **Related policies** References to relevant NSW Health policies are listed in the left hand column throughout the document. Policy directives are available at <http://www.health.nsw.gov.au/policies/index.html>
- 1.6 **Related legislation** Reference to related legislation is contained within the body of the guidelines, or is listed in the left hand column of the document. All current legislation is available at <http://www.legislation.nsw.gov.au/>
- 1.7 **Additional resources** Where relevant, subject specific resources have been included in the left hand column of the document.
- Additional references and resources include:
- *Bullies Not Wanted*, Office of the Employee Ombudsman, SA
http://www.oeo.sa.gov.au/info/BULLIES_NOT_WANTED.doc
 - *Dignity and Respect in the Workplace Charter*, Unions NSW, 2005
 - *Prevention of Bullying and Violence at Work*, WorkSafe Victoria, 2003.
<http://www.workcover.vic.gov.au/vwa/publica.nsf/docsbyunid/625a31551654a53aca256fd30008932c>
 - *Prevention of Workplace Harassment Advisory Standard*, Queensland Department of Industrial Relations, 2004.
<http://www.dir.qld.gov.au/workplace/law/codes/harassment/index.htm>
 - Premier's Memorandum 2007-02 *Dignity and Respect: Policy and Guidelines on Preventing and Managing Workplace Bullying*.
<http://www.premiers.nsw.gov.au/TrainingAndResources/Publications/MemosAndCirculars/Memos/2007/IM2007-02.htm>
 - Mayhew C and Chappel D. *The Occupational Violence Experience of 400 Australian Health Workers: An Exploratory Study*. Journal of Occupational Health and Safety 19(6) pp 3-43
 - *Internal Violence (or Bullying) and the Health Workforce*. Discussion Paper 3 University of NSW 2001. NSW Health Taskforce on the Prevention and Management of Violence in the Health Workplace.
 - *Incidence of Workplace Bullying in Victoria: Summary of Findings*. Victorian WorkCover Authority.
 - *Prevention of Workplace Bullying: a tool for change* (CD ROM) The Law Society of NSW
 - *Bullying and Harassment at Work: a good practice guide for RCN negotiators and health care practitioners*
<http://www.rcn.org.uk/publications/pdf/bullying-managers-guide.pdf>

2. Introduction

2.1 Purpose and scope of this document

The purpose of these Guidelines is to assist in ensuring that all workplaces within NSW Health have systems in place to prevent, as far as practicable, and effectively manage, workplace bullying issues, risks and complaints.

The Guidelines support NSW Health policies PD2005 223 Bullying, Harassment and Discrimination - Joint Management / Employee Association Policy Statement, PD2005 250 Bullying, Harassment and Discrimination – Joint Management, PSA and Nursing Association Statement, PD2005 409 Workplace Health and Safety: Policy and Better Practice Guide and PD2005 626 the NSW Health Code of Conduct, as amended from time to time, and should be read in conjunction with these documents.

For copies of the Premier's Memorandum see <http://www.premiers.nsw.gov.au/>.

Copies of the Dignity and Respect Charter can be obtained from Unions NSW

The Guidelines also support and reflect Premier's Memorandum 2007-02 *Dignity and Respect: Policy and Guidelines on Preventing and Managing Workplace Bullying*. The Director-General has endorsed the Unions NSW *Dignity and Respect Workplace Charter*, which reflects key principles from the Premier's Memorandum, and it is recommended that the Charter also be endorsed by each Division's Joint Consultative Committee.

The Guidelines apply to all workplaces in the NSW public health system and the Department of Health, including non-declared affiliated health organisations.

The processes in the Guidelines should also be applied when responding to allegations of bullying made against members of the Health Executive Service (HES), or against Visiting Medical Officers (VMOs).

This document also complements the NSW Health [grievance resolution policy and guidelines](#).

The document consists of two parts. The first part provides advice to employers and managers on how to prevent workplace bullying using a risk management approach. The second part provides advice to managers and staff on raising and responding to bullying complaints.

In this document the term

- **must** – indicates a mandatory action required by law, industrial instrument, or existing Departmental policy directive
- **should** – indicates a recommended action that should be followed unless there are sound reasons for taking a different course of action.

2.2 What is workplace bullying?

The literature cites a range of definitions for bullying. Following a review of this information, and stakeholder consultation, a working definition has been drafted for the purposes of these Guidelines. The definition is not meant to be applied rigidly, or take the place of common sense in considering a complaint. However, it will help with the initial assessment of the complaint, and to determine whether these Guidelines are the most appropriate framework to manage the complaint.

For the purposes of this document, workplace bullying means unreasonable, undesirable behaviour at the workplace, or in the course of or related to employment that will generally meet all the following criteria:

1. It is repeated
2. It is unwelcome and unsolicited
3. The recipient/s consider/s the behaviour to be offensive, intimidating, humiliating or threatening
4. A reasonable person would consider the behaviour to be offensive, intimidating, humiliating or threatening.

2.3 What is bullying behaviour?

In the context of the above definition, bullying behaviour can take many different forms. It can range from aggressive behaviour such as shouting and physical confrontations to more subtle behaviours, including passive bullying, such as not initiating the bullying, but participating once it has started, or tacitly supporting bullying by allowing it to continue.

Examples of bullying behaviour can include verbal abuse; watching and following; exclusion from receiving information or workplace social interactions; belittling or undermining, sarcasm; touching, pushing, standing over; damage to personal property; persistent teasing; threats of dismissal or use of organisational processes to offend, intimidate, humiliate or threaten. Such processes could include regularly allocating the heaviest workload to a particular staff member, blocking reasonable access to professional development or leave entitlements, or subjecting the work of a particular staff member to unwarranted excessive scrutiny.

Bullying behaviour may also include the actions of more than one staff member, often referred to as mobbing. Mobbing is generally defined as a malicious, deliberate attempt by co-workers to force a person (peer, supervisor or manager) out of the workplace through harassment, humiliation, unjust accusations etc.

It should be noted that while a single serious incident such as an individual being abused and humiliated in front of others, may not specifically fall into this definition of bullying, such incidents must still be responded to appropriately, and the procedures outlined in this document may be used as a guide to managing such incidents.

Behaviour is considered to be unreasonable if a reasonable person, based on the available information, would expect the behaviour to offend, intimidate, humiliate, or threaten the individual to whom it is directed. Such behaviour may also negatively impact on those witnessing the behaviour.

Example A

A staff member complained to her supervisor that she felt like she was being excluded from the team. Specifically, she noted that staff meetings were held when she was unable to attend, that most of her allocated work denied her team interaction and that social functions were arranged for times when she would be absent from the office. The supervisor was very dismissive of her complaint, responding that the staff member was 'paranoid' and 'imagining things', and made no change to current practices.

The staff member became increasingly anxious when nothing changed. In addition, she began to feel like other members of the group were also excluding her from work and social interaction. The staff member decided to speak to her manager about the issue.

Following an investigation of the complaint, the manager determined that there was a subtle pattern of bullying involving organisational processes such as decision-making and work allocation. It was also found that a reasonable person would feel intimidated by these actions, particularly given the small size of the team.

Example B

An Aboriginal woman is a supervisor in a busy workplace. One of her staff, an older Aboriginal male, constantly questions her decisions in front of other staff and clients. He has also been overheard telling colleagues that his supervisor is incompetent and not suited to her role. The supervisor has tried to resolve the issue by approaching the staff member. This has only made matters worse, particularly as the staff member justifies his behaviour as being culturally appropriate. The supervisor feels she has no other option but to raise the matter with her manager.

Following an investigation of the complaint, the organisation determined that the supervisor was being bullied.

- 2.4 Who engages in bullying behaviour?** People who engage in bullying behaviour come in all shapes, sizes, ages, and from all ethnic and racial backgrounds. Bullying behaviour is not limited to a particular position, gender or personality type, and can be exhibited by managers, supervisors, fellow workers, clients or members of external organisations.
- 2.5 Who can be a target?** Targets of bullying do not have a particular personality type, occupational grouping, gender or racial background etc. A manager may be bullied by a staff member, a younger person may bully an older person, or the most cheerful member of the team can be bullied by the rest of the group.
- 2.6 What is not bullying behaviour?** Legitimate, reasonable and soundly based managerial actions to direct and control how work is done in the workplace do not constitute workplace bullying.
- Legitimate managerial actions may include:
- Providing constructive feedback on a staff member's work performance (sometimes the staff member may find the feedback upsetting, but this alone does not constitute bullying)
 - Managing performance or underperformance issues
 - Transferring, terminating or taking action to make a staff member redundant where the process is conducted fairly and equitably
 - Taking justifiable decisions related to recruitment, selection and other development opportunities
 - Allocating work in compliance with systems and policies
 - Ensuring that workplace policies are implemented
 - Undertaking disciplinary procedures for proven misconduct, or for actions involving significant breaches of other policies
 - Overseeing injury and illness processes in accordance with OHS, injury management and workers compensation legislation and policies.
- Ill-founded management actions and processes may be a means of bullying, or creating an environment conducive to bullying.

Example C

A staff member in a rural location complained to his manager that his new supervisor was bullying him. His specific complaint was that his supervisor was requiring him to keep accurate vehicle logs and timesheets, and keep in regular contact with the office, particularly on long trips.

The manager, in investigating the claim, found that the supervisor was legitimately monitoring all staff compliance with existing policies and procedures. Importantly, the supervisor's actions were found to be consistent with OHS policy, which requires that all staff be provided with appropriate supervision to ensure their safety.

- 2.7 What is the extent of bullying in the workplace?** The literature on bullying suggests that around 10% of employees experience workplace bullying or harassment every year. This figure is in addition to the estimated 2% who have been subjected to physical violence from work colleagues.
- A similar picture is emerging from recent studies of Australian workplaces, including those working in the health system. For example, a 2003 study of four hundred Australian health workers found that 10.5% reported having been bullied in the past twelve months (see References).
- Studies conducted in Australia and overseas found that bullying is rarely formally reported. Reasons for non-reporting include fear of repercussions, fear of being labelled weak or a whinger, concern that reporting may affect career prospects, and/or a belief that nothing can or will be done about it.

2.8 What is the impact of bullying on staff? Workplace bullying affects individuals in a range of ways, and the impact tends to escalate over time. Studies have also found that ongoing bullying can have a more severe impact on an individual than a one-off act of physical violence.

For the individual, bullying may lead to poor self-esteem, loss of self-confidence, health problems eg anxiety, sleep disturbances, panic attacks, and diminished income and career opportunities.

2.9 What is the impact of bullying on the workplace? Bullying has the potential to cause problems for workplaces, including:

- Service continuity problems due to absenteeism and staff turn-over
- Reduced efficiency and productivity
- Poor motivation, morale and a negative workplace culture
- Increased work errors and accidents, workers compensation claims and workers compensation premiums
- Industrial problems
- Escalating litigation costs
- Negative publicity/loss of credibility with staff and regulatory authorities.

Indirect costs associated with increased resources spent on complaints management, employee assistance and recruitment and training of new staff may also be incurred. Estimates of overall costs to employers vary, with conservative estimates between \$6 and \$13 billion per year. Other studies estimate that workplace bullying costs Australian business as much as \$36 billion per year.

2.10 Legislative framework Employers have certain legislative responsibilities in relation to their staff. Key areas of legislation that are related to bullying are briefly discussed below.

2.10.1 OHS legislation OHS legislation in NSW requires employers to ensure the health and safety of all staff members. As workplace bullying may harm the health and safety of staff, the employer's obligations extend to ensuring that workplace bullying is prevented or stopped. The legislation also places an obligation on staff to take reasonable care for the safety of others in the workplace, and cooperate with the employer in its efforts to provide a safe workplace.

For more information on OHS legislation see NSW Health policies on workplace health and safety.

Example D

Following a workplace bullying incident, Worksafe Victoria imposed substantial fines on an employer for failing to provide instruction, training and supervision to its staff members in relation to bullying, and for failing to provide a safe workplace. The employer was also ordered to pay costs. It was also found that the employer had no complaints system in place, and should have stopped the bullying when it became aware of it. Worksafe Victoria also fined the staff member for subjecting fellow workers to verbal abuse and threats of violence.

2.10.2 Anti-discrimination legislation Discrimination occurs when a person is treated less favourably than someone else on the basis of race, sex (including pregnancy), transgender, marital status, disability, carer's responsibilities, homosexuality or age.

Bullying may manifest itself in discriminatory behaviour, and may therefore be unlawful under a number of Acts, including:

- Anti-Discrimination Act 1977 (NSW)
- Human Rights and Equal Opportunity Commission Act 1986 (Commonwealth).
- Sex Discrimination Act 1984 (Commonwealth)
- Disability Discrimination Act 1992 (Commonwealth)
- Age Discrimination Act 2004 (Commonwealth).

For more information see NSW Health policies and guidelines on promoting a fair and equitable workplace.

Example E

A complainant, who was initially a willing participant in swapping crude sexual banter in the workplace, changed her way of thinking upon becoming pregnant. When the now unwelcome conduct of her colleagues continued despite her requests that it stop, the woman complained to her employer, then the Human Rights and Equal Opportunity Commission.

A Federal Magistrate found that the woman had been sexually harassed. The Magistrate also found that the case satisfied the definition of bullying because 'everyone was entitled to draw the line somewhere, and those activities crossed the line'. The employer was also found to be vicariously liable.

2.10.3 Industrial relations legislation

Both NSW and Commonwealth industrial relations laws prohibit harassment on the grounds of trade union activity. A staff member may also be entitled to lodge a claim under either jurisdiction, if bullying is a factor in the termination of employment.

Example F

A team leader ignored medical certificates specifying exactly what work a staff member on a return-to-work program could perform. The same team leader also allegedly bullied the staff member until she resigned. The staff member lodged a complaint with the Australian Industrial Relations Commission. In her submission, she also stated that the HR Manager, who was aware of the problem, took no action to resolve the issue.

The Commissioner held that bullying had brought about the staff member's resignation. The Commissioner also stated that the conduct of the HR Manager was 'appalling' and was 'just as guilty' as the team leader. The Commissioner ordered that the staff member be reinstated in another area of the organisation and be reimbursed for lost income.

2.11 Related definitions

Bullying contact officer

A nominated staff member who is available to provide independent assistance and information on the procedures for making a complaint of bullying. Bullying contact officers do not become involved in the investigation of a complaint.

Bullying Complaint

A written or verbal complaint of bullying raised by an individual or group of individuals on their own behalf, or on behalf of another/s.

Complainant/s

The person/s making the complaint.

Disciplinary process

A process for managing allegations of misconduct, serious performance issues or inappropriate behaviour by NSW Health staff, usually involving breaches of NSW Health policy, which, if proven, would lead to the staff member being formally disciplined.

Employer

For the purposes of this document, means any person authorised to exercise the functions of the employer of staff to which this policy applies.

Initial assessment

An initial review by the person receiving the complaint, to ensure that the most appropriate management process is followed.

NSW Health

Consists of the Department of Health and the NSW public health system.

NSW Health Service

Consists of staff employed in all Area Health Services, all statutory health corporations, any declared affiliated health organisations, the Ambulance Service of NSW and Public Health System Support Division.

2.11 Related definitions (cont)

NSW Public Health System

Consists of all Area Health Services, all statutory health corporations, all affiliated health organisations in respect of their recognised services, the Ambulance Service of NSW and the Public Health System Support Division (currently includes the Institute for Medical Education and Training, Health Technology and Health Support).

Organisation

For the purposes of this document, refers to any entity that is part of the NSW Public Health System.

Respondent

The person(s) against whom the complaint of bullying is made.

Sexual harassment

Under NSW law, a person sexually harasses another person when they

- make an unwelcome sexual advance, or an unwelcome request for sexual favours, to the other person, or
- engage in other unwelcome conduct of a sexual nature in relation to the other person

in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated.

Staff member

Any person working in any capacity in NSW Health including volunteers, students, visiting medical officers and contractors.

3. Prevention of workplace bullying – A risk management approach

3.1 A risk management approach

Like all foreseeable workplace risks, the potential for workplace bullying must be identified and assessed, and eliminated as far as possible. If the risk is unable to be eliminated, appropriate risk controls must be put in place. Consultation with staff and their representatives should take place at all stages of the process, and their input considered when determining and implementing bullying risk controls.

Detailed information on the risk management process can be found in NSW Health policies on occupational health and safety, violence prevention and security. Further information on the consultation process can be found in the publication *WorkCover OHS Consultation Code of Practice 2001*.

3.1.1 Identifying and assessing risk

A detailed tool to assist in the bullying risk identification and assessment process is provided at **Appendix One**. The tool can be used at an Area, facility or unit level.

Qualitative and quantitative information that may also help identify and assess the risk of bullying include:

- De-identified data of known cases of workplace bullying
- De-identified data of staff grievances and complaints relating to bullying eg increased numbers of cases, repeated conflict in the same area etc
- Records of damage to personal effects eg increased numbers in a particular work area, damage caused by 'mysterious' events etc
- Records of industrial relations matters where bullying is cited
- Workers compensation data eg number of psychological injuries
- Sick leave and other absenteeism data eg increased levels, changed individual patterns of leave etc
- Employee Assistance Program data citing workplace bullying
- Exit interviews data citing grievances, bullying and harassment
- Unexpected deterioration in individual / group performance
- Information gleaned from staff consultation eg anonymous staff surveys, inviting written submissions etc
- Information gained from talking to relevant individuals or groups eg union representatives, HR personnel, industrial relations personnel, OHS Committees, Complaints Managers, Equity Coordinators, Aboriginal Employment Networks.

Findings from the above needs to be analysed for patterns and trends that may point to areas at increased risk of bullying, or where bullying is already occurring. High-risk environments should be dealt with as a matter of urgency and priority. Managers should also take action in low risk environments, especially where there are simple and/or inexpensive ways of raising awareness about workplace bullying prevention.

3.1.2 Identifying performance indicators

This information can also help determine potential performance indicators and base-line data for future evaluation of the risk elimination and control program.

Examples of performance indicators may include:

- Short-term increase in bullying complaints due to increased awareness
- Overall decrease in complaints over the medium to long-term
- Improved staff perception about the organisation's response to bullying

- Increasing numbers of managers and/or staff that have attended bullying prevention and management training
- Increased number of strategies to prevent and manage bullying.

3.1.3 Implementing risk controls

Controlling the risk of bullying will involve implementing preventative and management activities, standards, policies, procedures and training to eliminate, avoid, or minimise the risk of harm.

NSW Health employers should implement the following strategies in their areas of responsibility, as far as practicable:

- Provide good physical workplace design eg adequate lighting, ventilation, workspace and staff facilities, and minimising use of areas where individuals or small groups of staff work in isolation
- Ensure that all staff demonstrate an understanding of, and commitment to the NSW Health Code of Conduct
- Ensure that information about what types of behaviour do, and do not, constitute workplace bullying are communicated to all staff, with a particular emphasis on any high risk areas identified through the risk assessment process
- Ensure that NSW Health policy in relation to grievance resolution is clearly reflected in local grievance management processes, and that those processes are communicated to all staff
- Ensure senior managers consistently promote a bullying free environment
- Encourage and support staff in the self-resolution of conflict and workplace grievances by providing appropriate instruction, information and training where necessary eg conflict resolution
- Provide a clear and simple process for reporting bullying
- Ensure managers are equipped to, and do, respond promptly and effectively to complaints related to bullying, in line with the requirements of this Guideline
- Ensure that staff have accurate and up to date position descriptions, so they have a good understanding of their role and responsibilities
- Accommodate appropriate working schedules so that staff are used in the most effective way, while allowing staff to manage work, life and family responsibilities
- Encourage consultation and staff involvement in decision-making.

See the NSW Health Code of Conduct, and NSW Health policy for communicating the code, and for grievance resolution.

3.1.4 Monitoring, reviewing and evaluating risk controls

Employers and managers should have procedures in place to monitor bullying controls, review the ongoing relevance of such controls, and capture relevant information about new cases in order to evaluate existing systems, policies and procedures. This information can then be used to improve controls and strengthen workplace strategies to prevent bullying. Review is particularly important during times of significant workplace change eg restructures, or when a serious case of workplace bullying occurs.

The risk control program should also be evaluated at least every one to two years to determine whether it has been effective in preventing and managing workplace bullying. This responsibility should be formally allocated to a senior manager, and staff should be invited to participate in the evaluation process.

4. Managing a workplace bullying complaint

4.1 Making a bullying complaint

As part of the organisation's bullying risk management strategy, all staff should be aware of their rights and responsibilities in relation to bullying prevention and management. This includes the organisation's commitment to eliminating bullying as far as possible, and responding promptly to bullying if it does occur.

4.1.1 Access to relevant information

Similarly, where a staff member feels that they are being bullied, they should have ready access to sufficient information that will help them determine how best to respond, and their options for raising their concerns.

Sources of information should include:

- Bullying prevention and management policies and procedures
- Reporting procedures that are not unnecessarily onerous or complicated
- A nominated bullying contact officer, grievance contact officer or the human resource department
- Supervisor or manager as appropriate.

Those positions identified as points for further information should primarily provide independent policy and process information. As this may include providing advice to potentially all parties to a complaint, these individuals should not be involved in investigating or managing the complaint.

Bullying complaints should be made according to the organisation's complaints procedures, and would usually be made to the supervisor or line manager. Where the complaint is against either of those parties, or where there may be a conflict of interest, the complaint should be made to the next line management position.

While it is desirable that a verbal complaint be followed up in writing, responding to the complaint should not be dependent on its receipt in writing. However, the person receiving the complaint should take some notes in the first instance, and confirm with the complainant that the notes reflect the essence of their concerns.

4.1.2 Reluctance to formally complain

Sometimes a staff member will tell a manager that he/she is being bullied, but does not want anything to be done about it. This could mean the matter is not serious enough to be managed as bullying and could be resolved by more informal means. However, it could also mean the complainant fears that an investigation will cause them more stress, make the work situation worse or make them the subject of reprisals.

In these circumstances the staff member should be advised of formal and informal options to resolve the matter. Any concerns regarding the process should be explored with the complainant and addressed as far as possible.

Where the staff member still does not want to go ahead with the complaint, depending on the individual circumstances, there may still be an obligation on the manager to respond. For example, if the staff member appears significantly distressed, or it becomes evident over time that the situation is not improving or is getting worse, this may constitute a significant workplace risk, and some action will be required.

While any management response will need careful consideration in such circumstances, it may be possible to discuss some potential organisational responses with the staff member, in the context of that manager's responsibilities to ensure as far as practicable, a risk free workplace.

Such organisational responses could include:

- Reissuing and reinforcing the organisation's anti-bullying policies
- Reminding all staff of their obligations under OHS legislation
- Requiring staff to attend bullying prevention briefings or training
- Reinforcing that all complaints will be taken seriously.

The key consideration is that where management becomes aware of a significant workplace risk, they have a responsibility to intervene.

The situation may also arise where a staff member makes a complaint of bullying, but wishes their identity to be kept confidential ie not disclosed to the alleged perpetrator. In such circumstances it needs to be explained to the complainant that because of the usually personal nature of bullying, it would be impossible to ensure a fair process. For example, withholding identity would not allow for an adequate investigation, or for providing the alleged perpetrator with enough information to allow them to be able to adequately respond to such a complaint.

4.1.3 Complaint via workers compensation claim

Where the organisation first becomes aware of a potential bullying issue as a result of a workers compensation claim, the staff member may have already been significantly affected by the behaviour.

While the processes in this document will still need to be followed to investigate and manage the matter as far as possible, the situation will need to be managed with particular sensitivity. There should be liaison with the treating clinician in relation to any alternate work arrangements and to determine when the staff member is fit enough to be interviewed as part of any investigation.

For details on managing workplace injury, refer to the current NSW Health policy on [injury management and return-to-work](#).

There may also need to be liaison with the TMF Fund Manager if there is to be a 'fact finding' for insurance related purposes, and any concurrent injury management and return-to-work program will need to be considered when conducting any assessment and/or internal investigation. Depending on the circumstances, the organisation's return-to-work coordinator may also have a role to play in supporting the staff member.

Staff members suffering a work related psychological injury have the same entitlements under workers compensation legislation in NSW as those who have suffered a physical injury, and need to be managed accordingly.

4.2 Immediate Response

All bullying complaints must be treated sensitively and seriously, and acted on promptly. This will reinforce the message that workplace bullying is unacceptable, and is also consistent with the employer's duty of care towards all staff under OHS legislation. See **Appendix Two** for a flow chart outlining the overall process for managing a bullying complaint.

4.2.1 Initial assessment

At the time the complaint is received, or as soon as possible afterwards, an initial assessment of the complaint should be conducted.

The initial assessment is separate, and prior to, the more formal investigation process, and generally involves seeking as much information as possible from the complainant in order to:

*See **Appendix Three** to help determine most appropriate policy pathway/s for managing the complaint.*

- Get a sense of the potential seriousness of the matter
- Reduce the likelihood that significant time and resources are allocated to frivolous or vexatious complaints
- Determine whether any immediate action needs to be taken
- Identify policy/s relevant to the complaint and the best process for its management.

For example, in some instances complaints about bullying may actually relate to a work performance issue and may need to be managed in line with current performance management policy and guidelines. In other instances the complaint may involve physical violence or other criminal activity and should be managed in line with NSW Health policy directives relating to management of violence and criminal allegations against staff.

For further information on the initial assessment see the NSW Health policy on grievance resolution.

If the matter appears relatively minor, it may be more appropriate to manage it as a grievance, taking into account the views of the staff member. However, it is important to note that the NSW Health grievance resolution process is for managing minor workplace issues only and is not to be used to manage potentially serious workplace issues.

Where the initial assessment suggests that the behaviour being complained about falls under the definition in section 2.2, particularly where efforts by the staff member to resolve the matter, or other interim strategies such as mediation or conciliation have failed, these Guidelines should be used to manage the complaint.

Where it appears to the recipient of the complaint that some immediate response is necessary until a more detailed risk assessment can be undertaken (eg the complainant seems deeply distressed), discussing some immediate options may be necessary eg short term leave or relocation options. Any action taken in these circumstances must be determined in the context of managing the immediate welfare of the individual, and should not be based on any assumption about the guilt or innocence of any parties.

4.2.2 Advice and support

Both the complainant and the person being complained about have rights and responsibilities during the process, and should therefore be provided with the following information at the appropriate time:

- Any immediate action deemed necessary in the circumstances
- That there is no assumption of guilt or innocence
- An overview of how the complaint will be managed
- Their right to privacy and that no information in relation to the complaint will be provided to third parties, unless absolutely necessary
- Their own roles in ensuring that confidentiality is maintained
- That they will be given a fair opportunity to put forward their case
- That they will be provided with information on progress of the investigation and on any decisions made that may affect them
- Access to EAP services is offered
- Right to seek independent advice, including a union
- Right to a support person, and the role of that support person.

In addition, the respondent should be provided with the substance of the complaint in the first instance, and advised that they will be given reasonable opportunity to respond to the complaint.

Consideration should be given to the most appropriate way of first advising a member of staff that a bullying complaint has been made against them. If the respondent first becomes aware via a letter containing little information other than that they must attend for interview in response to a bullying complaint, this can be very distressing, particularly if the person is unaware anyone found their behaviour inappropriate.

Generally speaking, a face to face meeting of the respondent and an appropriate management representative is the preferred means of initially advising that a complaint has been received.

The meeting should be separate, and prior to the investigation process, and should be followed up by correspondence confirming the information relayed during the meeting. While such a meeting may not be possible or appropriate in all circumstances, the principles that should be adhered to is that the communication, be it verbal or written, is clear, concise, respectful, provides all necessary information, and includes a contact person.

4.2.3 Risk assessment

After immediate issues are addressed, an assessment of potential ongoing risks to both parties to the complaint associated with current work arrangements should be conducted. This will determine whether any further action needs to be taken to ensure as far as practical, the wellbeing of those involved until the investigation is completed.

In determining an appropriate response, the following should be considered:

- Relevant information from the initial assessment
- The physical/psychological state of the complainant, and, where necessary, the respondent
- How long the alleged behaviour has been going on
- How serious the initial allegations appear to be
- The degree of disruption the issue appears to be causing in the working environment
- Any evident complicating factors eg previous history of conflict between the parties etc
- Any relevant previous history of bullying allegations against the respondent and their outcomes
- The views of the complainant about possible management options during the investigation
- The potential need to protect the complainant from reprisals.

Proposed temporary arrangements should be discussed with the complainant, and their views considered. Depending on the circumstances, it may also be useful to (separately) discuss these options with the respondent, particularly where they may require significant changes to the way work is currently being done.

As far as possible, and again this will be governed by the particular circumstances of the complaint, neither party should be unduly disadvantaged by these arrangements. However, where the situation is such that decisive action is required, this consideration should not solely be used to impede an appropriate management response.

Action resulting from the risk assessment should not be based on any presumption of guilt. It should be specific to the individual circumstances, be practical and proportionate to those circumstances, be for a defined time frame, and identify a review date. If at any time during the investigation, information arises that is relevant to the risk assessment, the actions should be reviewed to ensure they remain appropriate.

Examples of potential temporary action may include (but is not limited to):

- Alternative employment arrangements
- Alternative work locations, reporting lines or shift arrangements
- Making appropriate arrangements to manage any necessary work interactions between the parties.

4.2.4 Suspension

NSW Health policy clearly identifies that suspension of a staff member is **only** to be considered in very narrow, specific circumstances. For further information, see the NSW Health [disciplinary issues management process](#). See the [Personnel Handbook](#) for Departmental staff.

4.3 Investigating the complaint

The facts of the matter need to be determined, and this usually requires an investigation. The purpose of the investigation is to gather and analyse all relevant information to help identify whether the complaint can be substantiated, and whether there are any extenuating circumstances or other contributing factors that may need to be considered.

4.3.1 Identifying who should investigate

The person (or persons should the situation warrant) identified to do the investigation should be competent in the investigation process, be appropriate to the particular circumstances, and be impartial. Investigating bullying complaints can be very challenging, and information gleaned during the initial assessment and the risk assessment should be considered to help determine who should investigate.

If the complaint is fairly straightforward, the manager who received the complaint may be appropriate to do the investigation. Examples include complaints involving a single complainant and respondent, or where both parties are peers or have a close working relationship, the incidents are limited in frequency and severity, there is no history of previous complaints etc. Depending on the knowledge, skills and experience of the manager, liaison with local HR services may be required to ensure the appropriate processes are followed.

In more complicated matters, it may be necessary for someone else in the organisation with a good understanding of bullying issues and experience in investigating complaints to undertake the investigation. For example, it may be useful to include an appropriate clinician when investigating a bullying complaint made by, or against a clinician, because of their better understanding of the clinical environment, or where there may be possible overlaying clinically related performance, cultural or local working environment issues.

More complicated matters may include circumstances where:

- There is a significant number of complainants
- Information suggests the incidents have been frequent and/or severe
- There appears to be a history of complaints against the respondent, or some history to the current complaint
- There may be complicating gender, ethnic, cultural or age issues
- There may be complicating local workplace issues eg culture/history of bullying
- Efforts in the past to resolve the matters have failed
- The wellbeing of the complainant and/or respondent appear to be at significant risk
- There is a history of complaints by the complainant.

In certain circumstances, consideration should be given to using an external expert to investigate a bullying complaint.

These circumstances include where:

- It is difficult to identify an internal person who is able to be impartial eg in a small facility
- Where very senior staff are involved
- Where there is no one available internally with the appropriate skills
- Where the situation is likely to come under external scrutiny or attract external attention.

This is a decision to be made by the organisation, after considering all relevant information.

Where an external investigator is used, a scope of services or similar needs to be developed that clearly identifies what is to be done, and include time frames and confidentiality requirements. As with all contracted services, the organisation must nominate someone to manage the contractor, and ensure that their services are provided in a timely, efficient and professional manner, and to the appropriate standard.

4.3.2 Conducting the investigation

As the outcome of the investigation may result in disciplinary action, the investigation process must be fair, impartial, professionally conducted, and consistently applied in all NSW Health workplaces. Therefore, the processes outlined in the NSW Health disciplinary issues management process policy directive must be followed in all NSW Health Service workplaces. For Departmental staff, the relevant provisions of the Personnel Handbook must be adhered to.

4.4 Responding to the findings

In determining what action the organisation is to take, the following should be considered:

- Information gathered during the investigation
- Findings, and recommendations where provided
- Any extenuating circumstances
- Any submission from the respondent regarding adverse findings
- Previous relevant disciplinary history.

4.4.1 Where the complaint is not supported

Where the findings suggest it is unlikely that bullying occurred, an organisational response may still be necessary eg the respondent's behaviour may still require some performance management. The investigation may have identified gaps in the organisation's bullying prevention and risk management framework that require remedying, and action may also be necessary to re-establish effective work relationships.

4.4.2 Where the complaint is supported

The form of action to be taken must be decided on a case by case basis. Action should focus on preventing a continuation/repetition of the behaviour by responding at both the individual and organisational level, and managing and repairing as far as possible, the future work relationships. The complainant must also be protected against any victimisation for having made the bullying complaint in the first place.

Options for managing the individual (respondent) may include, depending on the circumstances:

- Gaining commitment that the behaviour is to cease – this is a non-negotiable first point in any management response
- Requiring an acknowledgement from the respondent to the complainant of the inappropriateness of the behaviour, the impact of the behaviour, and offering an apology
- Counselling the respondent about their behaviour
- Reinforcing the requirement to abide by the NSW Health Code of Conduct, and existing policies aimed at preventing bullying
- Providing training in what constitutes bullying, appropriate communications skills, managing workplace relationships etc
- Considering disciplinary action if warranted.

Depending on the particulars of the findings, it may be useful to consider the following organisational options:

- Review existing anti-bullying policies and procedures – are they appropriate, have they been actively communicated, implemented and supported, are reporting requirements unnecessarily onerous, is it seen as a credible policy in the eyes of staff etc

- Address any particular working environment, work practices and/or supervisory arrangements that may have contributed to the bullying occurring
- Ensure that staff understand what constitutes bullying, that bullying will not be tolerated and the relationship between grievance resolution and bullying prevention policies eg review related training to ensure it is appropriate
- Review existing conflict resolution and mediation mechanisms.

4.4.3 Disciplinary action

If ensuing disciplinary action is considered appropriate, it should be managed quite separately from the investigation process and should not generally commence until the investigation process is complete.

4.4.4 Ongoing work arrangements

Regardless of the outcome, consideration may need to be given to ongoing work arrangements, particularly where changes were made during the investigation. While the aim should be to re-establish normal working arrangements, this will depend on the circumstances, and any perceived ongoing risk to the welfare of either party.

4.5 Documentation

All documents relating to the management of the complaint, regardless of the outcome, should be kept on a confidential file. A separate, confidential file should be kept for each complaint.

The findings from the investigation will dictate what, if any, information regarding the matter is to be placed on the respondent's personnel file. For NSW Health Service staff see disciplinary issues management process, and for Departmental staff, the relevant provisions of the Personnel Handbook.

4.6 Review and evaluation

Employers should have mechanisms in place to evaluate whether their systems for managing bullying complaints are effective and timely.

A simple summary sheet for each formal complaint should be maintained that includes the following information:

- Date complaint received
- Date of initial assessment and any outcomes
- Date of risk assessment and any outcomes
- Employment group of complainant and respondent (if different)
- Type of bullying eg verbal abuse, work isolation, harassment etc
- Number of times particular complaint made (is this the first time)
- Work location (to the level that those involved cannot be identified)
- Date investigation commenced
- Date investigation concluded
- Findings (bullying did, or did not occur)
- Summary of actions taken (at both organisational and individual level)
- Timeframes
- Whether the review process was activated
- Outcomes from the review.

Aggregated reports developed from the summaries will help identify any sections of the workplace with a high frequency of bullying complaints, as well as areas with unacceptable delays in responding, gaps in the management process eg failure to conduct the initial assessment and/or the risk assessment, high use of the review process, regular need for further action following the review etc. This process in turn allows the organisation to take appropriate remedial action eg further training for those managing or investigating complaints, improvements to the prevention systems in areas with a high frequency of complaints etc.

APPENDIX ONE

Bullying Risk Identification and Assessment Checklist:

This checklist can be used at the public health organisation level, facility level or individual workplace level to help identify and assess the potential for bullying to be a workplace risk. It will also help identify potential risk control strategies that could be implemented to reduce the risk.

Workplace features:

- Is there a high level of temporary, casual or contract workers?*
- Is there a lack of staff consultation or involvement in key decision making?*
- Is there a high incidence of workplace complaints and grievances, or interpersonal conflict?*
- Is there a lot of industrial unrest?*
- Are there regular complaints of lack of support, intimidation etc from new staff, rotating graduates or students etc?*
- Is there a lot of workplace change going on?*
- Is the workplace designed so that individuals or groups work in isolation?*
- Is the workplace excessively noisy?*
- Are workplace facilities eg lighting, space, ventilation, rest areas etc adequate?*
- Is there inadequate separation between staff, the public and clients?*

The greater the number of 'Yes' responses, the greater the potential for bullying to be, or to become, a workplace issue.

Administrative policies and procedures:

- Is there a code of conduct?*
- Is there a mechanism for ensuring that everyone is aware of its requirements?*
- Is there a grievance resolution policy and reporting process?*
- Is it well understood by staff?*
- Are formal grievances responded to promptly?*
- Is there an anti-bullying policy and reporting process?*
- Is it well understood by staff?*
- Are complaints of bullying behaviour responded to promptly?*
- Are there mechanisms for addressing workplace conflict?*
- Are they regularly communicated to staff?*
- Are alternative disputes resolution strategies eg mediation, conciliation etc available to staff?*
- Are there clear processes for managing workplace issues that may result in disciplinary action?*
- Is there an employee assistance program (EAP) for staff?*
- Are all policies, procedures etc readily available to staff?*
- Can these policies be accessed confidentially?*
- Are workplace policies and protocols developed in consultation with key stakeholders and employment groups?*
- Are they written in plain English?*
- Are they supported by appropriate distribution strategies?*
- Are they routinely provided to new employees?*
- Are they promoted to ensure staff understand the related requirements?*
- Are they supported by training if necessary?*
- Are they actively implemented and enforced in the workplace?*

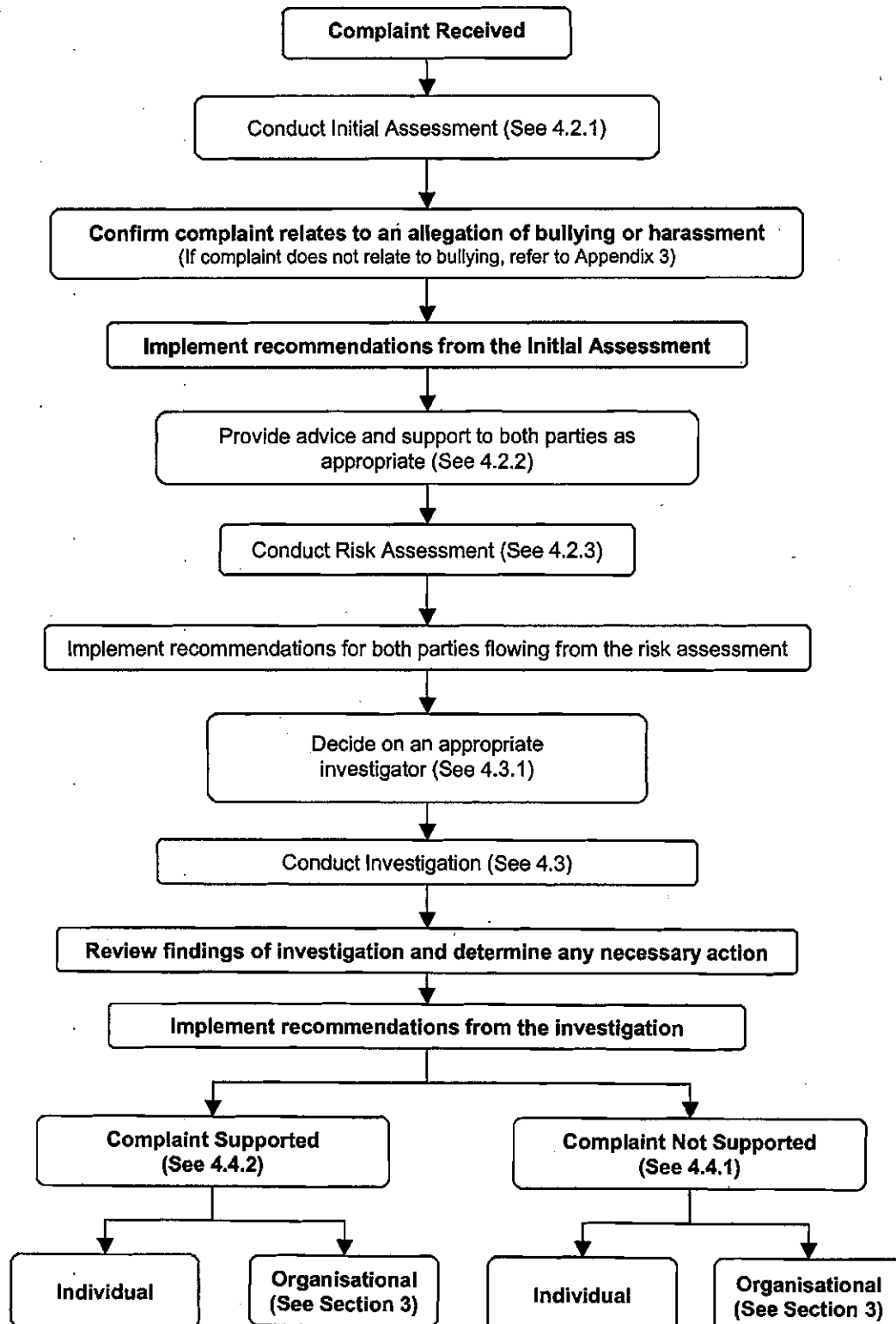
The greater the number of 'No' responses, the greater the potential for bullying to be, or to become, a workplace issue.

Information, instruction and training:

- Are staff aware of their roles and responsibilities in creating a harmonious, bullying free workplace?*
- Are staff aware that bullying will not be tolerated in the workplace?*
- Do all staff know how to raise a workplace grievance?*
- Do managers know how to respond to a workplace grievance?*
- Do all staff know how to make a bullying complaint?*
- Do managers know how to respond to bullying complaints?*
- Are staff provided with training in conflict resolution where necessary?*

The greater the number of 'No' responses, the greater the potential for bullying to be, or to become, a workplace issue.

Managing a Bullying Complaint



APPENDIX THREE

NSW Health Complaints/Issues Management Policies and Guidelines

When conducting an initial assessment of a complaint, it is important to ensure that the appropriate policy pathway/s are identified in order to manage the issue. Depending on the nature and complexity of the matters raised, more than one policy may be relevant, and different pathways may be followed for different aspects of the matters raised.

Nature of Issue/Complaint	Guiding NSW Health Policy Directives or Guidelines
<i>Does the complaint primarily consist of a workplace matter raised by an employee that is causing them concern or distress eg interpersonal conflict, the way work is allocated or managed, a perceived unfairness in the workplace?</i>	<u>PD2005 584 Effective Workplace Grievance Resolution: Policy and Better Practice for the Department of Health and Public Health Organisations</u>
<i>Does the complaint primarily relate to bullying, harassment, threatening or discriminatory behaviour?</i>	<u>PD2005 223 Joint Management and Employee Association Statement on Bullying, Harassment and Discrimination (Public Health System Employees)</u> <u>PD 2005 250 Joint Management, PSA and Nursing Association Statement on Bullying, Harassment and Discrimination (Employees of Department of Health)</u>
<i>Does the complaint primarily relate to behaviour or activity that, if sustained, is likely to result in disciplinary procedures?</i>	<u>PD2005 225 A Framework for Managing the Disciplinary Process in NSW Health</u>
<i>Does the complaint primarily relate to a work performance issue?</i>	<u>PD2005 180 Managing for Performance – A Better Practice Approach.</u>
<i>Does the complaint primarily relate to the clinical behaviour or performance of a clinician or public health organisation?</i>	<u>GL2006 002 Guideline on the Management of a Complaint or Concern about a Clinician</u>
	<u>PD 2006 007 Model Policy on the Management of a Complaint or Concern About a Clinician.</u>
<i>Does the complaint primarily relate to matters that may be criminal, or may constitute corrupt conduct, maladministration or substantial waste?</i>	<u>PD2005 173 Reporting Possible Corrupt Conduct to the Independent Commission Against Corruption;</u> <u>PD2005 109 Procedures for Recruitment and Employment of Staff and Other Persons – Vetting and Management of Allegations of Improper Conduct;</u> <u>PD2005 315 Zero Tolerance Response to Violence;</u> <u>PD2005 135 Policy and Guidelines for the Development of Protected Disclosures Procedures in Health Services.</u>
<i>Has the complaint been lodged as a protected disclosure, as defined in the Protected Disclosures Act 1994?</i>	<u>PD2005 135 as above.</u>
<i>Does the complaint primarily relate to allegations of sexual, physical or emotional abuse of a patient or client by an employee?</i>	<u>PD2005 109 as above.</u> <u>PD2005 299 Protecting Children and Young People.</u>
<i>Does the complaint primarily relate to allegations of sexual, physical or emotional abuse of a child by an employee, or others?</i>	<u>PD2005 109 as above.</u>
<i>Does the complaint primarily relate to a serious breach of the Code of Conduct?</i>	<u>PD2005 626 NSW Health Code of Conduct.</u>

Policy Directive

NSW HEALTH

Department of Health, NSW
73 Miller Street North Sydney NSW 2060
Locked Mail Bag 961 North Sydney NSW 2059
Telephone (02) 9391 9000 Fax (02) 9391 9101
<http://www.health.nsw.gov.au/policies/>

Bullying, Harassment and Discrimination - Joint Management/Employee Association Policy Statement

Document Number PD2005_223

Publication date 27-Jan-2005

Functional Sub group Personnel/Workforce - Conduct and ethics

Summary States that bullying, harassment and discrimination are unacceptable and specifies responsibilities. Policy applies to Public Health Organisations and Ambulance Service.

Author Branch Employee Relations

Branch contact 9391 9357

Applies to Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations - Non Declared, NSW Ambulance Service

Distributed to Public Health System, Health Associations Unions, NSW Ambulance Service, NSW Department of Health

Review date 27-Jan-2010

File No. 00/2038

Previous reference 2001/109

Issue date 29-Nov-2001

Status Active

Director-General

This Policy Directive may be varied, withdrawn or replaced at any time. Compliance with this directive is **mandatory** for NSW Health and is a condition of subsidy for public health organisations.

CIRCULAR

File No	00/2038
Circular No	2001/109
Issued	29 November 2001
Contact	Ms Jutta Sund (02) 9391 9378 Employee Relations

**JOINT MANAGEMENT AND EMPLOYEE ASSOCIATION POLICY STATEMENT
ON BULLYING, HARASSMENT AND DISCRIMINATION**

This statement was issued as a policy in July 2001 and is now being issued as a circular. It applies to Area Health Services, Corrections Health Service, the Children's Hospital at Westmead and the Ambulance Service of NSW.

NSW Health is committed to providing a safe and equitable workplace for all its employees. As part of this commitment, workplace bullying, harassment and discrimination will not be tolerated under any circumstances.

The attached policy statement on bullying, harassment and discrimination has been signed by the Director-General of NSW Health and General Secretaries of health unions/associations. A separate statement is being developed between the Department of Health and the Public Service Association.

The statement should be reproduced locally with the signature of the Chief Executive Officer and the members of the Joint Consultative Committee, and distributed throughout the Health Service as effectively as possible.

Robert McGregor
Acting Director-General

Distributed in accordance with circular list(s):

A 108	B	C 99	D	E	73 Miller Street North Sydney NSW 2060
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In accordance with the provisions incorporated in the Accounts and Audit Determination, the Board of Directors, Chief Executive Officers and their equivalents, within a public health organisation, shall be held responsible for ensuring the observance of Departmental policy (including circulars and procedure manuals) as issued by the Minister and the Director-General of the Department of Health.

Joint Management and Employee Association Policy Statement

Bullying, harassment and discrimination

NSW Health is committed to providing safe and equitable working conditions for all employees. It seeks to eliminate bullying, harassment and discrimination from the workplace and ensure that employees are not subjected to treatment that is hostile and unprofessional.

NSW Health considers workplace bullying, harassment and discrimination unacceptable. It will not be tolerated under any circumstances. NSW Health takes seriously the duty of care obligations to staff, clients and the community that use health services.

Under the *NSW Occupational Health and Safety Act 2000* primary responsibility for achieving this duty of care rests with the Chief Executive Officers of Health Services. All employees are entitled to work in a safe and healthy workplace free from harassment and intimidation. No employee will mistreat another employee.

Health Service Codes of Conduct specifically prohibit harassment and discrimination. Any reports of workplace bullying, harassment or discrimination will be treated seriously and investigated promptly, confidentially and impartially.

Appropriate action will be taken against an employee or manager who behaves in a bullying, harassing or discriminatory manner towards another person. This may include disciplinary action and dismissal.

Bullying, harassment and discrimination includes a wide range of unwelcome and unsolicited behaviours that are largely defined by the offended person. Bullying, harassment and discrimination can be defined as the repeated less favourable treatment of a person in the workplace, which may be considered unreasonable and inappropriate workplace practice. It includes behaviour that intimidates, offends, degrades or humiliates an employee, possibly in front of others and can involve employees/managers, contractors, visitors or patients.

These behaviours include:

- belittling opinions or unconstructive criticism
- isolating an employee from normal work
- interactions, training and development, or career opportunities
- undermining work performance, deliberately withholding work-related information or resources overwork, unnecessary pressure or impossible deadlines
- unexplained job changes, meaningless tasks, underwork, tasks beyond a person's skills and failure to give credit where due
- teasing or regularly being made the brunt of pranks or practical jokes
- displaying written or pictorial material or sending emails which degrades or offends
- unreasonable administrative sanctions
- yelling, screaming, abuse, offensive language, insults, inappropriate comments about a person's appearance, life style, slandering an employee or his/her family
- sexual or other unwanted advances.

Employees subjected to these behaviours may suffer distress, and this may substantially interfere with an individual's work performance and career prospects. These detrimental effects on productivity are seldom limited to one person and are often spread across the workplace. Such

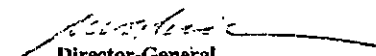
behaviours lessen the integrity of the services NSW Health provides and our image within the community as an employer.

Managers are responsible for fostering a work environment, which is free from bullying, harassment and discrimination and they must not themselves perpetrate bullying, harassment or discrimination.

Should unacceptable behaviour occur, employees have a right to complain and are encouraged to do so. Employees can access advice and support by contacting the Health Service Human Resources Unit or their employee association.

Potential complainants and witnesses should also be assured that they are entitled to protection from any victimisation taken against them as a result of their complaint. Victimisation or reprisal by any employees involved in the case will not be tolerated and will result in appropriate action.

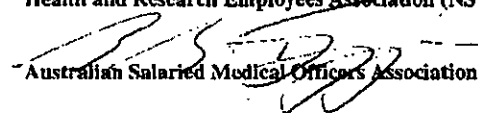
Health Services are to ensure that bullying, harassment and discrimination has no place in NSW Health. All employees have an important role to play, and are encouraged to contribute to the achievement of a professional and productive workplace culture by carefully considering their own behaviour and its possible effects on others.


Director-General

Labor Council of NSW


NSW Nurses' Association


Health and Research Employees Association (NSW)


Australian Salaried Medical Officers Association

NSW HEALTH
Better Health Good Health Care

Health
Working as a Team

GPSC2: AMBULANCE SERVICE INQUIRY – ADDITIONAL QUESTIONS

Question 5.

What mechanisms are in place to assist ambulance officers to handle the stress of their jobs? In particular, what sort of counselling and debriefing is available, and what is *actively offered* to ambulance officers after traumatic events?

ANSWER

It should be recognised that people who experience a traumatic or stressful incident may have a variety of reactions. They handle trauma and stress in different ways and in their own time. Groups of people who have been affected by an incident may come together naturally in the aftermath and talk through or discuss their experience. This is often perceived as helpful and people may consider it an opportunity to "debrief" about their experience.

The NSW Health policy, *Effective Incident Response Framework for Prevention and Management in the Health Workplace*, January 2005, PD 2005_234 (copy attached) directs that critical incident debriefing is no longer recommended as a structured intervention post-incident.

As outlined in the *NSW Health Submission to the Legislative Council, General Purpose Standing Committee No 2, The Management and Operations of the Ambulance Service of NSW* (pages 30 and 31), the Ambulance Service provides an integrated health and welfare support system to its staff through the following services:

- Employee Assistance Program;
- Peer Support Network; and
- Chaplaincy Team.

The Employee Assistance Program is delivered through an external counselling service provider across the State. The Employee Assistance Program offers the following services to employees:

Four free professional and confidential face to face counselling sessions are available to staff and their families for each issue. The counsellor can assess and recommend to the Ambulance Service of NSW Workforce Unit the provision of additional counselling should it be required.

In addition, an un-restricted 24 hour, 7 day a week advisory and telephone counselling service is available to all Ambulance Service staff. This telephone service can be particularly useful to supervisors and managers who seek assistance regarding staff issues.

Further, the Program provides traumatic incident support which includes provision for a counsellor to attend the workplace to engage with employees. As local supervisors and managers are often the first to hear about a trauma incident, it is normal practice that they activate staff support for trauma incidents and this includes activation of the Program or referrals of staff to the Program.

The Program's services are voluntary. Information about the Program is available to all staff through the Ambulance Service intranet and 1300 numbers are published on the Human Resources intranet page.

Additionally, there are approximately 110 Peer Support Officers across the State and 20 Chaplains.

Peer Support Officers are available on request to diffuse the initial stress of an incident by discussing the employee's reactions and needs. They may arrange Employee Assistance Program support or referral to an appropriate source of support if considered necessary, or requested by the individual.

Chaplains provide individual and confidential spiritual counselling and pastoral care to employees, patients, and their families including when following a traumatic incident. Chaplains are also available to bystanders who are witnesses to such incidents.

Deciding whether to and when to refer people to other sources of professional assistance such as Employee Assistance Program services or specialist counselling requires careful consideration. Sensitivity in referral is vital and it is recognised that managers and supervisors face a difficult decision when strongly recommending that a staff member seek further assistance, especially if the staff member is resistant to such suggestions.

In response to the 2008 Review (*NSW Health Submission to the Legislative Council, General Purpose Standing Committee No 2, The Management and Operations of the Ambulance Service of NSW - p. 28*) the Ambulance Service will continue to promote the welfare of staff and evaluate its staff support services. It will take any action on the findings of the evaluation by mid-2009. This review will be conducted by the Ambulance Service of NSW Workforce Unit, in consultation with the NSW Police Force and NSW Fire Brigades who have similar schemes. Action is already underway to provide refresher training for Peer Support Officers.

Incident - Effective Incident Response Framework for Prevention & Management in the Health Workplace

Document Number PD2005_234

Publication date 27-Jan-2005

Functional Sub group Personnel/Workforce - Occupational Health & Safety
Clinical/ Patient Services - Incident management

Summary Policy to assist health care facilities to minimise the potential for incidents to occur and to develop a planned response to such incidents.

Author Branch Employee Relations

Branch contact 9391 9357

Applies to Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations, NSW Ambulance Service, NSW Dept of Health

Distributed to Public Health System, NSW Ambulance Service, NSW Department of Health

Review date 27-Jan-2010

File No. 01/6248

Previous reference 2002/19

Issue date 07-Feb-2002

Status Active

Director-General

Compliance with this policy directive is mandatory.

CIRCULAR

File No	01/6248
Circular No	2002/19
Issued	7 February 2002
Contact	Ms Jennifer Thomas (02) 9391 9850 Employee Relations Policy Group

EFFECTIVE INCIDENT RESPONSE:

A Framework For Prevention and Management in the Health Workplace

This circular rescinds circular number 97/97.

Effective Incidence Response: A Framework for Prevention and Management in the Health Workplace has been developed to assist Health Services to minimise the potential for incidents to occur and to develop a planned response to incidents if and when they occur. Such incidents would have the potential to result in, for example, death, injury, ill health, damage or other loss and would impact upon either an individual or a group of people. The circular focuses on the impact of incidents on employees and provides a framework to assist employees to deal with their experience.

Every health care facility is to develop or review current arrangements to ensure that they have a systematic and coordinated Incident Management Program. The Program is to be based on risk management principles and have protocols in place to reduce trauma to employees and others who experience a distressing incident. It will also ensure the timely reporting, investigation and post-incident action of incidents.

This policy applies to public health organisations as defined under Section 7 of the Health Services Act 1997 (including Area Health Services), Corrections Health Service, the Children's Hospital at Westmead and the NSW Ambulance Service. Employees include permanent, casual, agency staff and contractors.

This circular should be brought to the attention of executive and management staff, staff counsellors, human resource managers, risk managers and occupational health safety and rehabilitation coordinators within the health facility.

Robert McGregor
Acting Director-General

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In accordance with the provisions incorporated in the Accounts and Audit Determination, the Board of Directors, Chief Executive Officers and their equivalents, within a public health organisation, shall be held responsible for ensuring the observance of Departmental policy (including circulars and procedure manuals) as issued by the Minister and the Director-General of the Department of Health.

EFFECTIVE INCIDENT RESPONSE:

**A Framework for Prevention and
Management in the Health Workplace**

NSW HEALTH

JANUARY 2002

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1.0 ABOUT THIS DOCUMENT

Responsibilities	This document was prepared jointly by the Centre for Mental Health and the Employee Relations Division, Department of Health.
Version	January 2002
Updates and Feedback	This document will be updated to reflect consultation and changes in legislation and policy. Feedback is sought, and should be addressed to the Director Employee Relations.
Rescinds	This circular rescinds Circular 97/97 <i>Critical Incident Manual Policy and Guidelines</i> .
Authority	It is a condition of subsidy under the Accounts and Audit Determination that Health Services comply with all Department of Health Circulars and Policies.
Related NSW Health Policies	<ul style="list-style-type: none">• Workplace Health and Safety – A Better Practice Guide, Circular 2001/22• Incidents Reportable to the Department, Circular 97/58 (under review)• Policy Framework and Better Practice Guidelines for the Development of Employee Assistance Programs (EAPS), Circular 2000/42• Policy and Guidelines for the Management of Occupational Rehabilitation in NSW Public Health Care Facilities, Circular 97/89 (under review)
Additional References/ Resources	<ul style="list-style-type: none">• NSW Health Occupational Health and Safety and Rehabilitation Guide (under review)• NSW Health Disaster Mental Health Response Handbook, 2000• NSW Health Safety and Security Manual, 1998• NSW State Disaster Plan – DISPLAN• NSW HEALTH PLAN• Standing Operating Procedures for Mental Health Services, NSW Health, 2000• Taking Safety Seriously – Improving Workplace Safety Management in the NSW Public Sector 1999.• DRAFT Occupational Stress, Hazard Identification and Risk Management Strategy, Public Sector Management Office, Premier's Department, NSW (2000)

2.0 INTRODUCTION

2.1 Introduction

NSW Health is committed to providing a safe environment for staff, clients and the public. However, unexpected and unusual incidents do happen in workplaces. Effective planning is aimed at minimising risks to staff and others and will assist staff to respond appropriately and in a timely and coordinated manner to such incidents.

This document expands on the principles of incident management as described in the *Workplace Health and Safety – A Better Practice Guide* (Circular No 2001/22). Its focus is on the prevention and management of incidents where there is significant impact on the functioning of the Health Service and/or persons involved in the incident.

It replaces Circular 97/97 *Critical Incident Manual Policy and Guidelines* as current research no longer supports the provision of Critical Incident Debriefing as a required intervention.

2.2 Purpose and Scope

The purpose of this document is to assist health care facilities to minimise the potential for incidents to occur and to develop a planned response to such incidents if and when they occur.

This document provides guidelines for planning incident prevention and management protocols or procedures, and essential components for incident management.

The policy focuses on the impact of incidents on staff and provides a framework to assist staff to deal with their experience. All relevant requirements for a culturally sensitive response, gender equity and occupational health and safety should be encompassed.

2.3 Legislative Responsibilities

Employers under the *NSW Occupational Health and Safety Act 2000* have a duty of care for the health and safety of all people in the workplace. This requires employers to:

- Ensure that premises controlled by the employer where people work are safe and without risk to health.
- Ensure that systems of work and the working environment are safe and without risk to health.
- Ensure that any plant or substance provided for use by the employees at work is safe and without risk to health when properly used.
- Provide necessary information, instruction, training and supervision for the health and safety of their employees.

- Provide adequate facilities for the welfare of the employees at work.
- Ensure that people (other than employees – eg volunteers and contractors) are not exposed to risks to their health and safety in the workplace.

Employees are required to cooperate with the employer in their efforts to comply with health and safety requirements. Employee cooperation ensures their own health and safety and the health and safety of others in the workplace.

2.4 Definitions

Incident

Any unplanned event resulting in, or with the potential to result in, death, injury, ill health, damage or other loss.

Within the Health Service an incident would impact either an individual or a group of people but would not overwhelm the facility's ability to cope. Should that situation occur, it would trigger the NSW State Disaster Plan – DISPLAN. The following types of incident would all fall within the framework of this document, requiring prevention and management strategies:

- Any violent death.
- Suicides or serious attempted suicides by a patient or staff member.
- Criminal activity in or related to the workplace.
- Fire, bomb or other threatening activities in the facility.
- Violence and threats of assault on staff or other.
- Unexplained complications or death of patients.
- Patients dead on arrival to hospital, particularly children.
- Sudden deaths of patients or staff members.
- Unusual or serious exposure to blood and or body fluid.
- Critical equipment breakdown.
- Serious threats affecting the facility's operation.
- Deaths in custody.
- Incident involving assaults on, and or abuse of, patients including children and other vulnerable patients.
- Safety incidents and or accidents.
- Any other incident likely to cause public concern.

Hazard

An object or situation that has a potential for causing harm in the form of human injury or ill health, damage to the environment or a combination of these.

Risk

The combination of frequency, or probability of an occurrence. Also the consequence of a specified hazardous event.

Risk Assessment

The overall process of establishing the extent of risk and deciding whether a risk is tolerable.

Risk Control

The part of risk management that involves implementing policies, standards and procedures to eliminate, avoid or minimise the risks facing an enterprise.

See also Appendix A for psychological terms

3.0 A RISK MANAGEMENT APPROACH TO INCIDENT MANAGEMENT

3.1 Policy

The workplace Health and Safety Model (Appendix B) illustrates how a systematic approach to incident prevention and incident management leads to a safer workplace.

It is the policy of NSW Health that every health care facility shall develop a systematic and coordinated Incident Management Program. The Program shall:

- Identify, establish and promote a range of measures which minimise or eliminate the occurrence of an incident.
- Allocate responsibilities of all parties.
- Identify the action to take should an incident occur, including provision of first aid and medical treatment for physical injuries.
- Have protocols in place to reduce the trauma to staff and others who experience a distressing incident.
- Ensure a timely investigation and reporting of the incident.
- Be evaluated regularly and amended as necessary, to ensure ongoing effectiveness.
- Consider the specific needs of community workers when responding to incidents.
- Be effectively communicated to all employees of the Area Health Service.

3.2 Planning Process

An incident management program should:

- Be developed in consultation with staff, unions, and other stakeholders, for example, through the OHS committee.
- Be consistent with legislative risk management principles and current NSW Health policies as listed in section one.
- Include measures to eliminate or reduce the potential for the occurrence of an incident through identifying, assessing and controlling risks and monitoring of control effectiveness.
- Ensure staff receive appropriate training in the procedures developed to manage incidents.

- Include consideration of activities, products or services of contractors and suppliers when developing the program.
- Be able to be integrated, where appropriate, with Internal Hospital Emergency procedures, NSW Health Plan and Displan for external incidents and the NSW Mental Health Disaster Training Manual.

3.3 The Incident Management Plan

The purpose of a plan is to establish a structure and a set of operational procedures and protocols that will ensure the policy objectives of the Health Service are achieved.

3.4 Aim of the Incident Management Plan

The aim of an incident management plan is to ensure that the response is initiated in a timely, organised and effective way, comprehensive investigation occurs, staff support is available and a review of the incident occurs. Training of staff is a key to ensuring the effective implementation of the plan.

The following values should underpin the development of an Incident Management Plan:

- Safety.
- Appropriate, timely and effective response.
- Respect & dignity.
- Empathy & recognition of the person's experience.
- Access to support and care as needed.
- Support for rapid and effective rehabilitation.

Health Service or facility emergency procedures should be utilised when developing an incident management plan. Emergency procedures will include emergency notification procedures (eg emergency numbers), response procedures, identify key staff involved in managing the incident.

The plan should also link with emergency notification procedures for community workers.

3.5 Consultation

Consultation is essential in the planning process. Not only is it a requirement of the Occupational Health and Safety legislation but it also ensures that the policy and procedures developed will be realistic and achievable in the workplace.

A planning committee is one mechanism that may be used to ensure consultation during the development of the incident management program. Membership may include senior management, risk manager, staff representatives, HR Manager, Security Manager, and other relevant staff as deemed necessary. OHS committees and OHS Representatives should also be involved in the planning process. Employee input should be sought and valued.

Consultation procedures should be developed, implemented, maintained and documented.

Health Unions and other stakeholders eg Police should be consulted as necessary.

3.6 Legal Issues

It is essential that during the development of an incident management program that all relevant legal requirements are taken into consideration. These may include:

- Internal requirements to meet relevant legislative responsibilities, including OHS, Sex Discrimination and Child Protection legislation.
- Professional ethics.
- Police involvement in criminal matters.
- WorkCover NSW involvement in investigations.
- Industrial issues.
- Victims' compensation issues.
- Public liability or other civil action.
- Workers' compensation and injury management.
- Public health and safety.

3.7 Role of Managers/ Supervisors

- Implement the facility's incident management program and procedures
- Ensure staff attend relevant training.
- Ensure a preventative and risk management approach
- Promote the health facility's incident management plan amongst staff.
- Promote the safety, security and wellbeing of staff, patients and the public within facilities of the Health Service.
- Ensure incidents are reported in accordance with the health facility protocols and legislative requirements.
- Ensure affected staff are supported and receive any necessary medical treatment.
- Ensure that the consequences of the incident's impact on service provision within their area are identified, assessed and managed effectively and efficiently.
- Attend the appropriate training so that they can recognise in their staff, the psychological reactions and symptoms that may follow an incident.
- Ensure that counselling and or other professional assistance is arranged and accessible to staff as the need arises.
- Participate in post-incident review/investigation and initiate any recommended preventative action.

Legal Support

Where there are legal proceedings related to an incident it is important to coordinate legal and practical support for employees who may be required to give evidence. This may involve:

- Educating staff on what to expect (eg the format of various court procedures).
- Making provision for legal representation and advice (where appropriate).

3.8 Role of Staff

- Notify their supervisor of the incident.
- Provide assistance that is within their capacity and training.
- Await further direction during the incident.
- Assist with any formal investigation and reporting of the incident.
- Assist with implementing any preventative measures identified by a post-incident review or investigation.
- Report any personal injury sustained as a result of an incident.
- Attend training as determined by their manager.

3.9 Clearly defined Procedures

The procedures developed should be simple and easy to understand. The use of checklists or flowcharts may assist in ensuring all the activities are carried out. Procedures should include:

- Roles, responsibility and authority
- Communication (internal and external)
- Training
- Consultation
- Planning

3.10 Education and Training

An important element in planning the incident management program is the preparation of the staff to deal with an incident. Education and training of all staff is essential to this process, including casuals and contractors, for example, Visiting Medical Officers.

This training is in addition to any OHS preventative training as discussed in section 4.4.

The incident management training should be aimed at increasing the awareness of what staff can do to manage the incidents. The content of the training should include the following:

- Detailed discussion on the definition of an incident.
- Detailed discussions of the procedures to be followed in the event of an incident.
- Legal issues which may apply to some incidents and the legal responsibility to report certain incidents to external agencies eg Police, Department of Community Services, Department of Health, WorkCover NSW.
- An awareness of what a person may experience during and after an incident (eg shock, anger, anxiety, grief and numbness).
- The range of support services available for staff following an incident.

- Access to NSW Health Circulars and legislation, which guide the response to, and reporting of, incidents.

Training should be provided at orientation and when being inducted into a facility or when transferring to an unfamiliar section of the facility; as plans are reviewed and changed; as a regular update; at times when there is an increased risk of incidents.

Staff should also receive education and training in conflict management and incident management. There should be both initial training as well as ongoing training and the training should provide the opportunity to practice duress response procedures.

Advanced training should be given to response staff (eg Senior Managers, After Hours Managers, medical staff, security staff, clerical staff on switch). More frequent training may be required for departments with greater risk of incidents eg Emergency Departments, Mental Health units, Drug and Alcohol units and other relevant settings.

3.11 Communication Devices

Communication devices may need to be installed to enable signalling for assistance and an early incident response. During the planning phase it will be necessary to determine the types of communication devices that may need to be installed. Such items as portable two-way radios, mobile telephones and/or duress alarms may be made available to staff.

The situations in which these devices are provided would be determined by a risk assessment and determined in consultation with staff. The community environment should be taken into consideration when assessing communication devices (eg two-way radios, mobile duress alarms and telephone satellite services).

4.0 INCIDENT PREVENTION PROGRAM

- 4.1 Incident Prevention Program** To prevent or minimise incidents threatening safety, there needs to be a systematic approach to hazard identification, risk assessment, risk elimination or risk control and evaluation.
- 4.2 Hazard Identification and Risk Assessment**
- Hazard identification involves establishing the nature and range of incidents to which various employee groups within a Health Service may be exposed. Community workers and people working in isolation should be included in this process. An analysis of incident and injury records will identify those circumstances where staff and others may be most at risk. Regular workplace inspections by managers and safety committee members may also determine by observation hazards that may exist. All employees (no matter what their position) should be encouraged to speak out about situations they feel are a risk. Senior managers are responsible for acting on these concerns to improve the safety of the environment.
- Risk assessment involves the analysis of the potential outcomes associated with a hazard (anything with the potential to harm life, health or property). Following risk assessment a priority list can be developed to address hazards.
- Risk assessment should include those risks associated with human violence or aggression, or factors in the environment which may decrease safety eg small crowded spaces, no easy exit, and working in isolation.
- 4.3 Control Strategies** Control strategies can be many and varied. They are grouped into the following hierarchy of controls:
- Eliminate the hazard** wherever possible.
 - Design out the hazard**- Try to ensure that the hazards are "designed out", eg when undergoing building refurbishments, and when systems of work are being planned.
 - Isolate the hazard** from the person put at risk.
 - Substitute the hazard** with a hazard that possesses a lower risk of harm.
 - Introduce engineering controls** –modifications to the work environment or equipment which minimises the risk of injury, Examples are:- locks, equipment guarding, automated chemical mixing devices, electronic hoists and security screens

Use administrative controls to minimise the risk – policies and procedures, staff training, routine maintenance of equipment and safe work practices will assist in controlling hazards.

Provide personal protective equipment – provide and maintain appropriate personal protective equipment, eg appropriate duress alarms, two way radios. Ensure that staff receive training in their use.

If one of these measures is not enough to minimise the risk to the lowest possible level a combination is required.

4.4 Consultation

Employees should be consulted throughout the risk management process of identifying, assessing and controlling hazards.

4.5 Specific Hazard Management Relevant to Incident Prevention

A wide variety of hazards exist in any Health System. NSW Health and individual Health Services have developed a range of policies and guidelines to minimise the occurrence of incidents.

These include:

- Safety and Security policies
- Hazardous Substances policies
- Fire and emergency policies

Evaluation of specific hazard management programs and controls strategies should occur on a regular basis to determine appropriateness and effectiveness.

The Safety and Security Manual Minimum Standards for Health Care Facilities 1998 (currently under review) highlights the types of security risks which can be found in health care facilities (eg assault), and procedures and personal protective equipment which may be adopted to prevent an incident. The needs of community workers are addressed in a separate section of this document. NSW Health requires that an internal review of security be undertaken every 12 months. The NSW Health OHS Audit Profile requires that an OHS profile be undertaken at least every two years. Any hazards identified must be addressed.

4.6 Education and Training

Education and training is a fundamental component of prevention strategies. Employees, supervisors and managers require information on how to apply a risk management model to their work environment and estimate the level of risk associated with various work activities as part of a cycle of risk management.

Section 3.10 also refers to the need for training staff in the incident management process.

5.0 THE INCIDENT MANAGEMENT PLAN

5.1 Components of the Incident Management Plan

An incident management plan should include:

1. Early response and management of the incident.
2. Follow up response, investigation and review.

5.2 Early Response

In order to ensure an early response to an incident it is essential to provide guidelines to staff on how to notify the occurrence of an incident. This may simply involve contacting the switch or may involve the activation of a duress system.

Clear communication procedures should be implemented so that the appropriate people are contacted and respond, including immediate contact to the senior manager on duty at the time. The telephone switch operator may often be a key person in relating information regarding the incident.

Duress systems should be linked to multiple people.

5.3 Initiate Strategies to Control the Incident

The Senior Manager on duty at the time must be contacted and is responsible for coordinating the emergency response and additional resources, and establishing normal operations following the incident.

In responding to the incident some or all of the following actions may be undertaken. It should be noted that much of the activity is concurrent; which emphasises the need for effective communication flow, clear and unequivocal allocation of roles, responsibilities and authority and an effective centralised coordination unit or process.

- Assess the incident to determine its magnitude, severity, type, the numbers of people involved and the nature of any physical trauma to patients, staff and others, as well as damage to the Health facility.
- Safety as a priority. It should be a first priority to ensure safety of all involved wherever there continues to be a threat. It is also a first rule that those responding should not place themselves at risk of becoming further casualties.
- Emergency response. The response may include resuscitation, first aid, security measures, containment of aggression or external services eg police, fire or ambulance.
- Effective Communication between the senior manager responsible for managing incident and all personnel involved in the incident (including external support services)

5.4 Co-ordinate Emergency Services

5.5 Re-establish Normal Operations

When the incident is concluded, staff should be provided with clear guidelines regarding support services and the option to return to duty. Operational debriefing(s) should be set up and coordinated.

Staff returning to duty should be provided with clear instruction as to the priority tasks to be achieved. If the incident has taken some time it is unrealistic to expect the employees to try to "catch up" on hours of work.

It may be necessary to organise additional staff to come to the department to assist in re-establishing the normal operations.

5.6 Immediate Support for People Involved

- Obtain the names and contact numbers of all those involved in the incident to enable follow up. This includes staff, visitors and members of the community.
- Provide first aid and follow up medical attention as required for persons injured in the incident. Notify the rehabilitation coordinator of staff injured in the incident so that prompt follow up can occur.
- Provide prompt support services to any people involved in the incident. These early services may include:
 - Comfort and support for affected or distressed persons.
 - Responding to immediate physical needs eg fluids.
 - Making phone calls to assist with personal needs (eg contacting family, organising childcare pick up).
 - Linking the person/s to ongoing support (see section 6) with explanation and provision of follow up procedures.

As part of effective management it is important to provide appropriate support and acknowledgment of staff on an ongoing basis – both verbally and by realistic, practical assistance as described above. This support should take into consideration culturally specific issues and adapted for individuals from Non English Speaking Backgrounds.

5.7 Follow up Response

After the initial response to the incident and when the department is functioning again there is a range of activities to ensure the Health Service continues to manage the outcomes of the incident. These activities follow:

5.8 Reporting the Incident

Incident Report Protocols are currently under review and this section may be upgraded at a later time.

All incidents must be reported and recorded eg using a hospital incident form, incident database or a hazard log if appropriate. Incidents may need to be reported to the Executive of the Health Service. These communication protocols should be clearly documented.

Many incidents are likely to be Reportable Incidents to the Department of Health (Circular 97/58) eg incidents likely to be the subject of media interest. The Circular outlines the types of reportable incidents that require a report to the Department and the procedures for reporting.

In addition, incidents may need to be reported to external agencies such as NSW WorkCover, Police, Community Services and the Treasury Managed Fund for legal reasons. Incident reports should be in the approved form eg in accordance with the requirements of the OHS and Workers Compensation Legislation.

Reporting guidelines should be documented to assist managers to determine when an incident requires a written report for an external agency.

All reports relating to incidents should be kept in accordance with legislative and Health Service guidelines.

All reports should be treated as confidential documents and only be made available to those with a need to know. Summaries of the report, with the identity of participants suppressed, may be made available more widely in the interests of avoiding rumour and misinformation.

5.9 Media Considerations

There are special considerations for handling incidents that may attract, or have attracted, media attention. A carefully coordinated media response will minimise the risk of distorted facts and sensationalism in the media, and may help in some instances by quickly providing essential information to a large number of people.

The best media results occur when a media response is carefully considered, prepared and issued by someone experienced in dealing with the media. It is essential that in the event of an incident which is likely to attract media interest the designated Media Liaison Officer for the facility or Area Health Service is contacted as early as possible.

Media responses must be made in line with Health Services media release policies and the Department of Health's Media Unit guidelines.

It is essential that employees do not provide comment to the media without authorisation by the Health Service Manager/General Manager/CEO and Media Liaison Officer. If a journalist contacts a staff member for comment about an incident, without having gone through the Media Liaison Officer, the staff member is not to respond.

5.10 Staff - Follow Up

After the incident is finished it is important to have a plan to follow up all staff involved in the incident. The aim of this follow up is to identify any employees who may require further support services or time away from the particular department. Section 6 provides detail on managing staff reactions.

Staff should be supported by their immediate manager in returning to their normal work after the incident. Support for staff in returning to work is critical to their ongoing well being.

All staff involved, even when they have declined immediate support or other assistance, must be contacted around 2 weeks after the incident when indicators of ongoing risk or need may surface. Staff can then be linked to effective care systems. Further follow-up of staff that have not indicated a need to be linked to care systems is also advisable at around 4 weeks after the incident.

Other people involved in an incident may also need to be contacted to ensure support is provided as necessary.

Occasionally an employee may require a period of time away from the particular work area. A range of early staged rehabilitation options should be available to staff, for example, a short term transfer out of the particular location. The rehabilitation should be coordinated by the rehabilitation coordinator and linked with ongoing support services.

5.11 Investigation

The best way to stop an incident from occurring again is to objectively investigate why it happened and determine if it was preventable. Organisational commitment to change the problem is also required.

It is important that the tone and approach in the investigation is a supportive one that acknowledges the experience of the staff in the "front line" of the incident. Harsh or judgemental attitudes, however unintended, in investigations can cause additional levels of distress for staff involved.

Investigation of aggressive incidents should aim to determine the underlying cause(s) of the aggression.

5.11.1 Investigating the root cause/s

Investigating the incident to determine the root cause/s or interplay of factors that contributed to the incident is an integral part of the OHS process. This assists in maintaining and improving OHS programs and procedures.

Incident investigation does not seek to apportion blame but to identify systems breakdown and control measures that will prevent similar or more serious incidents from occurring. A system focus should be maintained at all times.

Managers and supervisors should undertake the investigation. However, in complex situations OHS personnel should be involved. It is important that people involved in the systems under investigation are included in the process.

All incidents should be investigated, although the degree of investigation will vary depending on the risk involved and the complexity of the problem. The investigation should be undertaken promptly.

Once the causes have been identified the potential or risk of the incident being repeated will need to be determined.

Establish the facts:

The six questions What?, Who?, Where?, When?, How? and Why? will assist to establish the facts or define the problem. There will often be an interplay of causes, not one cause.

Information should be collected via, for example, accident report forms, a site inspection (including, for example, examining the environment, equipment and chemicals in use), interviewing witnesses and by gaining expert advice (ie from OHS or Risk Management personnel).

Witnesses and others should be interviewed at the scene if possible and as soon as possible after the incident – privately and informally.

Contributing factors should be considered, for example, work environment, equipment, work practices, supervision, staff skills, education and training.

Systems breakdowns that may contribute to an incident may include:

- Product failure (plant, equipment or substance)
- Safe systems of work not in place
- Non compliance with work procedures/safe systems of work
- Inadequate supervision of work systems
- Inadequate or poor compliance with maintenance program
- Inadequate job induction
- Workplace design deficiencies
- Unfamiliarity with work environment

- Lack of training in
 - OHS policy and programs
 - Equipment use
 - Work systems
 - Personal protective equipment use
- Lack of equipment or poorly chosen equipment

Continue to ask **why** until a root cause is identified.

At the end of the interview seek advice from the interviewee concerning what could be done to prevent similar events occurring in the future.

At the conclusion of the investigation, the following questions should have been answered:

- Are all the facts and details known regarding the cause(s), response and management of the incident?
- Who was or should have been involved in the response and management of the incident?
- Were systems already in place to minimise the occurrence of an incident?
- What were the identified system failures?
- What were the achievements/positive actions and outcomes?
- Were all policy/legislative requirements met concerning pre and post incident management?
- How could this or similar incidents be prevented?
- What are the recommendations for changes to policies, procedures, equipment, environment, staffing or competencies? Recommendations arising from the investigation should be clearly set out in terms of who is responsible for implementation, for what and by when.
- How and when will the implemented control measures be evaluated and monitored? (Controls should be developed to prevent a similar incident occurring -see control strategies at 4.3).

5.12 Operational Review/Debriefing

Operational Review is the process of analysing the effectiveness of the response, and management of the incident. It allows for improvement to be made to the incident management plan and procedures. It also assists in making meaning of what happened in terms of the 'facts', shared perceptions and so forth. Operational reviews would include:

- Review by the team of workers or the working group who have experienced the incident.
- Discussion of the incident as experienced over time and analysis of components of response.
- Clarification of successes and negative aspects of response.

At the conclusion of the review the following would be answered:

- What were the achievements and successes of response and have these been identified?
- Learning conclusions: what can be done better in future, what has been learnt.
- How could the management of this incident have been improved?
- Who needs to know about the recommendations of the review?
- Has everyone who needs to be notified about the outcomes of the incident been notified?

Recommendations arising from the review should be clearly set out in terms of who is responsible for implementation, for what and by when.

Some of the questions a reviewing committee might consider when gathering information are:

- What went wrong and what went right in responding to an incident?
- What gaps need to be attended to?

It is also important that the findings of reviews and operational debriefings are incorporated into a cycle of improvement: that achievements and learning can be identified along with other outcomes of the event.

This emphasises not only the concept of the organisation as a learning organisation, but also builds the memory of the organisation for quality provision in the future.

Some formal, even if brief report or summary of the incident should be available to assist closure and to indicate the active learning that has occurred. This is also to assist personal resolutions.

6.0 MANAGING STAFF REACTIONS

People who experience an incident may have a variety of reactions. They may be numb and shocked. They may feel cut off, unreal, as though this is happening to someone else. They may feel fearful and helpless. They may feel angry and vulnerable. If an incident is severe, for example life threatening, those involved may become highly aroused. These initial reactions usually settle rapidly. In the early days there may be a sense of preoccupation or flashbacks about what has happened or the person may feel cut off. Others may feel calm and in control.

For the vast majority of people these normal reactive processes settle over the early days and weeks and there are no adverse consequences. The interventions described below recognise and support these normal and appropriate adaptations. Some people at some times will be more vulnerable and their reaction to their experience may continue and interfere with their capacity to sleep and eat and with relationships. Specialised help is needed in these circumstances.

6.1 Providing Appropriate Staff Support

When planning to manage incidents and events it is important to recognise the resilience and personal strengths of individuals to recover after an incident. Individuals handle trauma and stress in different ways and in their own time. Therefore it is important to have a staged and appropriately timed approach to managing individual staff reactions to incidents and events in the workplace. (See also Appendix C: Staff Support Service Providers)

The Plan should identify support programs or professional assistance where appropriate, but in non-stigmatising ways. It should include immediate, short term and long term interventions tailored to individual need. The types of support which can be offered to staff following an incident are:

- Psychological First Aid/Immediate Social and Practical Help
- Employee Assistance Programs and Peer Support Programs
- Supportive Counselling
- Supportive Group Discussion
- Operational Debriefing
- Specialised Counselling
- Mental Health Care

6.2 Psychological First Aid/Immediate Social and Practical Help

Psychological first aid should be the initial intervention following an incident or stressful event and focuses on the establishment of safety, the provision of basic human needs and physical care ie comfort, support, safety and communication. The provision of practical help may ultimately be seen as more helpful and positive than the specific psychological care offered at this early stage. (see Appendix A for further information)

6.3 Employee Assistant Programs and Peer Support Programs

Health Services could consider when developing /implementing an Employee Assistance Program, the use of a Peer Support Program (see Circular 2000/42). Peer Support Programs should be based on thorough preparation and ongoing training.

Peer Support is the use of volunteers from a work group, trained in appropriate methods of assisting colleagues in their workplace. Particular staff members may be identified as Peer Support Persons. **This is not counselling or therapy.** After a severe incident, individual Peer Support Persons who have not been directly involved may be identified as a Special Support Person for a colleague who has been through an adverse experience. Such assistance is only implemented if agreed by the affected persons.

6.4 Supportive Counselling

Supportive counselling by a trained counsellor can be provided to anyone acutely distressed. This can be provided by relevant persons such as counsellors, chaplains and through the Health Services Employee Assistance Program which may involve either internal or external services.

Supportive counselling involves comforting and reassurance, practical advice, allowing the person to discuss their experience (only if they feel the need to do so), linking them to support networks, and identifying those at risk who may need follow-up and specialised services.

6.5 Supportive Group Discussion

Groups of people who have been affected by an incident may come together naturally in the aftermath and talk through or discuss their experience. This is often perceived as helpful and people may consider it an opportunity to "debrief" about their experience. Formal psychological debriefing is not however recommended. (US Consensus Guidelines 2001)

Debriefing in this or any other form should never be mandatory. There is no evidence that formal debriefing can prevent Post Traumatic Stress Disorder (PTSD) and it may increase the risk for some.

Critical incident debriefing is no longer recommended by NSW Health as a structured intervention post-incident. (US Consensus Conference 2001)

6.6 Operational Debriefing

Operational debriefing is a routine process for organisations following an incident and can provide an effective mechanism for Health Services to review the organisational response procedures and protocols. This is an active learning process with a feedback cycle for future response. (For further information see 5.12)

6.7 Specialised Counselling

Specialist Counselling is provided for people experiencing severe or prolonged distress or disturbance following an incident, or for those determined to be at significant risk of adverse outcomes and is provided after appropriate clinical assessment. A specialist clinical professional (usually mental health) provides this counselling and it may be linked to a range of other interventions, which are appropriately timed. The specialised counselling should ideally be provided by clinicians who have no working relationship with the distressed staff member. See appendix C.

6.8 Mental Health Care

Specialised Mental Health Care may also involve psychiatric treatment which may include counselling and possible medication for those who have developed psychiatric problems.

6.9 Referring Staff to Counselling

Deciding whether to and when to refer people to other sources of professional assistance (eg EAP services or specialist counselling) requires careful consideration. Sensitivity in referral is vital and it is recognised that managers and supervisors face a difficult decision when strongly recommending that a staff member seek further assistance. Especially if the staff member is resistant to such suggestions.

Supervisors and managers may need to monitor affected persons or staff members closely to determine whether any of the following signs and symptoms are present which would be indicative of the need for referral:

- Decreased work performance
- high level of sick leave by affected staff
- excessive concentration on work
- inappropriate anger
- neglect of health and/or personal appearance
- carelessness in safety measures (eg driving recklessly)
- high reactivity to related issues
- feeling unsafe in the workplace
- withdrawal

7.0 EVALUATION OF THE INCIDENT MANAGEMENT PROGRAM

7.1 Evaluation of the Incident Management Program

The program must remain current. The health facility will need to consider an appropriate document management system, which ensures that the program is current regarding legislation, professional and technical information related to the management of such incidents and Health Department Policies and Circulars.

For each preventative program put in place there should be a regular review and evaluation process. This continuous improvement process is essential to ensure effective preventative programs are in place.

7.2 Strategies for Evaluating your Program

Program review should include the OHS Committee, senior management at the facility, staff and topic experts, eg Mental Health experts if reviewing the effectiveness of relevant interventions. The following should be considered during the review.

If an incident occurs determine whether the whole process was managed well. What improvements can be made to the response plan?

Ensure that the program is integrated into management procedures eg planning and budgeting.

Seek advice from staff whether any improvements can be made and check whether they feel that the control strategies eg work procedures are working and if they perceive any problems.

Develop performance indicators which indicate the success of the program ie measure preventative strategies against performance indicators.

Evaluate and review your education and training program.

Evaluate the knowledge of the incident management program amongst staff given involvement in incidents may only occur rarely.

APPENDIX A: PSYCHOLOGICAL TERMS

Stress Reaction

Many people may show stress reactions after an incident. For the great majority however, reactions will be transient, a *normal response to an abnormal event*, and will be managed through people's use of existing coping strategies, support networks and material resources. This reactive process usually settles progressively in the first week to ten days.

Mild to moderate stress reactions in the immediate period after an incident are highly prevalent as those affected come to terms with the threat, real or perceived, imposed by the incident.

Although stress reactions may seem extreme and cause distress they generally do not become chronic problems. Typical responses may include:

- **emotional effects** such as shock, anger, irritability, helplessness and loss of control;
- **physical effects** such as fatigue, sleep disturbances, hyperarousal (eg hypervigilance), and somatic complaints (presenting psychological disorders with physical symptoms eg stomach aches);
- **cognitive effects** such as concentration and memory difficulties, worry and intrusive thoughts; and
- **interpersonal effects** such as social withdrawal and relationship difficulties.

In addition, positive reactions such as resilience, altruism (selfless actions), increased sense of personal worth and achievement may also be seen after an incident.

An event which may precipitate some of the stress reactions described above may have some of the following characteristics:

- sudden and unexpected
- violent and shocking
- unpredictable and uncontrollable
- threat to life or encounter with death
- inescapable horror
- exposure to acute or subtle threat to life and health (eg toxic or noxious exposure)
- feelings of powerlessness and helplessness
- feelings of being abandoned
- bereavement, loss or dislocation
- physical harm or injury
- feelings of being responsible in some way
- human malevolence
- high degree of damage

Psychological First Aid/Immediate Social and Practical Help

By far the most frequently studied risk factor is **severity of the exposure** (ie. extent of life threat, loss, and injury). The research literature clearly states that the greater the degree of perceived threat to life and the greater the sensory exposure, the more likely it is that stress reactions will be intense, disruptive to functioning, and may become prolonged, for instance lasting more than two weeks.

Psychological First Aid involves approaching and offering support to people involved in the incident, and focus on the establishment of safety, the provision of practical help in meeting basic human needs and physical care ie shelter, fluids, food, contact with loved ones. This is really part of a common sense human response.

The ABC of psychological first aid:

Arousal: this involves reducing very high arousal, comforting and consoling, protecting from further threat, and ensuring physical necessities.

These types of indicators relate to fear generated by the threat, or to distress over separation from loved ones and from usual sources of security. Thus it is diminished by protecting from further threat, reassurance and linking to loved ones and sources of security.

Behaviour: protecting those showing behavioural disturbances from harm that may result from these, linking them to systems of support and restoring a sense of being in control.

Disturbed behaviour may relate to fear, anger, shock, and distress about loved ones.

Cognition: thought and memory disturbances should be dealt with through general support, information provision and good orientation to specific reality-based tasks. If there are concerns that the person remains confused and out of touch he or she should be referred to a mental health professional for a formal assessment of their mental state. Mental state assessments should include potential organic factors such as head injury or toxic effects. Refer the person to ongoing systems of social support and clinical care if needed.

Supportive Counselling

Supportive Counselling is the provision of information and/emotional support by a trained counsellor in order to support a person through a crisis or period of distress, and to refer for further assessment and management if necessary.

It involves comforting and reassurance, practical advice, allowing the person to discuss their experience (only if they feel the need to do so), linking them to support networks, and identifying those at risk who may need follow-up and specialised services.

Specialist Counselling

Specialised Counselling may involve trauma counselling or grief counselling and other targeted psychological interventions provided by appropriately qualified and experienced mental health professionals. These are usually more appropriate and effective in the period after the initial 2 weeks and where there are indicators of ongoing risk or need.

It is the responsibility of all concerned to ensure, as far as possible, that appropriate professional interventions are available. Referral to these services should be managed through a registered practitioner following assessment. Family interventions may also be required. These services may be provided through organised service providers. Guidelines for determining service providers are provided at Appendix C.

Critical Incident Debriefing

Critical incident debriefing is psychological debriefing as a formal immediate response to incidents. **NB Critical incident debriefing cannot be recommended by NSW Health as a structured intervention post-incident.** Although previously used, is now known to be inappropriate for the majority of people, and may be associated with negative outcomes for some.

Operational Debriefing

Operational debriefing is a routine process for organisations following an incident and can provide an effective mechanism for Health Services to review the organisational response procedures and protocols. This is an active learning process with a feedback cycle for future response.

Supportive Group Discussion

Groups of people who have been affected by an incident may come together naturally in the aftermath and talk through or discuss their experience. This is often perceived as helpful and people may consider it an opportunity to "debrief" about their experience. Formal psychological debriefing is not recommended. (US Consensus Guidelines 2001).

Debriefing in this or any other form should never be mandatory. There is no evidence that formal debriefing can prevent Post Traumatic Stress Disorder (PTSD) and it may increase the risk for some.

Mental Health Outcomes

The majority of people exposed to a stressful or traumatic event will not experience a major mental health disorder and of those who do, most will recover within one to two years. Of those who do develop disorders, these may include: major depression, acute stress disorder, posttraumatic stress disorder, generalised anxiety disorder, somatisation disorders, substance abuse, adjustment disorder, complications of bereavement, family violence, and child or spousal abuse.

Posttraumatic Stress Disorder (PTSD)

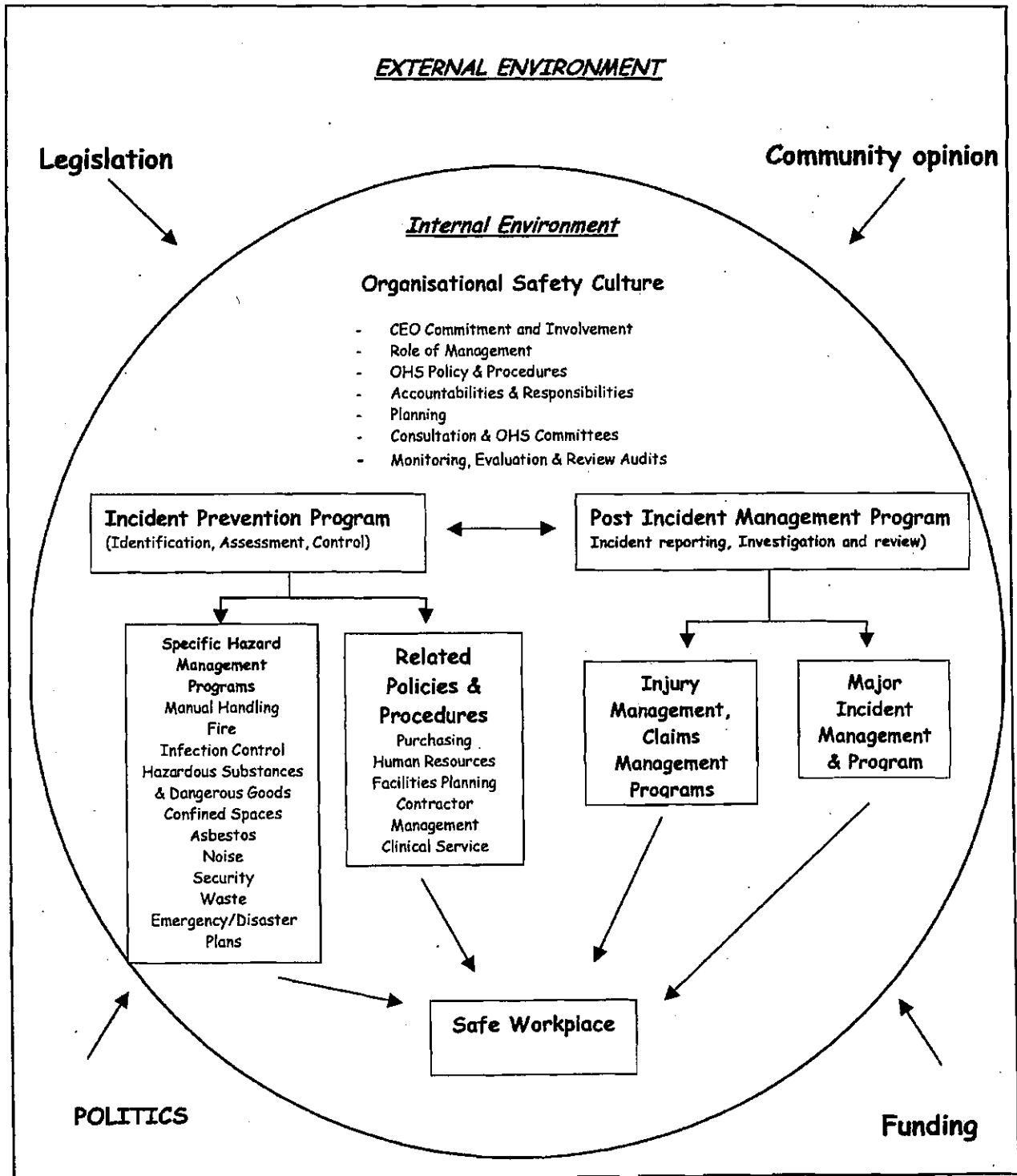
PTSD is a recognised psychiatric disorder, which may result from exposure to a very severe or life threatening incident. PTSD is not the normal response to a stressful incident or event. To meet the stressor criterion of PTSD, the individual must experience severe threat and the response to the traumatic experience must involve helplessness, intense fear or horror. Symptoms of PTSD range across three distinct clusters comprising *re-experiencing* (eg. flashbacks, intrusive recollections, nightmares); *avoidance and numbing* (eg avoidance of reminders of the trauma, emotional detachment and withdrawal); and *hyperarousal* symptoms (eg. Hypervigilance, concentration and memory problems). Symptom duration must be of at least one month post-incident and symptoms must be severe enough to impair normal functioning.

Acute Stress Disorder (ASD)

ASD is a relatively new diagnosis. It is listed as one of the anxiety disorders and is regarded as an acute form of PTSD. For a diagnosis of ASD to be met, an individual must experience symptoms of dissociation, re-experiencing, avoidance and hyperarousal. Symptom duration must be between 2 days and 4 weeks after a traumatic event and there must be significant impairment in functioning. If symptoms last longer than four weeks post-incident a diagnosis of PTSD is considered.

APPENDIX B: WORKPLACE HEALTH AND SAFETY MODEL

Workplace Health and Safety Model



APPENDIX C: STAFF SUPPORT SERVICE PROVIDERS

Service Providers

The service provider is an agent who provides counselling and/or other professional services to the Health Service. The service provider may be internal or external to the Health Service. This person should have demonstrated knowledge and expertise.

A service provider is one who meets the professional, skill and experience requirements outlined below. It may be a Staff Counsellor, who will provide a range of other services as well, or it may be an external agency. An external agency may be used as a service provider for post incident support and counselling. If an internal staff counsellor is not available or there is a requirement for back-up services, a contract with an external agency may provide the necessary service.

Service providers for the delivery of counselling services must be tertiary qualified and professionally trained mental health professionals, experienced in the delivery of such services, be eligible for membership of their professional association; and where appropriate, be registered with their professional registration board in NSW. There should be evidence that the service provider is up to date with the current theories and practice of post incident management.

Service providers need to be independent of those involved in an incident. It is acknowledged that facilities in remote and rural areas may have some difficulty in meeting this requirement where access to, and availability of professional support may be limited. Linkages with larger health facilities, neighbouring services and options for outreach, telephone counselling or telepsychiatry may assist in providing care.

Service providers must liaise with the Health Service to identify and develop what is necessary for the provision of a timely and professional response for staff affected by an incident. There is a range of options available. That option, which best suits a facility will be influenced by its size, location and the availability of resources.

Skills and Experience of Service Providers

It is essential that service providers have the necessary clinical and counselling skills and experience in the field of contemporary incident response management. As well as having the necessary knowledge, skills and experience in managing or referring those affected by major health problems/disorders or other adverse outcomes which may arise out of incidents, they should also have:

- Knowledge of the Health Service is important. Awareness and sensitivity to particular cultures within Health Services should shape strategies for support eg Emergency Department, acute Mental Health and general health settings. Knowledge of the Incident Management program and associated policies, protocols and procedures is also necessary.
- Knowledge of the normal reactive processes and adaption that follows incidents.
- Knowledge of the reactions and disorders which may become apparent as a result of an incident.
- Knowledge of the range of symptomatology, post-incident assessment and treatment interventions and skills to provide treatment as required or refer if required.
- Knowledge of the Health Service environment and culture would be an advantage.
- Training in the latest assessment and treatment techniques for those at high risk following psychological trauma or other stressors.

The following professions could be considered appropriate as service providers:

- Psychiatrists
- Clinical psychologists and psychologists experienced in mental health work
- Mental health nurses
- Social workers with mental health expertise

GPSC2: AMBULANCE SERVICE INQUIRY – ADDITIONAL QUESTIONS

Question 6.

Numerous concerns have been raised regarding officers being fatigued and working reasonably long hours in consecutive shifts. How is the Ambulance Service managing officer fatigue?

ANSWER

The Ambulance Service takes the matter of officer fatigue seriously and notes that symptoms of fatigue vary with the individual. It is acknowledged that if left unattended the consequences can have significant effect on the individual and on the ability of the Service to maintain operational efficiency. This is particularly relevant in rural operations.

In response to growing awareness of the impact of fatigue, the Service has introduced a number of strategies targeted at both the individual officers and the operating frameworks governing ambulance operations.

In March 2008, the Service introduced a Standard Operating Policy on *Fatigue Management* (copy attached). The policy facilitates a set of actions when an individual officer indicates that he/she is experiencing fatigue, culminating in the officer being afforded stand down rest periods without loss of pay. The policy also places greater responsibility on local managers to monitor workload pressures and where appropriate adjust operational coverage to allow officers periods of uninterrupted rest.

The Ambulance Service is advancing altered rostering practices that include forward rotating shifts and limiting the hours of night shifts. These rostering practices are acknowledged by Workcover as being best practice in operational rosters and assisting in the better management of fatigue. The proposed roster cycle also provides for additional days off and an improved balance of weekend free time.

The Service has also commenced its second review of rural rosters to identify opportunities to limit the reliance of officer in an on call mode at smaller workload stations. This includes identifying opportunities where the Service can work with community volunteers to assist in maintaining operations in the more remote areas, reducing the drain on rural officers.

The Service has used the *Fatigue – Preventing and Managing Work Related Fatigue: Guidelines for the NSW Public Health System* (copy attached), developed by NSW Health in consultation with the health unions, to develop a proposal for further roster reform in the current Special/Work Value Case before the Industrial Relations Commission. There is a need to increase the proportion of crews available at peak times and the Service's roster reform proposal provides for enhancements including the introduction of a maximum 12 hour shift length supported by additional paramedic resources available to respond to emergency cases. Fatigue management will also be assisted by the allocation of paid crib breaks, in lieu of the current unpaid meal breaks. The allocated paid crib breaks will mean that the paramedics will be able to take the paid crib break at a convenient location and will not be required to return to the Station.

Further information on the Ambulance Service of NSW response to fatigue is outlined in the *NSW Health Submission to the Legislative Council, General Purpose Standing Committee No 2, The Management and Operations of the Ambulance Service of NSW* at pages 32 and 33.



Fatigue Management

Document Number SOP2008-005
File No. 08/39-02 (D08/1478)

Date issued 28 March 2008

Author Branch General Manager Operations

Branch contact Evan Clark

Division Operations - State Headquarters

Summary Outlines the policy for fatigue management.

Applies to (bold indicates selection) **All Ambulance Service of NSW staff**
All Operational Staff
All Administration staff
All Headquarters staff
Division staff (select Aero medical, Northern, Southern, Sydney, Western)
Operations Centres (select All, Aero medical, Northern, Southern, Sydney, Western)

Review date 31 March 2010

Previous reference N/A

Status Active

Approved by Chief Executive

Compliance with this policy directive is mandatory.



FATIGUE MANAGEMENT

GENERAL PRINCIPLES

Fatigue in the work place and trying to manage an individuals fatigue is a complex and difficult issue requiring a collaborative approach involving the individual, work colleagues, the Operations Centre and Management.

Individual employees have a responsibility to commence duty or a series of shifts in a fit and proper physical and mental state. Rostered days off provide an opportunity to rest. Staff members should ensure that activities undertaken during off duty do not leave them fatigued at the commencement of their upcoming rotation of rostered shifts.

If an officer genuinely feels he/she is fatigued then the person concerned must take proactive steps to manage and reduce the effects of fatigue. Fatigue is not a collective issue but each individual needs to assess how they are feeling and what they can do to recover from the effects.

Fatigue should not be used as an industrial or grievance tool as this only distracts from what is trying to be achieved and that is "staff welfare".

This policy is designed to address areas where fatigue is evident and a pro-active approach is required to mitigate the effects of fatigue.

The policy addresses two specific areas, being Staffing and Demand Management which provide a basis for a more structured approach to managing and responding to the causal areas of fatigue.

1. STAFFING

1.1 Redeployment of Duty Night Staff

Where practical, twenty-four hour stations across regional / rural Sectors, should provide the opportunity for redeployment to stations where it has been identified officers may benefit from a resting period from on call duties. These deployments aim to reduce after hour's disturbances thus mitigating fatigue for officers performing consecutive "on call".

1.2 Duty Staff not "On call"

Some twenty-four hour roster formats have resulted in staff having reduced "on call" commitments. There are also occasions where station rosters may have additional staff on roster due to minimal staff on annual leave and minimal relief commitment resulting in staff either performing less or no "on call".

Officers at these stations ("by mutual agreement") may be utilised as a resource of "on call" relief that is within Award provisions. This would allow for the creation of an "on call pool" performing "on call" duties overnight at stations other than their own.



1.3 Re-allocation of on call

"On call" depletions occur as a result of short notice absence's due to sickness, fatigue and other reasons resulting in officers not being able commence or complete "on call" requirements. Currently there are numerous informal and uncoordinated arrangements adopted by staff to cover the vacated "on call".

Some of these arrangements result in off duty officers or officers who may have already performed a period of "on call", being asked to cover these short notice absence's of "on call". The Duty District Officer will determine how this will be covered to ensure the most appropriate option is chosen and will wherever possible not create further fatigue for staff.

1.4 Mandatory Fatigue Reporting

All notifications by staff indicating they are fatigued and are unable to perform the full range of duties must be reported to the relevant District Officer (DO) or Operations Centre Supervisor.

1.5 Rest Options Phase 1 & 2

1.5.1 Phase 1 – Rest and Respond

An on call officer who has been called out for an extended period of time(s) and has lost significant sleep can request via the Operations Centre Supervisor to Rest / sleep-in at home in lieu of commencing their normal shift if they feel fatigued.

The officer would respond to emergency or urgent incidents as required.

Where possible the Operations Centre will endeavour to cover / reassign the work load to other crews.

On return to duty after resting the officer is to contact the Duty District Officer or Operations Centre Supervisor and advise them they have recommenced duties.

1.5.2 Phase 2 – Rest and Not Respond

If an on call officer feels they are fatigued, they can request to stand down and rest undisturbed.

An officer who intends to stand down must do so at the completion of the case, not on receipt of a call from the Operations Centre. The officer must contact their Duty District Officer (business hours) or the Operations Centre Supervisor (after hours) to discuss their situation.

On return to duty after resting the officer is to contact the Duty District Officer or Operations Centre Supervisor and advise them they have recommenced duties.



2. DEMAND MANAGEMENT

2.1 Demand Management

Demand management requires vigilance and proactive management to achieve improved fatigue mitigation outcomes; this is the responsibility of both the Operations Centre and operational staff.

It should be noted that on call crews may perform multiple transfers and in some instances back to back transfers which is a contributing factor to fatigue, therefore, these should be minimised where possible.

The Operations Centre Officers should consider the possibility of sharing demand between adjacent stations through a staged approach to patient transfers as this has the potential to mitigate fatigue.

2.2 After hours transfer/discharge

After hours inter-hospital caseload contributes to the incidence of fatigue significantly and thus requires greater scrutiny as to the immediate/urgent nature of such transfers or discharges. Where possible these cases should be held until day shift duty resources are available.

Fatigue - Preventing & Managing Work Related Fatigue: Guidelines for the NSW Public Health System

Document Number GL2007_023

Publication date 06-Dec-2007

Functional Sub group Personnel/Workforce - Occupational Health & Safety
Personnel/Workforce - Workforce planning

Summary These Guidelines, which should be read in conjunction with PD2005_409 Workplace Health and Safety: Policy and Better Practice Guide, have been developed to assist employers identify the potential for work related fatigue to become an OHS issue, and to prevent and manage work related fatigue, as they would any other OHS risk. This includes identifying areas at increased risk for work related fatigue, determining whether work related fatigue may already be an OHS issue, and providing guidance on strategies to reduce the likelihood of work related fatigue occurring or minimise its impact where it may occur.

Author Branch Employee Relations

Branch contact Frances Waters 9391 9305

Applies to Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations - Non Declared, Affiliated Health Organisations - Declared, Public Health System Support Division, Community Health Centres, Dental Schools and Clinics, NSW Ambulance Service, Public Health Units, Public Hospitals

Audience All staff, including managers

Distributed to Public Health System, Community Health Centres, Dental Schools and Clinics, Health Associations Unions, Health Professional Associations and Related Organisations, NSW Ambulance Service, NSW Department of Health, Public Health Units, Public Hospitals, Tertiary Education Institutes

Review date 06-Dec-2012

File No. 03/3765-4

Status Active

**PREVENTING AND MANAGING
WORK RELATED FATIGUE**

Guidelines for the NSW Health
Public Health System

November 2007

Title: Preventing and Managing Work Related Fatigue - Guidelines for the NSW Health Public Health System – November 2007

1.0 INTRODUCTION

1.1 Scope

These Guidelines apply to all workplaces in the NSW public health system. These Guidelines apply to non declared affiliated health organisations, because the Determination of Conditions of Subsidy requires (to the extent permitted by law) non declared affiliated organisations to comply with policy directives and guidelines issued by the Department dealing with terms and conditions of employment of staff employed in the NSW Health Service.

1.2 Purpose

The *NSW Occupational Health and Safety (OHS) Act 2000* places a legal obligation on employers to provide a safe environment for all staff, contractors and workplace visitors by identifying, assessing, eliminating or controlling foreseeable workplace risks. The *OHS Regulation 2001* makes specific reference to the hazards arising from shift work and fatigue.

PD2005 409 Workplace Health and Safety: Policy and Better Practice Guide supports the implementation of OHS legislation in the NSW public health system.

These Guidelines, which should be read in conjunction with the above policy, have been developed to assist employers identify the potential for work related fatigue to become an OHS issue, and to prevent and manage work related fatigue, as they would any other OHS risk. This includes identifying areas at increased risk for work related fatigue, determining whether work related fatigue may already be an OHS issue, and providing guidance on strategies to reduce the likelihood of work related fatigue occurring or minimise its impact where it may occur.

These Guidelines also recognise the mutual responsibility of employers and staff for preventing and managing work related fatigue. Managers and staff should work together with the overarching objective of maintaining patient and staff safety.

1.3 Definitions

Employer means any person authorised to exercise the functions of the employer of staff to which these Guidelines apply.

NSW public health system consists of all area health services, all statutory health corporations and all affiliated health organisations in respect of their recognised services, as well as the Ambulance Service of NSW and the Public Health System Support Division.

Staff means any person working in a permanent, temporary, casual, termed appointment or honorary capacity within NSW Health.

In this document the term:

- **must** – indicates a mandatory action required by existing Departmental policy directive, law or industrial instrument.
- **should** – indicates an action that should be followed unless there are sound reasons for taking a different course of action.

Title: Preventing and Managing Work Related Fatigue - Guidelines for the NSW Health Public Health System – November 2007

1.4 Related NSW Health documents

PD2005_626 NSW Health Code of Conduct
PD2006_063 Sick Leave Management: Policy, Procedures and Eligibility
PD2007_055 Framework for the Recruitment of Nurses and Midwives
Reasonable Workload clauses contained in NSW public health Awards

1.5 Additional Resources – WorkCover Publications

- *Minimising fatigue in the health, aged care and allied industries* (under review)
- *Shiftwork: How to devise an effective roster.*

2.0 WORK RELATED FATIGUE

Work related fatigue is a state of mental or physical exhaustion that can affect a person's ability to function normally at work. Work related fatigue may be caused by **prolonged periods** of physical and/or mental exertion at work without sufficient time to rest and recover.

These Guidelines do not address personal lifestyle choices and their potential flow on to the workplace. However, lifestyle issues and personal commitments outside the workplace have potential to either mitigate or exacerbate how fatigue might be experienced in the workplace. Staff members should be cognisant of this relationship and recognise their own role in managing lifestyle related fatigue.

The *NSW Health Code of Conduct* requires staff to present themselves for work in a fit and proper condition and not enter into outside work commitments that might adversely affect work performance or the safety of colleagues, patients or the public.

Employers must consider the potential for increased fatigue when deciding whether to approve secondary employment. For issues related to secondary employment, refer to the NSW Health policy on secondary employment.

3.0 IDENTIFYING THE POTENTIAL FOR WORK RELATED FATIGUE

Working environments that provide services around the clock have a greater potential for work related fatigue to become an OHS issue. In particular, staff working in environments that require shift work, extended hours or high levels of overtime may be at increased risk of suffering work related fatigue.

In order to identify such working environments, employers need access to accurate, up to date attendance and leave records. Therefore all employers should ensure that attendance and leave records are actively maintained in line with relevant policy directives in the *Leave Matters Manual*, and that rosters accurately reflect staff at work, hours worked and leave taken.

Employers should also ensure that all staff requests for leave are submitted in writing via the appropriate forms, that staff give reasonable notice when requesting leave and that such requests are approved in line with existing policy. All sick leave should be notified as soon as possible so appropriate arrangements can be made for replacements in high demand areas, and sick leave forms should be completed and

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submitted as soon as possible after returning to work, if they have not already been completed.

The data collected via the nursing workloads monitoring system provides an additional source of information that should be reviewed by employers.

Employers should also consider environmental and other work related factors and their capacity to create the potential for work related fatigue to exist. For example staff undertaking roles that involve working with people who are distressed, angry, traumatised or staff who work in environments with high levels of interpersonal conflict may be at increased risk of suffering work related fatigue. Likewise staff working in environments undergoing high levels of change eg changes to technology or working arrangements may also be at increased risk of experiencing work related fatigue.

4.0 MANAGING WORK RELATED FATIGUE

4.1 Risks associated with work related fatigue

The risks associated with unmanaged work related fatigue include:

- Reduction in work performance
- Reduction in productivity
- Increased risks of work related OHS incidents and injuries including journey claims
- Increased risk of possible adverse outcomes for patients.

The consequences of these risks, should they be realised, will vary, depending on the nature of work being done, and the environment in which the work is being conducted.

For example, the potential consequences of an error due to work related fatigue while driving, working at heights, during complicated or prolonged surgery or during diagnosis in an emergency, are potentially more severe than someone performing clerical duties in an office setting. Therefore these matters need to be considered when developing strategies to minimise or manage work related fatigue.

4.2 Identifying and assessing factors that may contribute to work related fatigue

The following sources of information may assist employers identify whether work related fatigue has the potential to, or has already become an OHS issue:

- Consultation with staff and their representatives
- Shift arrangements, rosters and hours worked, including overtime
- OHS incident notifications/reports
- Investigation reports citing fatigue
- Industrial issues, complaints or grievances citing fatigue
- Staff and/or patient complaints
- Workplace injury records.

A more detailed Tool has been provided at **Appendix One** to assist employers identify where there is a potential for work related fatigue to become an OHS issue.

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4.3 Eliminating or managing the risks associated with work related fatigue

A range of management strategies and options exist that will assist in minimising the likelihood of work related fatigue occurring, and/or minimising the potential consequences of work related fatigue where it may be unavoidable.

While the actions taken will be specific to the individual circumstances and dependent on the responses to the questions posed in the Risk Identification Tool at **Appendix One**, some examples are provided below.

Shift and rostering design:

- Using a forward shift rotation eg starting times moving from morning to afternoon to night time
- Maximising breaks between shifts and before rotating staff to a new shift
- Minimising the number of consecutive night shifts
- Ensuring that periods of extended work hours are followed by an appropriate recovery time before resuming work
- Ensuring rosters reflect an appropriate skills mix
- Avoiding overtime allocation after afternoon or night shifts, especially after 10 or 12-hour night shifts
- Engaging and consulting staff on roster design
- Allowing access to flexible work arrangements
- Ensuring staff establishments are sufficient to keep overtime to a minimum
- Ensuring staff establishments are sufficient to carry out the work required.

Leave management:

- Ensuring a process is in place for reducing/minimising excessive accumulation of annual leave entitlements
- Ensuring leave requests are not unreasonably withheld
- Ensuring vacant positions are filled in a timely manner
- Ensuring the processes for managing and monitoring rosters and leave are linked. The same manager should be responsible for rosters (and changes to rosters, including shift swapping) and for approving leave. For example, if the nursing unit manager rosters nursing staff they should also be responsible for approving leave for the same group of nursing staff.
- Ensuring all requests and approvals for leave or changes to rosters are in writing
- Ensuring service delivery needs and the impact on staff are considered and managed when planning rosters and approving leave
- Ensuring rosters reflect approved leave
- Ensuring sufficient staff are made available to fill a roster
- Making alternative staff arrangements to cover a roster where required
- Maintaining a relief pool in high demand areas
- Having access to an appropriate number of on call staff for unplanned leave, emergencies or where workload increases
- Monitoring and managing actual time worked against the allocated roster to identify where excessive hours are being worked. Review rosters and organise relief staff if extended breaks are then required

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- Ensuring appropriate rest and nutrition breaks are provided and taken during long or extended hours of work.

Work environment issues:

- Ensuring staff have access to food outlets which offer nutritious food options
- Providing rest accommodation or safe travel options after extra long or extended shifts or long distance patient escorts, especially after hours and
- Ensuring sufficient time is allocated to allow safe travel between facilities.

Staff support:

- Ensuring all staff are aware of policies, procedures and expectations regarding rostering and leave
- Ensuring staff have an agreed mechanism for raising concerns about work related fatigue that encourages early identification of potential issues
- Ensuring workplace grievances are dealt with in an appropriate and timely manner
- Ensuring staff have access to support services eg Employee Assistance Programs
- Ensuring managers are provided with appropriate training to assist them with preventing and managing work related fatigue.

5.0 DRIVER FATIGUE

Staff should not be placed at unnecessary or unreasonable risk associated with driving and fatigue. The geographical size of Health Services, particularly in rural areas, can mean staff are required to spend considerable time driving between facilities. Factors such as poorly lit and/or poorly maintained roads, adverse weather conditions, hours already worked and hours behind the wheel all increase the risk associated with driver fatigue.

While specific strategies to manage the risks associated with driver fatigue will depend on the individual circumstances, options can include:

- A greater use of teleconferencing and videoconferencing
- Sharing vehicles so driving duties can be shared
- Ensuring staff driving take rest breaks every 2 hours
- Providing overnight accommodation for early morning or late finishing meetings and long distance patient escorts where there is a significant drive home or back to base.

When determining the amount of driving being undertaken by staff, their place of residence should be taken into consideration.

Staff should not be prevented from using toll roads if they provide the safest and most direct route to the destination.

6.0 EVALUATION, REVIEW AND IMPROVEMENT

On-going evaluation and review of strategies to reduce the risks arising from work related fatigue will identify areas for improvement, gaps in the administrative systems

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and the causes of any systems failures and enable the on-going improvement of control measures.

Reviews should be conducted regularly, in consultation with staff, to ensure that management strategies aimed at minimising and managing work related fatigue are actually achieving their goals.

Appendix One

Identifying the potential for work related fatigue to become an OHS issue

This checklist can be used by facilities or individual workplaces to help identify and assess the likelihood of work related fatigue becoming an OHS issue. It will also help identify potential management strategies that could be implemented to reduce the risks associated with work related fatigue.

Rostering and shift design:

For shift work:

- Do shifts move in a forward cycle ie morning, evening and night?
- Are consecutive night shifts kept to a minimum, where practicable?
- Are staff given sufficient time to recover between shifts eg 10 hours?
- Is there staff input/involvement in developing rosters and determining hours?

For all work places:

- Is the staff establishment sufficient to keep overtime to a minimum?
- Is staff establishment sufficient to allow staff to take their breaks?
- Do staff have reasonable access to flexible work practices?

Leave management:

For shift working:

- Are processes for approving and monitoring rosters and leave linked?
- Are on-call staff available to cover unplanned absences and workload fluctuations?
- Do rosters reflect approved leave?
- Is there sufficient staff available to meet roster requirements?
- Are all leave requests required to be in writing?

For all workplaces:

- Are relief staff engaged where staff are on leave?
- Are staff working hours monitored to identify where they may lead to excessive fatigue?
- Is there a process for identifying excessive sick leave or patterns of sick leave?
- Is there a process for identifying/reducing excessive annual leave balances?
- Are reasonable requests for leave approved?
- Are vacant positions filled in a timely manner?

The working environment:

- Are the levels of lighting, ventilation and noise appropriate?
- Is the working space appropriate for the nature of the work being undertaken?
- Are rest facilities available to staff?
- Do staff have access to food outlets/vending machines that offer nutritious options?
- Do staff have access to appropriate breaks during their working day?
- Is this monitored to ensure staff take scheduled breaks?

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Staff Support:

- Do staff have access to an agreed mechanism for raising concerns about work related fatigue?
- Does this mechanism encourage the early identification of potential issues?
- Are staff regularly provided with information on rostering and leave policies and practices?
- Are managers provided with education on ways to prevent and manage fatigue?
- Does this education include the need for managers to be aware that staff returning from illness may have a greater potential for experiencing fatigue?
- Are grievances managed in a timely and appropriate way?
- Do staff have access to support services eg Employee Assistance Programs or clinical supervision?

Driving practices:

- Is teleconference or videoconferencing considered as an alternative to driving?
- Are staff driving hours monitored?
- Are staff encouraged to take rest breaks every two hours when they are driving?
- Do staff who drive repeatedly as part of their work have access to safe driving courses?
- Are staff travelling significant distances during their work encouraged to travel in pairs to share driving duties?
- Is air travel (or fly drive) considered as an alternative to driving?
- Are staff provided with advice on the safest route to a destination?
- Are staff travelling long distances provided with overnight accommodation for late finishing meetings, where appropriate?
- Are driving activities scheduled for daylight hours, where practicable?

The greater the number of 'no' responses, the greater the potential for work related fatigue to become an OHS issue.

Professor Debora Picone AM
Director-General

GPSC2: AMBULANCE SERVICE INQUIRY – ADDITIONAL QUESTIONS
Question 7

The Committee was advised that 000 calls can be automatically diverted to the next available operation centre and call taker during peak periods. Does the system also allow for unanswered 000 calls to be diverted during non-peak periods?

ANSWER

The Ambulance Service uses an automated telephone system to receive 000 calls from Telstra. All the operations centres work as a network to receive all triple zero calls. Most Triple Zero calls are presented to the centre that is closest to the location of the caller (if the location is known). If the closest operations centre is unable to answer the call within a set time the call is re-presented by Telstra at a higher priority. If the call still remains unanswered then it is re-presented to one of the other three operations centres.

Calls cannot be actively diverted; the system is designed to ensure that Triple Zero calls do not go unanswered during peak periods.

GPSC2: AMBULANCE SERVICE INQUIRY – ADDITIONAL QUESTIONS

Question 8.

A number of submissions allege that pregnant officers are not well supported, and that there is a lack of adherence to flexible work practices and guidelines. What is your response to these suggestions?

What family friendly policies does the Ambulance Service have?

ANSWER

The Ambulance Service provides the option for pregnant officers to request – at any time in the pregnancy - alternative duties or to access available leave provisions. Currently 13 out of 14 requests for alternative duties have been able to be accommodated.

The Ambulance Service family friendly policies include legislative entitlements and other entitlements that are based on organisational policy and award provisions. In line with these policies, pregnant officers are supported through flexible work arrangements. Access to flexible work options must include an assessment of operational needs to ensure that the Service can continue to provide services 24 hours a day, seven days per week.

It is acknowledged that variations exist between metropolitan and rural areas with the capacity to offer flexible options depends on staffing levels and the need to maintain service delivery.

Current family friendly work options available to Ambulance Service employees include:

- Pregnant officers undertaking alternative duties or accessing available leave provisions
- An additional 12 months leave without pay or alternatively part-time work hours up to when the child attends school
- The option to change working arrangements between full-time and part-time hours
- Job sharing
- Accessing family and community services leave and personal carers leave
- Arranging shift swaps, exchange of shifts for a specified time, working shifts in advance and taking time off in lieu of overtime.

The Ambulance Service has a Maternity, Adoption and Parental Leave policy which is a Statewide policy (copy attached).

Alternative duties may include clerical duties such as patient case sheet audits and project work. These jobs are usually located in the administrative office of the Division, Sector or within larger regional stations. There may be limited or no available work for alternative duties placements in smaller rural or remote locations

The policy requires that Paramedics, Patient Transport Officers and Flight Nurses must provide a medical certificate to confirm fitness to continue in normal duties beyond 24 weeks gestation. Continued fitness regarding capacity to undertake full

duties is then monitored in consultation with the employee's treating physician on a month by month basis.

Adoption leave and maternity leave provisions include 14 weeks full pay or 28 weeks half pay. A period of adoption or maternity leave can be followed by leave without pay, or a combination of different paid and unpaid leave or reduced hours leave, for up to 12 months from the date of birth of the child. The extent of leave available under the Parental Leave provisions depends on whether the employee is the primary carer.

The employee then has the right to request an additional 12 months leave without pay or alternatively part-time work hours up to when the child attends school.

These options are usually approved in Sydney and larger regional centres however it can sometimes be difficult to accommodate flexible working arrangements at some stations on operational grounds – this is particularly the case in small rural and remote stations.

In order to maintain services delivery the rosters require that all positions be filled to ensure delivery of services to the community. At smaller stations the balance of part-time hours left by a person with a part-time roster needs to be filled by a relief officer, and if no relief is available, by other employees on overtime.

Other family friendly work options are available to all staff and are approved subject to operational needs.

Staff working in a permanent part-time capacity have the option to resume full-time hours subject to an available vacancy at the desired location and merit based selection. Staff are able to consider a change in their working arrangement between full-time and part-time hours dependant upon the stage of their working career.

The service also facilitates job share arrangements. Staff may access family and community services leave and personal carers leave.

Further the opportunity exists for staff to arrange to swap individual shifts, exchange of shifts for a specified time, working shifts in advance and taking time off in lieu of overtime.

As at 30 June 2007, 188 staff (men and women) were working on a permanent part-time arrangement. There are also full-time staff who are working reduced hours and taking leave for the balance of hours.

In the present Work Value and Special Case, the Ambulance Service is seeking Award variations to enable casual employment as an additional flexible option. This could be available to employees with family responsibilities, as well as provide increased flexibility in the allocation of employees to alternative stations within their existing roster, and the ability to vary employee rosters with appropriate notice within the cycle.



Maternity, Adoption and Parental Leave

Document Number SOP2007-026

File No. 05/898 (D07/4303)

Date issued 22 August 2007

Author Branch Industrial Relations

Branch contact 9320.7639

Division Corporate Services

Summary Details the Service's policy in relation to maternity, adoption and parental leave

Applies to **All Ambulance Service of NSW staff**
All Operational Staff
All Administration staff
All Headquarters staff
Division staff (select Aero medical, Northern, Southern, Sydney, Western)
Operations Centres (select All, Aeromedical, Northern, Southern, Sydney, Western)

Review date 1 January 2009

Previous reference Administration Circular 1997/01 and Instructional Circular 2005/16 and SOP2007-002

Status Active

Approved by Chief Executive

Compliance with this policy directive is mandatory.



MATERNITY, ADOPTION AND PARENTAL LEAVE

This Standard Operating Policy applies to all Ambulance Service of NSW staff.

This Standard Operating Policy rescinds and replaces SOP2007-002. It includes the reviewed attachments A and B, the conditions from the Memorandums of Understanding (MOUs) signed by the Department of Health with the various unions and the conditions from the Family Provisions Test Case. A summary of these conditions is as follows:

Effective from 1 January 2005 -

- ♦ 1 week of paid parental leave;
- ♦ increasing paid maternity leave and paid adoption leave to 14 weeks at full pay or 28 weeks at half pay.

Effective from 19 December 2005 -

- ♦ an obligation for the Service to communicate with an employee on maternity, adoption or parental leave about their position;
- ♦ the right to request up to 2 years unpaid maternity, adoption or parental leave;
- ♦ the right to request up to 8 weeks simultaneous unpaid maternity, adoption or parental leave;
- ♦ the right to request return to part time work until the child reaches school age.

The policy has also been reorganised to make it easier for staff to find information relevant to them.

This Instructional Circular should be read in conjunction with the relevant Award clause that covers the individual employee. The clause references are as follows:

- ♦ Ambulance Service of New South Wales Administrative and Clerical Employees (State) Award clause 23
- ♦ Ambulance Service of New South Wales Superintendent/Operational Managers (State) Award clause 18
- ♦ Health Employees Conditions of Employment (State) Award clause 41
- ♦ Public Health Service Employees Skilled Trades (State) Award (Incorporating the Ambulance Service of New South Wales Skilled Trades) clause 31B
- ♦ Public Health System Nurses' and Midwives' (State) Award clause 34
- ♦ Operational Ambulance Officers (State) Award clause 29

The conditions as summarised above are effective from the given dates of implementation and apply to all areas of the Service. For further information, please contact your Divisional Personnel Officer or Sydney Personnel Officer, the Team Leader, Personnel on 02 9320 7643, the Personnel Services Coordinator on 02 9320 7642 or the Industrial Relations Officer on 02 9320 7639.



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SECTION 1. MATERNITY LEAVE

1.1 Eligibility for Paid Maternity Leave

(a) ***Full time employees***

Female employees who prior to the expected date of birth, have completed at least forty (40) weeks continuous service (of not less than 31.25 hours per week) are eligible for paid maternity leave.

(b) ***Permanent part-time employees***

Permanent part-time employees are employees engaged on a permanent part-time basis as defined by their Award. Female employees employed on this basis are entitled to pro-rata paid maternity leave after forty (40) weeks continuous service.

(c) An employee who has once met conditions for paid maternity leave will not be required to again work the forty (40) weeks continuous service in order to qualify for a further period of paid maternity leave, unless:

- (1) there has been a break in service where the employee has been re-employed or re-appointed after resignation, medical retirement, or after her services have been otherwise dispensed with; or
- (2) the employee has completed a period of leave without pay of more than forty (40) weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under workers' compensation legislation.

1.2 Entitlements to Paid Maternity Leave

Eligible employees are entitled to fourteen (14) weeks[^] at the ordinary rate of pay from the date maternity leave commences. This leave may commence up to fourteen (14) weeks prior to the expected date of birth.

Paid maternity leave may be paid:

- on a normal fortnightly basis; or
- in advance in a lump sum; or
- at the rate of half pay over a period of twenty-eight (28) weeks[^] on a regular fortnightly basis.

Annual and/or long service leave credits can be combined with periods of unpaid or half pay maternity leave to enable an employee to remain on full pay for that period.

Should an employee return to duty during the period of paid maternity leave, such paid leave ceases from the date duties are resumed. Untaken paid maternity leave cannot be accrued for future periods of maternity leave.

[^] The increase in this entitlement came into effect from 1 January 2005.



Effect of part time leave without pay

These provisions do not apply to part time maternity leave without pay taken in accordance with Section 4 of this policy.

Where an employee is on part time leave without pay when they commence maternity leave the rate of payment is determined as follows:

- If they commenced the part time leave without pay 40 weeks or less before starting the maternity leave they are paid at their substantive rate.
- If they commenced the part time leave without pay more than 40 weeks before starting the maternity leave:
 - where their part time hours have remained constant over the leave without pay period, they are paid at the part time rate;
 - where their part time hours have varied over the leave without pay period, they are paid at a rate based on the average hours worked over the preceding 40 weeks.

In the case of varying hours, the weekly payments to apply to the paid leave is calculated by the following formula:

$$\frac{\text{Total hrs worked over 40 weeks prior to leave}}{\text{Normal weekly hrs over 40 weeks}} \times \text{Normal weekly rate of pay} = \text{Weekly payment during paid leave period}$$

Example: An employee, who normally works a 35 hour week and is paid \$800 per week, was approved to work 4 days per week (1 day per week leave without pay) for 20 weeks. The employee was then approved to work 3 days per week (2 days per week leave without pay) for 30 weeks and this arrangement was in place when the employee commenced maternity leave.

In the 40 weeks prior to commencing maternity leave the employee worked:

10 weeks @ 4 days per week = 10 wks x 4 days x 7 hrs = 280 hours

30 weeks @ 3 days per week = 30 wks x 3 days x 7 hrs = 630 hours

Total hours worked over 40 weeks = 910 hours

Calculation of weekly rate for paid maternity leave:

$$\frac{910 \text{ hrs}}{1,400 \text{ hrs (40 wks x 35 hrs)}} \times \$800 = \$520 \text{ per week}$$



1.3 Eligibility for Unpaid Maternity Leave

Any full time or permanent part time female employee is entitled to unpaid maternity leave.

1.4 Entitlements to Unpaid Maternity Leave

An employee eligible for both paid and unpaid maternity leave is eligible for twelve (12) months unpaid maternity leave from the date of birth of the child.

An employee eligible for only unpaid maternity leave is entitled to not more than twelve (12) months unpaid maternity leave. This can begin up to 14 weeks before the birth of the child but cannot extend past the child's first birthday.

1.5 Applications for Maternity Leave

An employee who intends to proceed on maternity leave should formally notify their Operations Manager/Manager (in writing) of such intention as early as possible however, not less than eight (8) weeks prior to the commencement of leave. This notice must include a statement of:

- 1) The intention to proceed on maternity leave;
- 2) The expected date of birth certified by a medical practitioner;
- 3) The period of leave to be taken;
- 4) The date on which maternity leave is to commence;
- 5) You must also attach a Statutory Declaration stating any period of parental leave sought or taken by your spouse. This declaration must also state that the applicant is the child's primary caregiver for the period of leave sought.
- 6) Your entitlement to maternity leave is reduced by any period of parental leave taken by your spouse. Apart from short parental leave of one (1) week at the time of birth, maternity leave is not to be taken concurrently with parental leave except as provided in Section 4 of this policy.

1.6 Applications for Further Maternity Leave

- (a) Where an employee becomes pregnant whilst on maternity leave a further period of maternity leave shall be granted. If an employee enters on the second period of maternity leave during the currency of the initial period of maternity leave, then any residual maternity leave from the initial entitlement ceases.
- (b) An employee who commences a subsequent period of maternity leave while on unpaid maternity leave under Sections 1 or 4 of this policy is entitled to be paid at their normal rate (ie the rate at which they were paid before proceeding on maternity leave).
- (c) An employee who commences a subsequent period of maternity leave during the first 12 months of a return to duty on a part time basis as provided under Section 4 of this policy is entitled to be paid at their substantive full time rate for the subsequent period of maternity leave.
- (d) An employee who commences a subsequent period of maternity leave more than 12 months after returning to duty on a part time basis under Section 4 of this policy, will be entitled to paid maternity leave for the subsequent period of maternity leave at their part time rate.



1.7 Variations of Maternity Leave

After commencing maternity leave, an employee may vary the period of her maternity leave –

- a) once without the consent of the Service, but with a minimum of fourteen (14) days notice in writing; and
- b) otherwise with the consent of the Service, with a minimum of fourteen (14) days notice in writing.

However, more advanced notice is encouraged, especially for uniformed staff because of roster arrangements.

1.8 Staffing Provisions

In accordance with obligations established by the *Industrial Relations Act 1996* (Section 69) any person who occupies the position of an employee on maternity leave must be informed that the employee has the right to return to her former position. Additionally, since an employee has the right to vary the period of her maternity leave; offers of temporary employment should be in writing, stating clearly the temporary nature of the contract of employment. The duration of employment should be also set down clearly; to a fixed date or until the employee elects to return to duty, whichever occurs first.

1.9 Effect of Maternity Leave on Accrual of Leave, Increments, etc

Full pay and half pay leave

Periods of full pay maternity leave count in full (pro rata for permanent part time employees) for the purposes of leave accrual and incremental progression.

Periods of half pay maternity leave count for leave accrual and incremental progression on a pro rata basis. Sick leave is to be adjusted on the anniversary of employment following the employee's resumption of duty after the leave.

Leave on half pay is paid leave at a reduced rate and is not a combination of full pay leave and no pay leave. As such, periods of half pay leave must not be combined with any subsequent period of unpaid leave when determining the effect, if any, such period of unpaid leave has on an employee's entitlements. Public holidays that occur during periods of full pay or half pay maternity leave are paid at the rate of the leave ie either full pay or half pay.

Full time unpaid leave

Full time unpaid maternity leave has the following effect on increments and leave accrual:

- if more than 28 calendar days does not count for the accrual of annual leave
- if more than 28 calendar days does not count for the accrual of sick leave
- on completion of ten years net service, unpaid leave of less than six months counts for the accrual of long service leave
- if more than six months does not count for the accrual of long service leave
- if more than 28 calendar days does not count as service for incremental progression (unless the incremental progression is age based).



Part time unpaid leave

Employees who return to duty on a part time basis by taking part time leave without pay accrue leave entitlements on a pro rata basis.

For periods of part time leave without pay of more than four weeks, annual leave and sick leave accrue on a pro rata basis and incremental progression will be based on the hours worked per week (unless the incremental progression is age based).

For employees who have less than ten years service, only the hours worked each week count as service toward eligibility for long service leave. The period of service is converted to the full time equivalent and credited accordingly.

Once an employee has worked ten years net service, any periods of part time leave without pay of six months or less are counted in full as service for long service leave entitlements.

Employees who have ten years net service or more and who take more than six months part time leave without pay, have only the hours they work each week counted as service for long service leave entitlements.

1.10 Effect of Maternity Leave on Superannuation

The information provided in this Section is not exhaustive. The implications of maternity, adoption and parental leave on superannuation are complex and varied and depend on each employee's circumstances and the type and duration of leave taken.

Employees and employers are strongly encouraged to contact Pillar's Customer Service for further advice on the effect of maternity, adoption or parental leave in relation to their particular situation:

- First State Super on 1300 650 873
- State Authorities Superannuation Scheme on 1300 130 095
- State Superannuation Scheme on 1300 130 096

Some of the superannuation implications are set out below.

- For employees who are contributors to the State Superannuation Scheme (SSS), personal contributions continue to be payable during paid and unpaid maternity, or adoption leave. The payment of personal contributions may be deferred, however, interest at the fund earning rate will be payable on any outstanding contributions.
- Employees who are contributors to SSS and who return to work on a part time basis by taking part time leave without pay can elect to continue to pay personal contributions at the full time rate or to be treated as a part time employee for the period of the leave without pay. The latter option will reduce the personal contributions that must be made during the leave and it will reduce the amount of the end benefit.



- For employees who are contributors to the State Authorities Superannuation Scheme (SASS), personal contributions continue to be payable during paid and unpaid maternity and adoption leave (unless the unpaid leave exceeds two years). Employees who return to work on a part time basis by taking part time maternity or adoption leave without pay may be required to pay personal contributions at the full time rate. Each year members of SASS have the option to elect to pay between 1% and 9% of salary in personal contributions. The election form is enclosed with the Annual Benefit Statement and must be submitted by 31 December each year. The elected rate applies from 1 April the following year. Pillar Administration (the administrator of SASS) may authorise a reduction in contributions where a member would have difficulty in maintaining contributions at their nominated rate.
- If an employee's Superannuation Guarantee Contributions are made to First State Super (FSS) or another complying accumulation superannuation scheme, employer contributions continue to be paid during periods of paid maternity, adoption or parental leave. Employer contributions are not required during periods of unpaid leave.

1.11 Illness Associated with Pregnancy

If, because of an illness associated with her pregnancy, an employee is unable to continue to work, then she can elect to use any available paid leave (sick, annual and/or long service leave) or to take any sick leave without pay.

Where an employee is entitled to paid maternity leave but, because of illness or injury, is on sick, annual, long service leave, or sick leave without pay prior to the birth, such leave will cease nine (9) weeks prior to the expected date of birth. The employee will then commence on maternity leave with the normal provisions applying.

1.12 Effect of Premature Birth on Payment of Maternity Leave

An employee who gives birth prematurely prior to proceeding on maternity leave, shall be treated as being on maternity leave from the date she enters on leave to give birth to the child.

1.13 Stillbirth

In the case of a stillbirth, (as classified by the Registry of Births, Deaths and Marriages) an employee may elect to take sick leave or maternity leave, subject to production of a medical certificate. She may resume duty at any time provided she produces a doctor's certificate as to her fitness.

1.14 Miscarriage

In the event of a miscarriage, any absence from work is to be covered by the current sick leave provisions.



1.15 Fitness to Continue Working During Pregnancy

Whilst an employee may commence maternity leave up to fourteen (14) weeks, prior to the expected date of birth, this is not compulsory. However, if an employee decides to continue working prior to taking maternity leave, she must be able to satisfactorily perform her normal duties.

It is recommended that pregnant Ambulance Officers, Flight Nurses and Patient Transport Officers consult their general practitioner or obstetrician with regard to their continued fitness to satisfactorily perform normal duties. This should be done as soon as the employee is aware of the pregnancy, particularly with regard to manual handling tasks such as lifting. The attached information (Attachments A, B and C) relating to the duties of an Ambulance Officer, Flight Nurse or Patient Transport Officer should be provided to the medical officer so that they are aware of the physical requirements of the job.

It is the responsibility of the pregnant Ambulance Officer, Flight Nurse or Patient Transport Officer to:

- 1) Seek medical advice, as soon as they are aware of a pregnancy, about fitness for normal duties.
- 2) Seek regular monthly medical advice about continued fitness for normal duties.
- 3) Immediately advise their supervisor if they are unfit for normal duties so alternative duties may be considered. A medical certificate should be supplied which outlines the restrictions which apply.

Ambulance Officers, Flight Nurses and Patient Transport Officers are encouraged to submit regular (ie. monthly) certificates to their District Officer or Senior Flight Nurse certifying their continued fitness to carry out their normal duties.

1.16 Alternative Work for Ambulance Officers, Flight Nurses and Patient Transport Officers

Where, because of an illness or risk associated with her pregnancy, an employee cannot carry out the duties of her position, an employer is obligated, as far as practicable, to provide alternative employment in some other position that she is able to satisfactorily to perform, until maternity leave commences. A position to which an employee is transferred under these circumstances must be as close as possible in status and salary to her substantive position.

Any alternative duties must be within a reasonable travelling distance from either the employee's current work location or their home address. In certain circumstances, for example in some locations, this may or may not be impossible. In this case, a compromise, which does not unlawfully discriminate against the employee, should be negotiated.

Pregnant Ambulance Officers, Flight Nurses and Patient Transport Officers may take up their entitlement to alternative duties at any time during their pregnancy if their medical condition determines they are unable to carry out normal duties.



1.17 Medical Certificate Requirement

In the case of Ambulance Officers, Flight Nurses and Patient Transport Officers a medical certificate must be provided at 24 weeks gestation to their supervisor, confirming fitness and ability to continue working in normal duties. The attached information (Attachments A, B and C) relating to the duties of an Ambulance Officer, Flight Nurse or Patient Transport Officer should be supplied to the medical officer so that they are aware of the physical requirements of the job.

1.18 Right to Return to Previous Position

An employee who returns to work after maternity leave has a right to return to her former position.

In respect of uniformed staff, as the returning Officer may have just completed an absence of twelve (12) months from operational duties, the question of clinical level and training may need to be addressed. Specialist administrative staff may also require some type of refresher course.

Where this position no longer exists, the employee is entitled to be placed in a position nearest in status and salary to that of her former position and to which the employee is capable and/or qualified.

1.19 Portability of Service for Paid Maternity Leave

When determining an employee's eligibility for paid maternity leave, continuous service with an organisation that is part of the public sector as defined in the *Public Sector Employment and Management Act 2002* will be recognised, provided that:

- service was on a full time or permanent part time (as specified) basis;
- cessation of service with the former employer was not by reason of dismissal on any ground, except retrenchment or reduction of work;
- the employee commences duty with the new employer on the next working day after ceasing employment with the former employer. (There may be a break in service of up to 2 months before commencing duty with the new employer, provided that the new position was secured before ceasing duty with the former employer. However, such a break in service will not be counted as service for the purpose of calculating any prior service prerequisite for paid maternity leave.)
- Portability of service for paid maternity leave involves the recognition of service in public sector organisations for the purpose of determining an employee's eligibility to receive paid maternity leave. For example, where an employee moves between a Public Service Department and a public hospital, previous continuous service will be counted towards the service prerequisite for paid maternity leave.



SECTION 2. ADOPTION LEAVE

2.1 Eligibility for Paid Adoption Leave

Employees who are adopting a child and are to be the primary care giver of the child (parent who assumes primary responsibility for the care of the child) are eligible for paid adoption leave under the following conditions:

(a) **Full time employees**

Employees who, prior to the date of taking custody of the child, have completed 40 weeks continuous service (of not less than 31.25 hours per week) and are going to be the primary caregiver of the child are eligible for paid adoption leave.

(b) **Permanent part-time employees**

Permanent part-time employees are employees engaged in a permanent part-time basis as defined by their Award. These employees are entitled to pro-rata paid adoption leave after forty (40) weeks continuous service if they are going to be the primary caregiver of the child.

(c) An employee who has once met conditions for paid adoption leave will not be required to again work the forty (40) weeks continuous service in order to qualify for a further period of paid adoption leave, unless:

- (1) there has been a break in service where the employee has been re-employed or re-appointed after resignation, medical retirement, or after her services have been otherwise dispensed with; or
- (2) the employee has completed a period of leave without pay of more than forty (40) weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under workers' compensation legislation.

2.2 Entitlements for Paid Adoption Leave

Eligible employees are entitled to fourteen (14) weeks[^] at the ordinary rate of pay. This leave may commence from the date of taking custody of the child.

Paid adoption leave may be paid:

- on a normal fortnightly basis; or
- in advance in a lump sum; or
- at the rate of half pay over a period of twenty-eight (28) weeks[^] on a regular fortnightly basis.

Annual and/or long service leave credits can be combined with periods of unpaid or half pay adoption leave to enable an employee to remain on full pay for that period.

[^] The increase in this entitlement came into effect from 1 January 2005.



Should an employee return to duty during the period of paid adoption leave, such paid leave ceases from the date duties are resumed. Untaken paid adoption leave cannot be accrued for future periods of adoption leave.

Effect of part time leave without pay

These provisions do not apply to part time adoption leave without pay taken in accordance with Section 4 of this policy.

Where an employee is on part time leave without pay when they commence adoption leave the rate of payment is determined as follows:

- If they commenced the part time leave without pay 40 weeks or less before starting the adoption leave they are paid at their substantive rate.
- If they commenced the part time leave without pay more than 40 weeks before starting the adoption leave:
 - where their part time hours have remained constant over the leave without pay period, they are paid at the part time rate;
 - where their part time hours have varied over the leave without pay period, they are paid at a rate based on the average hours worked over the preceding 40 weeks.

In the case of varying hours, the weekly payments to apply to the paid leave is calculated by the following formula:

$$\frac{\text{Total hrs worked over 40 weeks prior to leave}}{\text{Normal weekly hrs over 40 weeks}} \times \text{Normal weekly rate of pay} = \text{Weekly payment during paid leave period}$$

Example: An employee, who normally works a 35 hour week and is paid \$800 per week, was approved to work 4 days per week (1 day per week leave without pay) for 20 weeks. The employee was then approved to work 3 days per week (2 days per week leave without pay) for 30 weeks and this arrangement was in place when the employee commenced adoption leave.

In the 40 weeks prior to commencing adoption leave the employee worked:

10 weeks @ 4 days per week = 10 wks x 4 days x 7 hrs = 280 hours
30 weeks @ 3 days per week = 30 wks x 3 days x 7 hrs = 630 hours

Total hours worked over 40 weeks = 910 hours

Calculation of weekly rate for paid adoption leave:

$$\frac{910 \text{ hrs}}{1,400 \text{ hrs (40 wks x 35 hrs)}} \times \$800 = \$520 \text{ per week}$$



2.3 Eligibility for Unpaid Adoption Leave

All full time and permanent part time employees who are adopting a child and are going to be the primary caregiver of the child are eligible for unpaid adoption leave.

2.4 Entitlements for Unpaid Adoption Leave

Eligible employees are entitled to unpaid adoption leave as follows:

- where the child is under the age of 12 months - a period of not more than 12 months from the date of taking custody;
- where the child is over the age of 12 months and under 18 years old - a period of up to 12 months, such period to be agreed upon by both the employee and the employer.

2.5 Applications for Adoption Leave

Due to the fact that an employee may be given little notice of the date of taking custody of a child, employees who believe that, in the reasonably near future, they will take custody of a child, should formally notify the employer as early as practicable of the intention to take adoption leave, normally 8 weeks prior. This will allow arrangements associated with the adoption leave to be made.

A statement must also be provided from the adoption agency or appropriate body/government authority confirming that the applicant/ employee is to have custody and the expected date of placement of the child.

2.6 Applications for Further Adoption Leave

Same provisions as maternity leave.

2.7 Variations of Adoption Leave

Same provisions as maternity leave.

2.8 Staffing Provisions

Same provisions as maternity leave.

2.9 Effect of Adoption Leave on Accrual of Leave, Increments, etc

Same provisions as maternity leave.

2.10 Effect of Adoption Leave on Superannuation

Same provisions as maternity leave.

2.11 Right to Return to Previous Position

Same provisions as maternity leave.

2.12 Portability of Service for Paid Adoption Leave

Same provisions as maternity leave.



SECTION 3. PARENTAL LEAVE

3.1 Eligibility for Parental Leave

(a) **Full time employees**

Employees who, prior to the expected date of birth or to the date of taking custody of the child, have completed 40 weeks continuous service (of not less than 31.25 hours per week) are eligible for parental leave.

(b) **Permanent part-time employees**

Permanent part-time employees are employees engaged in a permanent part-time basis as defined by their Award. These employees are entitled to pro-rata paid parental leave after forty (40) weeks continuous service.

(c) An employee who has once met conditions for parental leave will not be required to again work the forty (40) weeks continuous service in order to qualify for a further period of parental leave, unless:

- (1) there has been a break in service where the employee has been re-employed or re-appointed after resignation, medical retirement, or after her services have been otherwise dispensed with; or
- (2) the employee has completed a period of leave without pay of more than forty (40) weeks. In this context, leave without pay does not include sick leave without pay, maternity leave without pay, or leave without pay associated with an illness or injury compensable under workers' compensation legislation.

3.2 Entitlements

Eligible employees whose spouse or partner (including a same sex partner) is pregnant or is taking custody of a child, are entitled to a period of leave not exceeding 52 weeks, which includes one week[^] of paid leave, and may be taken as follows:

- (a) an unbroken period of up to one week[^] at the time of the birth of the child, taking custody of the child or other termination of the pregnancy (short parental leave).
- (b) the entitlement of one week's[^] paid leave may be taken at anytime within the 52 week period and shall be paid:
 - at the employees ordinary rate of pay for a period not exceeding one week on full pay, or
 - two weeks at half pay or the period of parental leave taken, whichever is the lesser period.

Note: This leave may be taken in addition to or in place of the period of unpaid leave in part (a) of this section.

- (c) a further unbroken period of unpaid parental leave not exceeding 52 weeks when added to short parental leave in order to be the primary caregiver of the child (extended parental leave).



(d) extended parental leave cannot be taken at the same time as the employee's spouse or partner is on maternity or adoption leave except as provided for in Section 4 of this policy.

* For the purposes of defining one week in relation to parental leave, one week equals seven consecutive days (including any rostered days off). The employee will be paid at the ordinary rate of pay (base rate) for time that would have been worked during the one week of leave.

^ The increase in this entitlement came into effect from 1 January 2005.

Annual and/or long service leave credits can be combined with periods of unpaid or half pay parental leave to enable an employee to remain on full pay for that period.

Should an employee return to duty during the period of paid parental leave, such paid leave ceases from the date duties are resumed. Untaken paid parental leave cannot be accrued for future periods of parental leave.

Effect of part time leave without pay

These provisions do not apply to part time maternity, adoption or parental leave without pay taken in accordance with Section 9 of this policy.

Where an employee is on part time leave without pay when they commence maternity, adoption or parental leave the rate of payment is determined as follows:

- If they commenced the part time leave without pay 40 weeks or less before starting the maternity, adoption or parental leave they are paid at their substantive rate.
- If they commenced the part time leave without pay more than 40 weeks before starting the maternity, adoption or parental leave:
 - where their part time hours have remained constant over the leave without pay period, they are paid at the part time rate;
 - where their part time hours have varied over the leave without pay period, they are paid at a rate based on the average hours worked over the preceding 40 weeks.

In the case of varying hours, the weekly payments to apply to the paid leave is calculated by the following formula:

$$\frac{\text{Total hrs worked over 40 weeks prior to leave}}{\text{Normal weekly hrs over 40 weeks}} \times \text{Normal weekly rate of pay} = \text{Weekly payment during paid leave period}$$



3.3 Applications for Parental Leave

An employee who intends to proceed on parental leave should formally notify their employer of such intention as early as possible, so that arrangements associated with their absence can be made.

The employee should give written notice of the intention to take the leave, at least four weeks before proceeding on leave, and should detail the dates on which they propose to start and end the period of leave. It is recognised in situations of taking custody of a child, little or no notice may be provided to the employee. In such an instance, the employee should notify the employer as early as practicable.

The employee must, before the start of leave, provide a certificate from a medical practitioner confirming that their spouse or partner is pregnant and the expected date of birth, or in the case of an adoption, an official form or notification on taking custody of the child.

In the case of extended parental leave, the employee must, before the start of leave, provide a statutory declaration by the employee stating:

- (a) if applicable, the period of any maternity or adoption leave sought or taken by his spouse, and
- (b) that they are seeking the period of extended parental leave to become the primary caregiver of the child.

3.4 Variations of Parental Leave

Same provisions as maternity leave.

3.5 Staffing Provisions

Same provisions as maternity leave.

3.6 Effect of Parental Leave on Accrual of Leave, Increments, etc.

Same provisions as maternity leave.

3.7 Effect of Parental Leave on Superannuation

Same provisions as maternity leave.

3.8 Right to Return to Previous Position

Same provisions as maternity leave.

3.9 Portability of Service for Paid Parental Leave

Same provisions as maternity leave.



SECTION 4. RIGHT TO REQUEST

4.1 Entitlements

- (a) An employee entitled to maternity, adoption or parental leave may request the employer to allow the employee:
- (i) to extend the period of simultaneous** maternity, adoption or parental leave use up to a maximum of eight weeks;
 - (ii) to extend the period of unpaid maternity, adoption or parental leave for a further continuous period of leave not exceeding 12 months;
 - (iii) to return from a period of maternity, adoption or parental leave on a part time basis until the child reaches school age (Note: nurses employed under the Public Health System Nurses' and Midwives' (State) Award can request part time work to continue beyond the time that their child reaches school age);
- to assist the employee in reconciling work and parental responsibilities.
- (b) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.
- (c) The employee's request and the employer's decision made under subclauses (a)(ii) and (iii) of this Section must be recorded in writing and placed on the employee's Personnel File.
- (d) Where an employee wishes to make a request under subclause (a)(iii) of this Section:
- (i) the employee is to make an application for leave without pay to reduce their full time weekly hours of work;
 - (ii) such application must be made as early as possible to enable the employer to make suitable staffing arrangements. At least four weeks notice must be given, however application should be made as early as possible to enable suitable staffing arrangements;
 - (iii) salary and other conditions of employment are to be adjusted on a basis proportionate to the employee's full time hours, that is for long service leave the period of service is to be converted to the full time equivalent and accredited accordingly.
- (e) Applications should be made as soon as possible to enable a thorough review of the particular application and its possible operational impacts.
- (f) This Section came into effect from 19 December 2005.

**Simultaneous maternity, adoption or parental leave within the context of this policy is defined as when an employee and their partner take either both maternity and parental leave or both adoption and parental leave at the same time.



4.2 Returning to Work After an Extended Period of Unpaid Leave

Employees who are granted the leave outlined in part 4.1 (a)(ii) have the right to return to their position at the end of the extended period of maternity, adoption or parental leave.

4.3 Returning to Work on a Part Time Basis

The following applies to application for a return to work on a part time basis:

- Staff who have requests for part time work approved will be required to apply for part time leave without pay to reduce their full time weekly hours of work.
- The balance of unworked hours will be recorded as unpaid maternity, adoption or parental leave.
- Employees should be made aware that it may not be possible for them to return to work on a part time basis to the substantive position that they held prior to commencing the maternity, adoption or parental leave.
- Employees who return from maternity, adoption or parental leave under this arrangement do so for a specific period and retain their substantive hours with the right to convert to those hours at the end of the approved period of part time work.
- Salary and other conditions of employment are applied on a pro rata basis during the period of part time work.
- Employees retain their substantive status as full time employees and as such are not entitled to payment of any part time allowance.
- The provisions in this policy in terms of right to request part time hours are not intended to supplant previous policy regarding favourable consideration of such applications.



SECTION 5. COMMUNICATION DURING LEAVE

- (a) Where an employee is on maternity, adoption or parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:
 - (i) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing leave; and
 - (ii) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing maternity, adoption or parental leave.
- (b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to request to return to work on a part time basis.
- (c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with subclause (a) of this Section.
- (c) This Section came into effect from 19 December 2005.

See separate documents on Intranet site for attachments.



SOP2007-026 MATERNITY ADOPTION AND PARENTAL LEAVE

ATTACHMENT A – Duties of an Ambulance Officer/Flight Nurse

Information for Medical Practitioners

Ambulance Officers/Flight Nurses perform a wide range of duties, which require applicants for entry into the Ambulance Service of New South Wales and existing officers to be subjected to medical examination to determine their fitness to undertake these activities for a variety of reasons.

To assist medical practitioners in assessing the fitness of Ambulance Officers and Flight Nurses, a brief outline of their duties is given.

Ambulance Officers

In the normal course of their duties, Ambulance Officers are expected to provide pre-hospital treatment and transport of all categories of patients, including:

- Transport related trauma – motor vehicle accidents, rail accidents, aircraft and marine accidents.
- Industrial trauma.
- Domestic Accidents.
- Cardiac illness, both acute and chronic.
- Patients described as 'collapsed' from a variety of conditions, many of which are undiagnosed.
- General medical and surgical patients.
- Routine "Day Treatment" patients.
- Sporting accidents.
- Drive vehicles up to 3 tons under emergency conditions (eg lights and sirens), day and night in all weather and road conditions.

The pre-hospital treatment and transport of patients may involve:

- a) Carrying diagnostic and treatment related equipment of varying weights (eg. First Aid Kit: 5.1kg, OxyViva: 12.4kg, Zoll Series M Monitor/Defibrillator: 9.35kg, Lifepak 10 Monitor/Defibrillator: 7.25kg) to the patient.
- b) Assessment of the condition of the patient on arrival at the scene.
- c) Treatment of the patient at the scene according to Ambulance Protocols for which the particular Ambulance Officer is authorised. These will include the management of life threatening emergencies.



- d) Lifting the patient onto a stretcher, or moving the patient (eg. down stairs) to the location of the stretcher. This will involve lifting aids wherever possible.
- e) Preparation for transport, including loading the stretcher into the ambulance (stretcher weight: 60kg).
- f) Maintenance of management and treatment of the patient during transport.
- g) Formal handover of patient to the receiving medical service at the destination.

Patients may be expected to present in a wide range of circumstances, which often require Ambulance Officers to discharge their duties under adverse conditions. Examples of these are:

- The extrication of patients from motor vehicles involved in traffic accidents. This may require entry into the vehicle with limited space to provide resuscitation and treatment to prepare the patient for extrication.
- The extrication of patients from buildings or building sites, which may require lifting and movement of patients from within a limited space and carrying patients downstairs. Lifting aids are used wherever possible, but on some sites this may not be practical.
- Performance of cardio-pulmonary resuscitation (CPR), which may be required for extended periods under adverse conditions. This may involve kneeling in an awkward position, and exerting considerable pressures for prolonged periods. It can be physically exhausting.
- Carrying a patient on slopes, over uneven or broken ground and, at times, performing CPR in these circumstances.

These variable conditions and requirements should be considered when assessing a person's ability to perform the day-to-day duties of an Ambulance Officer.

Flight Nurses

As a part of their normal duties, Flight Nurses are expected to continue nursing care of the patient from the referring hospital to the destination hospital.

This continued nursing care includes patients from the following categories:

- Transport related trauma – motor vehicle accidents, rail accidents, aircraft and marine accidents.
- Industrial trauma.
- Domestic Accidents.
- Cardiac illness, both acute and chronic.
- Patients described as 'collapsed' from a variety of conditions, many of which are



undiagnosed.

- General medical and surgical patients.
- Routine "Day Treatment" patients.
- Sporting accidents.

The treatment and transport of these patients will normally involve:

- a) Loading, storage and unloading of diagnostic and treatment related equipment (eg. pulse oximeter: 0.35kg, Lifepak 10 Monitor/Defibrillator: 7.25kg). Some of these tasks involve awkward postures.
- b) Assessment of the patient's condition at the referring hospital or airport.
- c) Treatment of the patient for stabilisation prior to boarding the aircraft.
- d) Lifting the patient onto a stretcher, then loading the patient onto the aircraft.
- e) Maintenance of nursing care of the patient during transport.
- f) Formal handover of patient to the receiving medical services at the destination.

These cases will occur in a wide range of circumstances, requiring the Flight Nurse to perform in sometimes very adverse conditions. A Flight Nurse may be expected to perform CPR for extended periods, in circumstances less than ideal. This activity can be extremely demanding, involving a Flight Nurse kneeling over the patient, exerting a considerable amount of downward force for a period of time without respite. This may occur within the limited space of a general aviation aircraft in flight.

Other special considerations apply to a Flight Nurse when his/her capacity in performing day-to-day duties is being assessed:

- a) Working within limited space – unable to stand upright in the aircraft, or adopt correct postures for many tasks. The cabin of an Air Ambulance King Air is 1450cm x 1350 cm.
- b) Turbulence may precipitate nausea and vomiting as well as aggravate pre-existing conditions or disabilities such as old back injuries.
- c) Aviation medical considerations – sinusitis (acute or chronic), inability to Valsalvae, recent surgery (note: expansion of air in cavities occurring with decreasing cabin pressure), pregnancy, recent scuba diving expeditions (24 hours must pass prior to flying after diving), spontaneous pneumothorax.

These variations in conditions should be considered when assessing the capability of a person to perform the day-to-day duties of a Flight Nurse.



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**ATTACHMENT B – Ambulance Officers and Flight Nurses
Manual Handling Tasks**

This document is designed as a guide to the manual handling tasks and other physical duties which an Ambulance Officer or Flight Nurse may be required to perform. It should be considered when determining the fitness of an individual to undertake the normal duties expected of an Ambulance Officer or Flight Nurse. The list is not exhaustive, but reflects potential tasks.

1) ***Duties in General***

In the normal course of their work, Ambulance Officers and Flight Nurses provide pre or inter-hospital treatment and transport for patients with a wide variety of conditions, including:

- transport related trauma;
- industrial, domestic and sporting accidents;
- cardiac illnesses, acute or chronic;
- collapsed patients whose condition maybe undiagnosed;
- routine "Day Treatment" patients.

2) ***Volume of Work***

Most patients attended by Ambulance Officers require some form of manual handling for diagnosis, treatment or transport purposes. Workload may vary, depending on the location of the Officer and could range from 1 to 2 patients per shift to 11 to 13 patients per shift. Specific advice about workload should be sought from the Service's contact person. Most metropolitan based officers work in pairs. Country based officers may work alone and may have to lift alone if assistance (which can take the form of bystanders) is not available.

Flight Nurses may treat from 1 to 9 patients per shift, and work alone in-flight. Flying time is limited to 30 hours in a seven-day period.

3) ***Nature of Work Environment***

Ambulance Officers work mostly in uncontrolled work environments and care is often provided under emergency circumstances. The work environment varies widely; from a hospital bed/patient's home to roadside/industrial accident sites, and can include limited spaces. Patients may range in size from a small child to an obese adult.



Officers and Flight Nurses may be required to lift or move patients without the opportunity of doing warm-up exercises (eg. if they are "on call" overnight).

The Ambulance road vehicles and aircraft have limited spaces within them (the height of road vehicles varies, the aircraft cabin height is 1450 cm). Staff are usually unable to stand upright while working.

Additional considerations that should be considered for Flight Nurses include:

- a) Turbulence which may precipitate nausea and vomiting as well as aggravate pre-existing conditions or disabilities such as old back injuries.
- b) Aviation medical considerations – sinusitis (acute or chronic), inability to Valsalvae, recent surgery (note: expansion of air cavities occurring with decreasing cabin pressure), pregnancy, recent scuba diving expeditions (24 hours must pass prior to flying after diving), spontaneous pneumothorax.

4) ***Nature of Manual Handling Tasks***

Manual handling tasks fall into three major categories as follows:

- a) Patient assessment and treatment.
- b) Patient movement.
- c) Equipment movement.

These three categories are further described in the table further on.

Ambulance Officers are also required to drive a vehicle (over 3 tonnes) in various traffic conditions. Trip length could range from 10 minutes to 8 hours or more.

5) ***Methods of Moving Patients***

Carrying Patients –

This may be through narrow hallways or stairs, across a range of surfaces from tile to carpet and sand, or rocky terrain that may be of varying gradients.

Devices for carrying patients may include a carry sheet (flexible), fracture board, Stokes litter, scoop stretcher, spine board and stretcher with wheels and collapsible undercarriage.

Range of Lifts –

An officer may be required to lift a patient who is unconscious, semi-conscious or unco-operative from floor, bed or limited space to bed, or from stretcher to chair. This will often require an officer to bend, twist, reach, squat, push or pull during the lifting process.



Flight Nurses are required to assist in transferring patients from stretchers to the aircraft. An hydraulic device is used to load the patient onto the aircraft, but this requires bending, pushing and pulling (on rollers) to position correctly.

6) **Most Commonly Handled Articles and Weights**

First Aid Kit.....	5.1kg
ALS Kit (Drug Kit).....	7.05kg
Oxy Viva Kit.....	12.4kg
Oxygen Cylinder "D" Size.....	11.2kg
Zoll Series M Monitor/Defibrillator.....	9.35kg
Lifepak 10 Monitor/Defibrillator.....	7.25kg
Stretcher.....	60kg
Humidicrib (Thermocot).....	23kg

Cumulative weight carried by an Ambulance team in one week is approximately 34 patients. Average weight of each patient is 85kg.

34 lifts x 85kg	2890kg
<i>(and equipment for treatment)</i>	
34 Stretchers x 60kg	2040kg
34 Oxy Viva Kits x 12.4kg	421.6kg
34 ALS Kits x 7.05kg	239.7kg
34 Zoll Series M Monitor/Defibrillator x 9.35kg	317.9kg

	5909.2kg = 5.9 tonnes

An officer may be required to handle more than one article at any one time. In country areas Officers may also be required to move portable lighting generators (20kg) or change tyres.

The above guide relates only to manual handling tasks and postures that may be performed by Ambulance Officers and Flight Nurses of the Ambulance Service of New South Wales.



Ambulance Officer and Flight Nurse Manual Handling Tasks

Task Group	Duration and Frequency	Distance Moved	Type of Load	Weights	Posture
Patient assessment and treatment (these tasks are also done in moving vehicles)	Minutes – hours (eg. CPR 20-50 minutes)	N/A	Patients	90% of patients are in the range 50-100kg – average 85kg.	Bent or awkward postures may be required as well as the exertion of considerable force (eg. during prolonged CPR).
Patient movement (lift, carry, push, pull and drag patients with and without equipment)	Varies depending on location – range is from 2 to 15 patients per shift. Specific information on workload should be sought.	Varies from direct transfer from bed to stretcher – to a long carry over rough/muddy/sandy ground. Average distance approximately 10 metres.	As above. Most common situations are: - transfer from bed to stretcher - flat lift - fore and aft lift	As above	Correct techniques may not always be possible (eg. emergency extrication from vehicles, transport down stairs).
Equipment movement (includes patient luggage)	As for patient treatment – most commonly used equipment is the Zoll Series M Monitor/Defibrillator, Oxy Viva Kit and ALS Kit.	As above.	Stretcher Oxy Viva Kit O ₂ Cylinder "D" size ALS Kit First Aid Kit Zoll Series M Monitor/Defibrillator Lifepak 10 Monitor/Defibrillator Humidicrib (Thermocot)	60kg 12.4kg 11.2kg 7.05kg 5.1kg 9.35kg 7.25kg 23kg	Twisting and stretching may be required to load/unload equipment from the Ambulance.



Manual Handling Tasks – Rescue Officer

The following is a list of typical manual handling tasks that a Rescue Officer may be required to perform. The list is not intended to be exhaustive, but reflects typical tasks. Each rescue situation will be unique and may pose additional manual handling hazards not described here.

- Load and unload equipment from rescue vehicle (hydraulic equipment can weight 25kg or more).
- Operate hydraulic equipment (eg. spreaders for motor vehicle rescue work). Weight of equipment is 25kg or more, single person operation and used at all angles (including above shoulder and below knee height, depending on circumstances).
- Undertake roping work (eg. abseiling to attend to patients; manoeuvre patients while suspended on a rope and taking partial weight of patient).
- Undertake cliff rescue work eg. haul ropes and laden stretchers (the average patient weight is 85kg) up cliffs.
- Work in extremely limited space (eg. crashed vehicles) to free trapped victims. This can involve twisting, lifting and maintenance of awkward postures for extended periods of time.
- Climb ladders.
- Support own body weight in a variety of positions.



SOP2007-026 MATERNITY, ADOPTION AND PARENTAL LEAVE

**ATTACHMENT C – Duties and Manual Handling Tasks of
Patient Transport Officers**

To assist medical practitioners in assessing the fitness of Patient Transport Officers, a brief outline of their duties and manual handling tasks are provided below.

Duties

Patient Transport Officers (PTO) fill the role of transporting non-urgent and non-traumatic patients between various locations. They do not attend trauma cases as a primary role, but provide transport for such clients as renal dialysis patients, individuals with physical disabilities, non-urgent medical patients, and transfer of patients between health care facilities and between these facilities and the patient's residence. As with Ambulance Officers, PTOs respond on an as-needs basis to calls and referrals from a central office.

This role requires PTOs to manually transfer patients between bed/chair and a stretcher, and in some cases to carry residents on a "carry sheet" or wheeled "stair chair" when a stretcher is unable to be used (for example up and down stairs).

The situations attended by PTOs vary greatly regarding the physical environment. While there is a large proportion of work which does not require physically carrying patients on carry sheets or in a mobile chair up and down stairs, the amount of these duties is unable to be predicted.

The workload may vary in intensity from as few as 3 jobs per day, to over 10. This is largely determined by the referral rate and the distances which need to be travelled between jobs. Similarly, the physical demands vary greatly depending on the specific limitations of each patient and the physical environment at the origin and destination.

The common patients identified at the time of assessment were renal dialysis patients, geriatric transfers between hospitals and nursing homes/hostels/residences and non-urgent medical patients from home to a health care facility. It was observed and reported that many of these patients are unable to weight bear, and therefore transfers are completed via stretcher, carry sheet or wheeled stair chair.



Manual Handling Tasks

This document is designed as a guide to the manual handling tasks and other physical duties that a PTO may be required to perform. It should be considered when determining the fitness of an individual to undertake the normal duties expected of a PTO. The list is not exhaustive, but reflects potential tasks.

TASK	OBSERVED PERFORMANCE
<p>Attending Calls</p> <ul style="list-style-type: none"> ▪ In and out of vehicles ▪ Driving ▪ Taking stretcher in and out of vehicle 	<ul style="list-style-type: none"> ▪ Prolonged sitting ▪ Prolonged hip and knee flexion ▪ Frequent stepping up and down in lumbar spine flexion ▪ Supporting and pulling weight with one arm, usually with shoulder in over 90 degrees flexion ▪ Prolonged grip ▪ Pulling against resistance at waist height ▪ Pushing against resistance at waist height ▪ Some walking over various surfaces
<p>Transferring from bed to stretcher</p> <ul style="list-style-type: none"> ▪ Rolling patients ▪ Sliding patients using slide board ▪ Pushing stretcher on various surfaces and up and down slopes 	<ul style="list-style-type: none"> ▪ Pushing against resistance at waist height ▪ Pushing against resistance at low levels (below knee height) ▪ Intermittent squatting while pushing and pulling loads ▪ Forward flexion of the shoulders up to 90 degrees against resistance ▪ Intermittent power grip ▪ Pulling against resistance in standing ▪ Pushing loads over various surfaces ▪ Working in confined spaces when pushing and pulling ▪ Reaching to low levels ▪ Lifting from low levels (loads over 100kg possible depending on client size) ▪ Resisted hip and knee extension in standing and walking ▪ Resisted shoulder flexion and extension in standing



	<ul style="list-style-type: none">▪ Pushing loads on trolleys (up to 100kg)▪ Torsion and lateral movement of knees while pushing▪ Prolonged standing▪ Frequent squatting or semi squatting▪ Frequent reaching to low levels with small loads (under 5kg)▪ Working at waist height▪ Frequent shoulder flexion to 80 degrees▪ Frequent firm grip▪ Frequent shoulder abduction and external rotation (reaching to the side)▪ Intermittent lumbar spine flexion▪ Fine manipulation of small items (eg. buckles etc.)
<p>Transferring from floor to stretcher or chair</p> <ul style="list-style-type: none">▪ Lift with carry sheet▪ Manually assist client to stand	<ul style="list-style-type: none">▪ Reaching to low levels▪ Intermittent prolonged squat or kneeling▪ Lifting loads (over 100kg possible) from floor level▪ Intermittent strong grip▪ Resisted knee and hip extension from extreme flexed position▪ Supporting loads with both arms in neutral▪ Supporting loads in standing▪ Walking while carrying loads over various surfaces, including up and down stairs▪ Resisted shoulder flexion and extension in standing, squatting or kneeling▪ Carrying loads in awkward and confined spaces
<p>Moving patients up and down stairs</p> <ul style="list-style-type: none">▪ Carry sheet▪ Stair chair	<ul style="list-style-type: none">▪ Reaching to low levels▪ Intermittent prolonged squat or kneeling▪ Lifting loads (over 100kg possible) from floor level▪ Intermittent strong grip▪ Resisted knee and hip extension from extreme flexed position▪ Supporting loads with both arms



	<p>in neutral</p> <ul style="list-style-type: none">▪ Supporting loads in standing▪ Walking while carrying loads over various surfaces, including up and down stairs▪ Resisted shoulder flexion and extension▪ Carrying loads in awkward and confined spaces▪ Carrying loads up and down stairs▪ Supporting loads over shoulder height while walking up and down stairs▪ Heavy resisted knee flexion and extension▪ Heavy resisted hip flexion and extension▪ Pulling loads up and down in lumbar spine flexion▪ Pushing loads at waist level▪ Walking over various surfaces▪ Stepping down stairs sideways while supporting loads
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It has been both observed and reported by PTO staff that the above tasks were unable to be predicted prior to attendance at a job. While there are a large number of tasks which require pushing and pulling on flat surfaces and in controlled environments. However, there are regularly (and often frequently) tasks that require significant heavy lifting from levels below knee height, and carrying loads up and down stairs. This is most common in transfers of patients between their own home and a health care facility rather than between health care facilities.

GPSC2: AMBULANCE SERVICE INQUIRY – ADDITIONAL QUESTIONS

Question 9.

A common theme heard in submissions is of junior officers receiving promotions before gaining sufficient experience, over longer serving officers with substantial experience, qualifications and merit. How is recruitment conducted? What mechanisms are in place to ensure accountability and transparency?

ANSWER

The NSW Health policy, *Recruitment and Selection Policy and Business Process - NSW Health Service* (PD2006_059 – copy attached) directs the application of the NSW Government selection on merit processes. These are applied in the Ambulance Service of NSW for all vacancies across the State with a three person committee, including an independent from outside the Ambulance Service of NSW.

Recruitment and selection is based on merit - the abilities, qualifications, experience, standard of work, performance, and personal qualities of a person as relevant to the nature and inherent job requirements of the position.

Positions are advertised and involve: written applications; interviews; referee reports on successful applicants; and conduct and service checks of successful applicants.

The conduct and service checks include:

- ensuring that the employee is not currently on a clinical assistance program;
- is able to undertake the full duties of the position;
- is not currently or recently under disciplinary action;
- a review of sick leave absences; and
- is able to undertake the full duties of the position.

The selection committee makes a recommendation to the delegate (usually the Divisional Manager) and the decision is listed in the Government and Related Employees Appeals Tribunal schedule published fortnightly in *Sirens*. Appeals against appointments are determined by the Government and Related Employees Appeal Tribunal; a notice to this effect is published with the appointment schedule.

Selection processes for Intensive Care Paramedic, Special Casualty Access Team and Rescue Training Courses are centralised. These courses require current operational, clinical and technical competencies to be demonstrated and the ability to complete the training. These selection processes are also able to be appealed under the GREAT Act. Selection recommendations are approved by the General Manager, Operations.

If staff have concerns about the recruitment and selection processes used in their individual case, the *Effective Workplace Grievance Resolution: Policy and Better Practice for the Department of Health and Public Health Organisations, 2005* (copy attached) may also be accessed. An independent review of the process and decision-making is then undertaken.

If the Committee has received information from staff concerned that they were unfairly treated as part of a recruitment process, they should be referred to the grievance policy and advised that they may seek independent review of the process.

Policy Directive

NSW HEALTH

Department of Health, NSW
73 Miller Street North Sydney NSW 2060
Locked Mail Bag 961 North Sydney NSW 2059
Telephone (02) 9391 9000 Fax (02) 9391 9101
<http://www.health.nsw.gov.au/policies/>

Recruitment and Selection Policy and Business Processes - NSW Health Service

Document Number PD2006_059

Publication date 31-Jul-2006

Functional Sub group Personnel/Workforce - Recruitment and selection

Summary This document provides the NSW Health Service policy on recruitment and selection, as well as a step-by-step-guide for any staff in the NSW Health Service involved in recruitment and selection processes. It aims to ensure that the best possible person is selected for each position; that appointees to positions have the appropriate competence, experience and, where required, professional registration; and that all recruitment and selection processes meet all relevant statutory requirements, are consistent, fair, timely and efficient, and are able to withstand external scrutiny.

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Applies to Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations - Non Declared, Affiliated Health Organisations - Declared, NSW Ambulance Service

Audience Human Resources, Line Managers

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Compliance with this policy directive is mandatory.

RECRUITMENT AND SELECTION:

**POLICY AND SUPPORTING
BUSINESS PROCESSES**

July 2006

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1. Introduction

1.1 How to use this document

This document provides the policy on recruitment and selection for the **NSW public health system**, as well as a step-by-step guide for staff involved in recruitment and selection processes.

All recruiters should read section 1.2 *Purpose and scope* for general information on who this document applies to and what information it covers. All recruiters should also read section 1.3 *Definitions*. Knowing and understanding the definitions of terms as they are used in this document is necessary to ensure compliance with relevant legislation and policies.

The rest of the document follows the recruitment and selection process flow. While not all processes outlined in this document will apply to all recruitment situations, the document has been structured so that it leads recruiters through all possible steps to allow them to consider which of those steps are relevant to their particular situation, and which policy considerations are relevant at each step.

There may be some minor variations in the order in which different recruiters follow the business processes. However, many of the processes can only be started once the previous process has been completed. The document clearly states where this is the case.

Relevant policy provisions and related considerations for each business process are outlined in the right hand column, with references to relevant legislation, NSW Health policies, and other information and assistance listed in the left hand column. Terms that have been defined under section 1.3 have been bolded.

In this document the term

- **must** – indicates a mandatory action required by law, industrial instrument, or Departmental policy directive
- **should** – indicates a recommended action that should be followed unless there are sound reasons for taking a different course of action.

Additional supporting tools for use by HR staff and line managers (a list is attached at the end of this document) is available to download from the NSW Health intranet at <http://internal.health.nsw.gov.au/jobs/recruitment/recruitselect.html>.

All current NSW legislation is available at <http://www.legislation.gov.au>.

All current NSW Health policies are available at <http://www.health.nsw.gov.au/policies.index.html>.

1.2 Purpose and scope

What is the purpose of this document?

Recruitment and selection is crucial to ensuring that the **NSW public health system** can attract and retain a skilled workforce that will allow it to continue providing quality health services to the people of NSW.

Accordingly, the purpose of this policy directive is to ensure that all recruitment and selection processes in the **NSW public health system**:

- ensure that the best possible person is selected for the job
- ensure that appointees to positions have the appropriate competence, experience and, where required, professional registration
- meet all relevant statutory requirements
- are conducted in a timely manner
- are able to withstand external scrutiny.

Refer to the current NSW Health Code of Conduct.

In addition, the document aims to ensure that the decisions, actions and behaviour of staff involved in recruitment and selection processes comply with the NSW Health Code of Conduct, and are based on the public sector values of:

- competence
- courtesy and respect for individuals
- cultural sensitivity
- ethical behaviour
- fairness and impartiality
- transparency, openness, honesty and accountability
- responsibility
- efficiency and effectiveness.

It is particularly important that recruitment and selection processes are conducted promptly and that the process flows in a timely manner. There should not be long gaps in the process, as this can result in loss of interest in the position, or loss of good applicants. A recommended time frame for the recruitment and selection process is included at web tool 1.3, and managers should ensure that these time frames are met, as far as practicable.

What processes does this document cover?

The scope of this document is limited to the actual recruitment process, from the decision to fill a vacancy to the acceptance of a job offer by the successful applicant, and appeals.

Who does this document apply to?

This document applies to all recruitment and selection processes in the **NSW public health system** where employment will be permanent or temporary for over 13 weeks, except those listed below.

All potential staff (including casual and temporary) must still be assessed as to their suitability to perform the duties of the vacant position.

Refer to:

- [Health Industry Status of Employment \(State\) Award](#)
- [NSW Health policy on junior medical staff recruitment](#)
- [NSW Health policy on the appointment of staff specialists](#)
- [NSW Health policy on the appointment of visiting practitioners](#)

This document does not apply to:

- **casual** employment – refer to Web appendix 1.1
- temporary employment for a period not exceeding 13 weeks – refer to Web appendix 1.1. Where a short-term vacancy progresses beyond 13 weeks, and where there is an ongoing need to fill it either temporarily or permanently, it must be advertised or otherwise filled in accordance with this policy.
- Health Executive Service - refer to the Department's HES Unit
- staff specialists – refer to the current NSW Health policy on the appointment of staff specialists
- visiting practitioners – refer to the current NSW Health policy on the appointment of visiting practitioners.

Note: Other policies referred to in this policy may apply to all employment eg employment screening.

For junior medical officer (JMO) recruitment, refer to the JMO recruitment policy directive for the current year.

Relationship to Industrial awards

When filling vacancies, **employers** must also refer to the relevant industrial awards or determinations. Where this policy directive differs from the conditions set out in relevant award or determination, the award/determination conditions will take precedence. NSW Health industrial awards and determinations are available at <http://www.health.nsw.gov.au/jobs/empcond/classifications.html>

1.3 Definitions

Aboriginal person

Refers to an Aboriginal or Torres Strait Islander person. An Aboriginal person or a Torres Strait Islander is a person who is:

- of Aboriginal or Torres Strait Islander descent
- identifies as an Aboriginal or Torres Strait Islander
- is accepted as such by the community in which he or she lives.

Refer to:

- NSW Health awards and determinations

Casual staff

Refers to persons who may be engaged on an hourly basis for a period not extending beyond one week to provide services related to the unexpected absence of permanent or temporary staff. There is no expectation of continued employment beyond the provision of the services required at the time. Refer also to relevant awards.

Refer to:

- NSW Health Code of Conduct
- NSW Health policy on Conflicts of interest

Conflict of interest

Exists when a person involved in the recruitment and selection process (eg selection committee member, selection decision-maker etc) could be, or could be seen to be, influenced by a personal interest or relationship in carrying out their public duty.

Culling or short-listing

The initial assessment of applicants by the selection committee against the **selection criteria** to determine their progress to the next stage of the selection process.

Refer to:

- Anti-Discrimination Act 1977

Discrimination

Discrimination under the *NSW Anti-Discrimination Act 1977* and/or Commonwealth anti-discrimination legislation occurs when an applicant is, either directly or indirectly, treated less favourably than someone else on the basis of their race, sex (including pregnancy), transgender, marital status, disability, carers' responsibilities, homosexuality or age.

Division of the NSW Health Service

Staff employed in or in connection with an area health service, a statutory health corporation, or a declared affiliated health organisation; in connection with the provision of ambulance services; or in connection with public health organisations providing corporate and other health support services to those public health organisations.

EEO - Equal Employment Opportunity

Provides that all applicants, regardless of their background or circumstances, have equal access to information about vacant positions, and an equal right to be considered for vacant positions on their merit as relevant to the requirements of the job.

Refer to:

- Anti-Discrimination Act 1977

EEO groups

EEO groups are people affected by past or continuing disadvantage or **discrimination** in employment on the basis of their race, sex (including pregnancy), transgender, marital status, disability, carers' responsibilities, homosexuality or age.

Eligibility list

A list of people who, following a competitive selection process for an advertised vacant position, were not appointed but are deemed suitable for the position and have demonstrated the greatest merit relative to other applicants. An eligibility list may contain one or more people, ranked in order of merit.

An eligibility list may apply not only to the position for which it was created, but also to other vacant positions (regardless of location) that are substantially the same and have substantially the same selection criteria. This may include a particular class of positions experiencing recurring vacancies, if so determined by the Chief Executive or delegate. Refer also to the relevant awards.

- Section 15 of the NSW Health Combined Delegations Manual

Employer

For the purposes of this document, means any person authorised to exercise the functions of the employer of staff to which this policy applies.

Employment documentation

Refers to any correspondence provided to a prospective staff member regarding their future employment eg letter of offer, letter of employment, employment contract etc.

Fairness

Treating a person in a way that is right or reasonable, or treating a group of people equally, and not allowing personal opinions to influence one's judgement. Fair treatment does not always mean treating everyone exactly the same, but rather considering the individual circumstances of each case to ensure that the outcome is equitable.

Refer to:

- NSW Health policy on employment health assessment

Health assessment

Evaluation of a person's fitness to carry out the **inherent requirements** (duties) of the position, without endangering the health and safety of the public, other staff, or themselves. Health assessments may be done through health declarations, screening tests, medical examinations etc.

Inherent job requirements

Those duties and responsibilities of the job that are fundamental, intrinsic or essential to the position. Inherent job requirements refer to tasks themselves rather than methods of undertaking tasks.

Merit selection

Selection of the best available person for a position through open competition. Selection is based on the abilities, qualifications, experience, standard of work, performance and personal qualities of a person, as is relevant to the nature and inherent job requirements of the position.

Refer to:

- Health Services Act 1997

NSW Health Service

Consists of those persons who are employed under Chapter 9, Part 1 of the *Health Services Act 1997* by the Government of New South Wales in the service of the Crown.

Refer to:

- Section 6 of the Health Services Act 1997

NSW public health system

Consists of all area health services, all statutory health corporations, and all affiliated health organisations in respect of their recognised services, as well as the Ambulance Service of NSW, Institute for Medical Education and Training, Health Technology and Health Support.

Occupational illness or injury

Illness or injury obtained in the course of work, which therefore falls under workers compensation legislation.

Refer to:

- NSW Health policy on employment health assessment
- NSW Health policy on employment of people with physical disabilities

Reasonable adjustment

The practice of making adjustments to a job or workplace to allow a person with a disability to use their skills effectively. Adjustments can range from modifications to interview techniques and from work design to alterations to facilities etc.

Refer to:

- NSW Health policy on injury management and return to work
- NSW Health policy on managing displaced employees

Redeployment

Placing an existing member of staff to a new job for which they are deemed suitable where:

- an occupational illness or injury prevents them from continuing in their current position or
- their position has been deleted and they are deemed displaced/excess.

Referee checks

Seeking employment related information about an applicant from present or past supervisors or other people with a direct personal knowledge of the applicant's conduct and performance at work. Such work need not be paid employment.

Selection criteria

Describe the skills, knowledge, experience and, where required by legislation or an industrial award, qualifications necessary for performing the **inherent requirements** of the job. Selection criteria are used to assess the suitability of all applicants for the position.

Note: In accordance with current NSW Government policy, selection criteria is not divided into 'essential' and 'desirable', but include the essential requirements only. This will not only encourage all eligible candidates to apply for each vacancy, but will also ensure the objectiveness of the selection decision.

Structured interview

An interview where the principal questions or areas for questioning are pre-determined in line with the **selection criteria** to be addressed in the interview. The interview can also include a strategy or method for scoring and comparing the answers of interviewees. Structured interviews have been shown to have a greater predictive validity than unstructured interviews.

Refer to:

- [Anti-Discrimination Act 1977](#)
- ['Exceptions and exemptions' at the Anti-Discrimination Board website](#)

Targeted positions

A **targeted** position lists membership of a particular **EEO group** as one of the **selection criteria**, and is available only to suitably qualified members of that particular **EEO group**.

The *NSW Anti-Discrimination Act 1977* provides for a number of *exceptions* to the discrimination provisions where being of a particular **EEO background** is a 'genuine occupational qualification' (ie an **inherent job requirement**) for a position eg advertising for a woman to clean female toilets if the toilets are to be cleaned while in use by women. Such positions are often referred to as **identified** or **designated** positions.

In other circumstances, an *exemption* under sections 126 or 126a of the Act must be sought and granted if it is proposed to **target** a position to a particular **EEO group** (and therefore discriminate against the others). To obtain an exemption, an agency must show that the **targeting** of the job will help redress past or present injustices experienced by the particular group in a specific occupation or area of employment.

Transparency

Being open and clear about the factors influencing recruitment and selection decisions and the process by which those decisions are made. To ensure transparency, all decisions must be properly documented.

All selection documentation containing personal information about the applicants must be treated confidentially both by the selection committee and other staff involved in managing the recruitment process.

Refer to:

- [NSW Health policy on employment health assessment](#)
- [NSW Health policy on employment of people with physical disabilities](#)

Unjustifiable hardship

Where **reasonable adjustment** to a workplace or job would present indefensible or unwarranted difficulties for an employer. Consideration should be given to the cost of the adjustment required, the organisation's financial situation, and the potential benefits and/or impact of the adjustment to others in the workplace.

2. Review of position information

2.1 Introduction

When a decision is made to fill a vacancy, a number of key activities or business processes should take place prior to advertising the position.

It is very difficult to meet the objectives of this policy directive without accurate, up-to-date and relevant information about the position. Position information will form the basis for the advertisement, the applicant information package, and the criteria used by the selection committee to assess the suitability of applicants for the position.

This information is usually covered in a range of documents including the position description, job demands, **inherent requirements**, **selection criteria**, the job evaluation report, etc. Therefore the key activities prior to advertising will include review of the position documentation to ensure it is accurate and up to date. (See checklist at Web appendix 2.2.)

2.2 Review position documentation

When reviewing the position documentation, the following questions will assist in identifying whether amendments are needed:

For further information, refer to:

- Your HR staff
- [Merit Selection Guide for Public Sector Panels \(QEED\)](#)
- [Merit Selection Online Refresher Training \(QEED\)](#)

- Your OHS staff
- NSW Health policy on [employment health assessment](#)
- NSW Health policy on [pre-employment screening of security staff](#)
- [Australian Psychological Society](#)

- NSW Health policy on [qualifications for senior financial management and accounting positions](#)
- relevant [legislation](#)
- relevant [industrial award\(s\)](#)

- NSW Health policy on [employment screening and review](#)
- NSW Health policy on [occupational assessment, screening and vaccination against infectious diseases](#)

- *Have the duties, responsibilities and accountabilities for the position changed?*
- *Have the **inherent requirements** of the job been identified and are they up-to-date?*
- *Have the skills, knowledge and experience to be used in the job changed?*
- *Is information related to the employer and/or the relevant organisation, facility, department or unit still relevant and up-to-date?*
- *Have the physical, psychological or sensory demands of the job tasks changed (see Web Appendix 2.1)?*
- *Are the methods for determining whether an applicant meets the physical, psychological or sensory demands still relevant?*
- *Are any educational, trade or professional qualifications referred to in the position documentation still required under law or an industrial award, and are the references up to date?*
- *Are any other/new educational, trade or professional qualifications required for the position by law or an industrial award?*
- *Is any requirement for the length of relevant previous work experience still required by law or an industrial award, and is the reference up-to-date?*
- *Are there any other/new requirements on the length of relevant previous work experience set by law or an industrial award?*
- *Have any professional registrations/authority to practice requirements changed, and are the references up-to-date (see Web appendices 4.3 and 4.4)?*
- *Are references to criminal record checks or working with children checks still relevant to the position?*
- *Does the position documentation identify the correct occupational vaccination risk category for the position, and include supporting explanatory documentation (see the current NSW Health occupational assessment, screening and vaccination policy)?*

- your HR or equity staff
- your Aboriginal Employment Coordinators
- representatives of the relevant EEO groups
- [NSW Anti-Discrimination Board web site on exemptions from the Anti-Discrimination Act](#)
- relevant [legislation](#)

- relevant [industrial award\(s\)](#)

- If the position is identified as a **targeted position**, is this still accurate and/or relevant? Has the appropriate exemption from the NSW Anti-Discrimination Act 1997 been obtained, if required?
- If the position is not a **'targeted' position**, should it be?
- If there are references to the position requiring an understanding of a particular community, or cultural sensitivity, are they still relevant and up-to-date?
- If there are no references to the above in the current position documentation, should there be?
- Are any references to legislation still relevant and up-to-date?
- Does position documentation meet all relevant organisation or NSW Health content and format requirements eg position description templates etc?
- If the job has changed significantly, is the title, remuneration and grading/classification of the position still appropriate?

In addition to the supporting material listed on the left, a range of actions can help determine the answers to the above, such as:

- review an up-to-date organisation chart
- review records of any recent exit interviews in relation to the position
- talk to those who may have recently acted in the position
- talk to those reporting to, and/or supervising/managing the position
- where possible and practicable, talk to those to whom the position provides or oversees services to, be they internal (other staff) or external clients (patients)
- seek advice from relevant policy, planning and/or public affairs personnel to determine if advice being provided about the organisation is accurate and up-to-date
- Arrange for the position to be re-evaluated to determine its grading and remuneration level, if necessary.

2.3 Review selection criteria

Selection criteria are a key component of a transparent, fair and effective recruitment and selection process. It is therefore crucial to ensure that they are up-to-date, objective, measurable and strictly job-related.

They should also be clear, concise and easy to understand. As a general rule, **selection criteria** should be limited to about 6-8 requirements. Long and complex **selection criteria** may prevent potential applicants, who may be well qualified for the position, from applying. *While drawn from the position documentation, **selection criteria** are separate from it.*

*When determining/reviewing **selection criteria**, the following should be considered:*

- *What are the skills, knowledge and experience required for performing the **inherent requirements** of the job?*
- *Have skills that can be learned in a reasonable time on the job been excluded?*
- *What are the physical, psychological or sensory requirements that are necessary for performing the **inherent requirements** of the job?*
- *Are there any educational, trade or professional qualifications that are a legal or award requirement for the position? If not, have such references been excluded eg nursing qualifications for a clinical information system position that could be done by a wider pool of applicants?*

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- Are there any legal or industrial requirements in relation to the length of previous work experience in the profession? If not, have such references been excluded?
 - Are there any professional registrations/authority to practice requirements for the job?
 - Where allied health professions are not represented by NSW health professional statutory boards, is membership of the relevant state or national professional association included in the **selection criteria**?
 - What are the vaccination requirements for the position?
 - Is the position **targeted** to a particular **EEO group** eg membership of an **EEO group** is an inherent requirement, or does it require an understanding of such a group?
 - Is any preference or availability to work in particular locations clearly excluded from the **selection criteria**? Please note that any preference matching should take place after **merit selection**.
 - Are the **selection criteria** strictly job-related?
 - Is any aspect of the **selection criteria** less favourable to a particular **EEO group(s)** than to others?
 - Does the **selection criteria** include common NSW Public Sector **selection criteria** on equal employment opportunity (**EEO**), ethical practice, Ethnic Affairs Priorities Statements (**EAPS**), and Occupational Health and Safety (**OHS**)?
 - Are the **selection criteria** written in plain English, and not unduly long or complex?

Where a professional qualification would enhance the capacity of the applicant to undertake the duties of the position, but is not required by law or an industrial award, include the following: *A degree in a relevant field, or equivalent work experience or a combination of study and work experience.*

Note: If the selection criteria specify qualifications that are not required by law or an industrial award, prior approval to include such qualifications must be sought from the Director-General.

3. Advertising

3.1 Introduction

Once all position documentation has been updated, and approval obtained for filling of the vacancy, it should be determined how the position will be filled.

The best field of applicants is usually obtained through opening vacant positions to competitive recruitment by advertising. This is also consistent with NSW Health's commitment to **fairness** and equity.

However, in certain circumstances the position may be able to be filled without advertising. Therefore, prior to opening the position to competitive recruitment, a number of business processes must be taken to ensure that these options are explored first.

3.2 Explore redeployment

Injured staff

Where occupational illness or injury prevent a member of staff from returning to the duties of his/her existing position, workers compensation legislation requires that, as far as practicable, every effort is made to place the staff member into another more suitable position of similar grading, classification and remuneration.

Therefore, the possibility of placing such staff to vacant positions, either temporarily or permanently, should be explored prior to opening the position to competitive recruitment.

For further information, refer to:

- Your OHS staff/return-to-work co-ordinator
- NSW Health policy on *injury management and return-to-work*
- *Workplace Injury Management and Workers Compensation Act 1998*

*In determining whether the vacancy can be filled through **redeployment** of an injured staff member, the following should be considered:*

- *Are there any suitable staff within the **Division** who are prevented by occupational illness or injury from returning to the duties of their existing position either permanently or temporarily?*
- *If yes, do any of the injured staff meet the **selection criteria** for the vacant position, or can they demonstrate a capacity to meet the criteria within an agreed period, and, if necessary, supported by training?*
- *If yes, are the duties of the vacant position consistent with medical opinion regarding suitable duties for the staff member, and with the requirements of the staff member's injury management plan?*

For further information, refer to:

- Your HR staff
- NSW Health policy on *displaced employees*
- *Section 86 of the Public Sector Employment and Management Act 2002 + Section 15.21 of the NSW Health Combined Delegations Manual*
- *Section 87 of the Public Sector Employment and Management Act 2002 + Section 15.20 of the NSW Health Combined Delegations Manual*
- *Section 116c of the Health Services Act 1997*
- *The NSW Health redeployment registry*

Displaced/excess staff

In accordance with NSW Government and NSW Health policy, employers must take any reasonable steps to assist displaced/excess staff to be redeployed into meaningful employment as soon as possible. The NSW Health policy on managing displaced staff outlines the processes for this, including any provisions for priority of employment.

Any decision to redeploy an injured or displaced/excess staff member to a vacancy must be based on a fair and unbiased assessment of the candidate's individual circumstances and suitability for the position. Therefore, it is recommended that an assessment committee be established to interview the candidate(s). Any decision in relation to the redeployment of a staff member must be appropriately documented.

3.3 Review eligibility list(s)

Where **redeployment** has not been successful, and prior to advertising the vacancy, the use of any existing eligibility lists to fill the position should be explored.

Used appropriately, **eligibility lists** provide an efficient and cost-effective way to meet staffing requirements while still complying with equity principles. Eligibility lists do not have to be used if, in the circumstances, it seems fairer or more appropriate to conduct a fresh selection process or take other administrative action.

For further information, refer to:
- Your HR/Equity staff

In considering the possible use of **eligibility lists**, the following questions are relevant:

- Are there any **eligibility lists** specifically set up for the relevant class of positions within the facility or organisation?
- Are there any other suitable **eligibility lists** within the facility or elsewhere in the organisation?
- Are the **eligibility lists** still current ie, as a guide, not older than 12 months for base grade positions, and around 6 months for other types of positions?
- Do the **eligibility lists** comply with any relevant award provisions?
- Are the **inherent requirements** and the **selection criteria** for the position for which the **eligibility list** was established substantially the same as those of the current vacancy? It should be noted that location and employment status are not **inherent requirements** of the job.
- Is it reasonable to assume that the quality of the applicant pool is substantially the same as it was at the time of the original selection process? Some potential triggers for change may include a major restructure/increase in displaced staff, end of the academic year, a significantly different geographic location etc.

Where a suitable **eligibility list** is identified in accordance with the above, the people listed should be offered employment in the order they appear on the list eg order of merit. Prior to an offer being made, any employment screening must be undertaken as required by the current NSW Health employment screening policies. (See section 6. Post-selection processes.)

If a vacancy is filled from an **eligibility list**, applicants who would have right of appeal must be advised of the appointment.

3.4 Review further options for appointment without advertising

Once the option of **redeployment** has been exhausted and the possibility of using **eligibility lists** explored, there may be certain other circumstances where appointments can be made without advertising or re-advertising.

Temporary appointments for over 13 weeks

It should be noted that temporary appointments under 13 weeks are not covered by this policy (refer to Web appendix 1.1).

Temporary appointments for over 13 weeks can be made without advertising:

- in accordance with any relevant provisions of the relevant industrial award, or

For further information, refer to:

- Your HR staff
- the relevant award(s)
- NSW Health policies on secondments
- Section 116c of the Health Service Act 1997 + Section 15.11 of the NSW Health Combined Delegations Manual
- Section 86 of the Public Sector Employment and Management Act 2002 + Section 15.21 of the NSW Health Combined Delegations Manual
- Section 87 of the Public Sector Employment and Management Act 2002 + Section 15.20 of the NSW Health Combined Delegations Manual
- Section 88 of the Public Sector Employment and Management Act 2002 + Section 5.27 of the NSW Health Combined Delegations Manual

- as a temporary transfer or assignment in accordance with the provisions of the *Public Sector Employment and Management Act 2002* (NSW public sector staff only), or
- with the approval of the Director-General, or where delegated, Chief Executive or delegate, in certain circumstances.

Before such an appointment without advertising can be approved, the following should be confirmed:

- *the appointment is limited to no longer than 12 months. If it is planned that the position will eventually be advertised, a shorter temporary appointment should be considered so as not to give one person an unfair advantage in the future merit selection process.*
- *the position needs to be immediately filled to ensure that services are provided*
- *the appointment is necessary in light of the overriding responsibility of the Director-General/Chief Executive to act in the public interest*
- *it can be demonstrated that funds are used efficiently and in compliance with relevant award conditions.*

Permanent appointments

Permanent appointments can be made without advertising/re-advertising:

- as employer-sponsored permanent transfers in accordance with the provisions of the *Public Service Employment and Management Act 2002* (NSW public sector staff only), or
- with the approval of the Director-General, or where delegated, Chief Executive or delegate, in certain circumstances.

Before such an appointment can be approved, the following should be ascertained:

- *The position was advertised as a permanent position in the preceding six months with no suitable applicant found.*
- *The **inherent requirements** and **selection criteria** for the position have remained substantially the same.*
- *It is reasonable to assume that the market has not changed substantially since the position was advertised. Some triggers for change may include a major restructure/increase in displaced staff, end of the academic year, a significantly different geographic location from the original position etc.*
- *There is an occupational shortage either across the state or within the geographic area covered by the organisation for this type of position.*
- *It is in the public interest to have the position permanently filled to ensure continued effective provision of services to the community.*

Any appointment under this section should follow the business processes outlined in section 5 *Selection*, as appropriate. The purpose is to ensure a fair and unbiased assessment of a potential appointee's suitability for the position.

3.5 Advertise the position

Once **redeployment** options and any **eligibility lists** have been reviewed, and unless the circumstances of the vacancy meet the above criteria for filling without advertising or re-advertising, the vacancy should be opened to competitive **merit selection**.

Decide how and where to advertise

Positions should be advertised as widely and cost-effectively as practicable. Some vacancies might be advertised across the organisation only and be available to the staff within the corresponding **Division** only. For others, it will be necessary to advertise across the **NSW public health system**, or both within and externally to the system.

As a general rule, if the position has a salary equivalent to or higher than Health Manager Level 4, and if it is to be filled permanently or temporarily for 12 months or more, it should be advertised across the **NSW public health system** as a minimum or more widely. However, during major restructures, refer to any related directions from the Director-General.

Employers should have an advertising strategy in place, including the monitoring and evaluation of costs, and are encouraged to develop Internet and other electronic options for advertising. All vacancies advertised across the **NSW public health system** or more widely, and the related job information packages must be placed onto the NSW Health job vacancy database, HealthJobs.

However, potential applicants without access to electronic media should not be disadvantaged. A brief reference to vacant positions should also appear in the appropriate print media referring potential applicants to additional information.

Rolling or ongoing advertisements may be considered for positions in high demand (eg nursing, medical staff). They allow for the speedy consideration of applications (eg walk-in applications) in situations where positions need to be urgently filled, while not compromising the principles of **merit** and equity. Such advertisements need not have a closing date, but their ongoing need, including the ongoing relevance of the **selection criteria**, used must be reviewed regularly.

For further information, refer to:

- Your HR staff
- Any current NSW Health directions on advertising of vacancies

- [NSW Health Jobs](#) vacancy database

- Your Equity staff
- Aboriginal Employment Coordinators

- Community Relations Commission of NSW - ethnic media at <http://www.crc.nsw.gov.au>

- Koori Mail at <http://www.koorimail.com>

In deciding how and where the vacancy should be advertised, the following should be considered:

- *Is the position being advertised during a restructure? If yes, have provisions of relevant NSW Health policies and directions specifying advertising requirements during restructures been met?*
- *Does the position have a salary equivalent to or higher than Health Manager Level 4?*
- *Is the position to be filled permanently or for a shorter period?*
- *How likely is it that a sufficient pool of suitably qualified applicants could be attracted if the position was advertised within the organisation only? Across NSW Health? Public sector wide or more widely?*
- *Does the relevant award contain specific requirements about advertising vacancies eg Ambulance Service awards?*
- *Is there currently a workforce shortage for the same type of positions within the geographical area of the organisation?*
- *How cost effective are the different options for advertising?*
- *Which advertising media or methods are the most likely to reach suitable applicants from across the wider community, including different **EEO groups**?*
- *Which advertising media or methods are most likely to reach suitable applicants from communities that are underrepresented in the **public health system**, or to which the position may be **targeted**?*

Prepare advertisement and job information package

Sufficient information should be available to applicants regarding the position and its **selection criteria**. The information should be comprehensive enough to provide a clear and accurate picture of the position, yet not so bulky that it will deter would-be-applicants, particularly where the position targets disadvantaged groups.

While there are cost reasons for keeping the advertisement short and providing additional necessary information in an information package, there may be instances where providing more detail in the advertisement is necessary to focus the field of potential applicants eg positions within specialised areas of Allied Health, nursing etc.

Information packages must be available in hard copy for those applicants unable to access them online.

In preparing the advertisement and the related information package for applicants, consider the following (see also Web Appendix 3.1):

- NSW Health Code of Conduct
 - NSW Anti-Discrimination Board - Employers and Managers/Exceptions and Exemptions at <http://www.lawlink.nsw.gov.au/adb>
 - NSW Health policy on employment screening and review
 - NSW policy on employment health assessment
 - NSW policy on pre-employment screening for security staff
 - NSW Health policy on occupational screening and vaccinations against infectious diseases
- *What is the key information about the position that will help applicants assess their own suitability for it eg **selection criteria**, position description, employment conditions, salary etc?*
 - *What other additional information on the position, the organisation or its location would the applicants find useful in deciding whether to apply for the position?*
 - *If the position is **targeted** to applicants of a particular **EEO group**, does the Anti-Discrimination Board require that any references to the relevant provision of the NSW Anti-Discrimination Act 1977 be included in the advertisement? What confirmation must the applicants provide of their membership of that **EEO Group**?*
 - *What information is the applicant required to provide as part of their application?*
 - *What checks, screening or tests will form part of the selection process? What additional information will an applicant need on such checks, screening and tests? Are there any legal or policy requirements regarding advice to be provided to applicants on such checks, screening or tests?*
 - *What declarations and/or consent or other forms are applicants required to complete as part of the job application eg prohibited persons declaration, consent forms for employment screening etc?*
 - *What proof of qualifications will be required of the applicant? What information will an applicant need in relation to such proof?*
 - *Who will be available for the duration of the advertising period as the contact person for applicant information kits? It is not appropriate for a member of staff who will be an applicant for the position to be involved in the application management or recruitment process in any way.*
 - *Who has the necessary knowledge of the position and the selection process to be the contact person for inquiries (usually the convenor)?*
 - *What is a reasonable closing date for submitting applications, having regard to when the advertisement will appear in the selected publications? As a general rule this should be a minimum of 2 weeks, however, rolling advertisements may not have a closing date at all. Some specialist publications may not come out every week, which will affect the closing date.*

- Will an **eligibility list** be created as part of the selection process, and what kind of positions will this apply to eg location, employment status etc? See also the relevant award provisions on **eligibility lists**.
- If the position is advertised through ongoing advertising, what kind of positions does the advertisement apply to eg possibility of different locations, shifts, permanent/part-time status?

All information packages must indicate that applicants should include the names of two **referees** in their applications, one of whom should be a current supervisor/manager.

For further information, refer to:
 - Child Protection (Prohibited Employment) Act 1998

In addition, all advertisements/information packages for child-related positions must include a statement to the effect of "It is an offence under the *Child Protection (Prohibited Employment) Act 1998* for a person convicted of a serious sex offence to apply for this position."

Information packages must also contain a reference to the NSW Health Code of Conduct, and where it can be obtained. Compliance with the Code will be a condition of employment within the **NSW public health system**. Information on the public sector common selection criteria should also be provided to allow applicants to address those criteria.

3.6 Use of recruitment consultants

In certain out-of-the-ordinary circumstances, the use of recruitment consultants may be considered.

Note: Prior approval from the Director-General is required.

When deciding whether it may be necessary to use a recruitment consultant, the following should be considered:

- *Is it crucial to fill the position as soon as possible ie is the position critical to the agency?*
- *What is the likelihood of finding suitable candidates through traditional advertising eg does the position require specialised or scarce knowledge or skills?*
- *How extensively has the position been advertised without success?*
- *Are there other significant practical reasons for engaging a consultant eg resource intense bulk recruitment, ongoing interstate/overseas recruitment etc?*
- *Are there demonstrable benefits to the organisation that outweigh the cost of recruitment?*

The Chief Executive is ultimately responsible for ensuring that the most appropriate person is appointed to the position, and that the recruitment and selection processes were fair.

In setting up arrangements with a service provider, employers must satisfy themselves that:

- *the arrangements provide value for money*
- *the service provider has been fully briefed on the position and its **selection criteria***
- *the service provider has been fully briefed on all relevant NSW Health policies*
- *the agreement clearly defines the responsibilities of both parties eg who does what.*

4. Application management

- 4.1 Introduction** Application management refers to the process of sending out job information packages; providing further information to an applicant, as required; receiving and collating applications for the selection committee; and keeping applicants informed of the progress of their application.
- 4.2 Provide further information to applicants** The key consideration in providing further information to applicants, additional to the job information package, is equity of access. Therefore, no applicant is to be provided with information that would not be made available for all other applicants, should they request it.
- 4.3 Review and collate applications** All applications should be dated and checked to ensure that all information needed by the selection committee has been received. Applications can be faxed or emailed, with originals following in the mail. Where necessary, applicants should be contacted for any missing information.
- Ideally, receipt of applications should be acknowledged. If the selection process is delayed for any reason, or does not go ahead, all applicants should be advised of this as soon as possible.
- 4.4 Manage late applications** A grace period of at least 24 hours should be allowed for applications to come in after the closing time to allow for any unforeseen delays in mail, fax or email eg server down etc.
- A convenor may decide to accept late applications after 24 hours in certain circumstances. If a selection committee has already been convened, the convenor may wish to discuss the acceptance of late applications with the selection committee members. Any decision must be applied **fairly** to all late applications. Unless there are exceptional circumstances, late applications are not to be accepted after interviews have started.
- When deciding whether it is appropriate to accept a late application, some of the 'relevant facts' to be considered include:*
- *the reason for the late application eg delayed in the mail, applicant has only just returned from overseas, or has had to deal with a family or work crisis or other emergency etc*
 - *whether the application was sent before the closing date*
 - *whether the applicant obtained an extension from the convenor prior to the closing date*
 - *the quality of the field of applicants*
 - *the likelihood of being able to fill the position.*
- A record must be kept of any decision and reasons to accept/not accept a late application.

5. Selection

5.1 Introduction

The business process leading up to a selection decision consists of three stages:

- an initial **cull** of applicants who are not eligible for the position, do not meet the **selection criteria**, or are not competitive in a larger applicant pool
- gathering further information on suitable applicants
- assessing the information provided in order to select the most suitable candidate for the position.

To ensure that the selection process is **fair**, it should be undertaken by an appropriately convened selection committee.

5.2 Convene selection committee

The selection committee is responsible for assessing the relative **merit** of applicants for the vacant position in order to find the best possible person for the vacancy. Therefore, the members of the committee should have the appropriate competencies and must be **fair** and professional in exercising their responsibilities.

Committee members must be asked to declare any real, potential or perceived **conflicts of interest** as soon as they become aware of them. **Conflicts of interest** may lead to biased decision-making, which may constitute corrupt conduct under the *Independent Commission Against Corruption (ICAC) Act 1988*.

There is nothing to stop a selection committee member acting as a referee for an applicant, and sometimes this is unavoidable eg when they are an applicant's current supervisor. However, selection committee members should declare this workplace relationship when applications are received.

To be able to make selection decisions that are in the best interest of the community they serve, selection committees should also be representative of and responsive to the needs and diversity of the community. If the position is **targeted** to a particular **EEO group**, the committee must include a representative of that group.

For further information, refer to:

- Your HR/Equity/L&D staff
- Merit Selection Guide for Public Sector Panels - <http://www.ego.nsw.gov.au/merit/panels.htm>

- Your Equity staff

When setting up a selection committee, the following should be considered:

- *How many committee members are needed to ensure that different perspectives are brought to the selection process eg usually at least 3, minimum 2 for entry level positions?*
- *Does the proposed committee have at least one member who is familiar with the position and its requirements?*
- *Is at least one of the proposed committee members male and one female?*
- *Does the nature of the job or the background of the applicants require the **selection committee** to have an understanding of a particular community or **EEO group**?*
- *Is the membership of the proposed committee an appropriate reflection of the local community?*

- NSW Health policy on conflicts of interest
- ICAC Act 1988

- Section 15.18 of the NSW Health Combined Delegations Manual

- NSW Health policy on junior medical staff recruitment

- Your L&D staff
- Merit Selection online refresher training
<http://www.eeo.nsw.gov.au/merittraining>

- Your HR/Equity/Audit staff
- NSW Health policy on conflicts of interest
- NSW Health Code of Conduct

- Could the composition of the proposed committee allow for biased decision-making eg are there personal relationships between committee members etc?
- Do any of the proposed members have a real or perceived **conflict of interest**?
- Does the proposed committee include an independent member? See below for further assistance in choosing an independent committee member.
- Are there any legal/award/audit determination requirements in relation to selection committee members eg Internal Audit Manager positions require representation from the Department?
- If the successful applicant could be placed in one of a number of facilities/organisations after **merit selection**, or will rotate between several facilities/organisations, are the relevant facilities/organisations represented on the selection committee eg junior medical positions etc?
- Is the committee so big that it is likely to overwhelm applicants?
- Has the convenor received training or refresher training in recruitment and selection processes in the past 3 years?
- Have the proposed members of the committee got the appropriate skills, knowledge or experience to participate in the selection process?

Depending on the answers to the above questions, some of the following options may be appropriate:

- Include a member of a particular community or **EEO group** on the committee.
- Ensure the committee includes representation from the facilities/organisations in which the successful applicant(s) may be placed during their employment.
- Explore ways to discharge a **conflict of interest** eg:
 - add an additional committee member as a safety mechanism eg two independents
 - limit the contribution of the committee member to discussion and decision-making, as appropriate eg comment on job knowledge issues only
 - replace the committee member.
- Assign committee members several 'roles' to bring down the size of the committee eg the female member can also be the independent, the male member can also represent a particular community etc.

Convenor

The convenor is effectively the chairperson of the selection committee.

As such, the convenor is responsible and accountable for:

- taking care of necessary administrative details eg establishing the selection committee, developing questions for the interviews etc
- ensuring the timely progress of the process and communication with applicants
- ensuring that the selection process is conducted without bias, and that all relevant information is considered.

Independent committee member

The primary role of the independent selection committee member is to ensure that the selection process is fair. Therefore, an independent committee member should be someone who has no direct interest in the outcome of the selection process, and whose views are based solely on the available evidence.

An independent should not have such affiliations with other panel members that their ability to act with autonomy might be compromised. As with other committee members, an independent member must be asked to declare any real or potential **conflict of interest** as soon as they become aware of it.

An independent committee member should be:

- *external to the **Division** in which the successful applicant will be employed, or from another public sector agency, or from outside the public sector*
- *not a recent occupant of the position*
- *not inappropriately influenced by prior knowledge of factors outside the evidence provided by applicants eg not in a close personal relationship with an applicant*
- *not inappropriately influenced by the opinions of other committee members eg not related to another committee member*
- *likely to be considered independent by applicants.*

Convenors are encouraged to take advantage of tele/videoconferencing facilities when identifying potential independent committee members, to minimise their travel costs and time away from work.

Where it has not been possible to identify a suitable person from outside the organisation in which the vacancy exists, then as a minimum the employer should identify a person who is external to the facility and the reporting structure within which the vacancy is advertised and meets all the other conditions identified above.

Where the advertised position has a salary equivalent to or higher than the minimum for Health Service Manager Level 4, the independent committee member must be external to the organisation.

5.3 Cull applications

Culling involves comparing available evidence eg information provided in the application against the requirements of the job in a systematic, **fair** and consistent manner. Using a **culling** sheet or attaching a rating or score to each **selection criteria** may help in the **culling** process. The reasons for **culling** must be documented.

As a general rule, all selection committee members should participate in the **culling** process, have a common understanding of the standard required of applicants, and use any tools provided consistently.

If a member of the committee is unable to attend the cull, all applications should be made available to that member to ensure that all members concur with the outcome of the cull. If necessary, the cull may be done via teleconference.

For further information, refer to:

- Your HR/Equity staff
- NSW Anti-Discrimination Act 1997
- Merit Selection Guide for Public Sector Panels (OEED)
- Merit Selection online refresher training (OEED)

When **culling** applicants, the following should be considered for each applicant:

- Is the applicant eligible for appointment? eg for **targeted positions**, people outside the specified group are not eligible
- Does the applicant satisfy the **selection criteria**? The criteria can often be met, and the **inherent requirements of the job** effectively performed, in a number of different ways.
- If further **culling** is needed, for example due to the volume of applications, does the applicant show evidence that their skills, knowledge and experience are substantially inferior to those of other applicants?

Care must be taken not to exclude suitable applicants with appropriate overseas qualifications (subject to the applicant meeting the relevant citizenship/visa requirements), or relevant work experience other than paid employment.

5.4 Determine how to assess suitability of applicants for the positions

Where, following the **cull**, a reasonable field of applicants exists, the selection committee will need to determine the means of assessing the suitability of applicants for the position to be able to select the best person for the job.

Only information that is directly relevant to the applicant's suitability for appointment should be collected.

All personal information collected during the selection process should be treated as confidential. All information that is relevant to the selection decision should be recorded and stored securely.

Assessment methods

Ideally, and depending on the level of the position, more than one assessment method may be used to give a comprehensive picture of what the applicant is capable of doing and is likely to do on the job. A combination of two or more assessment methods is more likely to predict job performance accurately than any one method on its own.

Such methods include but are not limited to:

- **structured interviews** to elicit examples of the candidate's previous behaviour as well as their knowledge and skills
- work samples
- work tests eg word processing skills etc
- ability and psychological testing eg literacy and numeracy tests, pre-employment screening for security staff etc
- a presentation by the applicant
- group exercises or role plays
- assessment centres, which combine several methods.

For further information, refer to:

- Your HR/Equity/OHS staff
- NSW Health policy on employment health assessment

When determining which assessment tools to use, consider the following issues:

- How can the skills, knowledge and experience listed as **selection criteria** best be assessed?

- NSW Health policy on pre-employment screening for security staff
- NSW Health policy on occupational screening and vaccination against infectious diseases

- *If any physical, psychological or sensory requirements are listed as **selection criteria** for the position, what methods are specified in the position documentation for determining whether applicants meet such requirements? It is not appropriate to check general health or exclude applicants on the basis of illness or disability not relevant to the demands of the job.*
- *Will a particular method disadvantage people from particular community groups eg emphasis on interviews for Aboriginal people, emphasis on written work for people from non-English speaking background?*
- *If so, how can this be avoided? Eg introduce 'reasonable adjustment' to processes for groups likely to be disadvantaged by them, eg presentation instead of an interview.*
- *Will a particular method benefit people from particular community groups?*

5.5 Plan the assessment process

Providing prior advice to applicants

Prior to the assessment, applicants should be advised of the assessment format, how long the process will take, any special aspect of the selection process eg tests, and the names and titles of the selection committee members:

This will allow the applicants to prepare for the assessment as well as raise any concern they may have of a particular selection committee member, such as **conflict of interest**.

As a general rule, applicants should be given at least 3 days' notice of the assessment, unless it is mutually convenient to schedule the assessment sooner.

Providing support to applicants

Consideration should be given to applicants requiring special assistance to participate in the selection process eg wheelchair access, signing for hearing impaired applicants, Aboriginal support people for Aboriginal applicants during bulk recruitment.

Interviews

In most instances an interview will be one of the assessment tools for the selection process.

When planning for the interview it is important to keep in mind that any interview questions should:

- relate directly to the selection criteria
- be clear and unambiguous
- be, as much as possible, asked in the same way for each applicant so that a fair comparison between applicants' responses can be made.

5.6 Verification of information

It is in the best interest of the employer to make every effort prior to appointment to ensure that the relevant information given by the preferred applicant(s) is authentic.

Some of this information can be verified through the assessment process eg skills tests, work samples etc. For other information the applicant will need to provide written evidence to support their claims, or the selection committee will need to perform separate checks eg employment screening etc.

For further information, refer to:

- Your HR staff

Verify claims

Selection committees should verify the applicant's identity and residency status, as well as any claim in relation to the **selection criteria**, or other information that is significant in differentiating short-listed applicants. Verification may involve sighting relevant documents, contacting relevant authorities etc.

The following must be verified:

- Your Aboriginal Employment Coordinators
 - NSW Health policy on midwives' credentialing framework
 - NSW Health policy on registration of professional personnel
 - NSW Health policy on occupational screening and vaccination against infectious diseases
 - NSW Health policy on medical examination of nurses
- identity (see the 100 point ID check at Web appendix 4.2)
 - citizenship/residency or working visa status
 - for **targeted positions**, evidence of relevant characteristics eg confirmation of Aboriginality etc
 - proof of any educational, trade or professional qualifications listed as **selection criteria**
 - evidence of current professional registration (registration is usually annual), or eligibility for membership of the relevant state or national professional association (see Web appendices 4.3 and 4.4)
 - evidence of length of experience, where listed as a selection criterion
 - acceptable evidence of the required immunisation status.
- For further information regarding the procedures, see Web appendix 4.1.

It is also recommended that random checks be made in other cases ie where the qualifications are claimed but are not central to the requirements of the position.

Collect signed forms

Selection committees should ensure that relevant signed declarations or consent forms are collected at the interview, if not yet received, such as:

- NSW Health policies on employment screening and review
 - NSW Health policy on employment health assessment
- consent for a criminal record check or working with children check
 - prohibited employment declaration for child-related employment
 - authorisation to obtain relevant information from the HCCC or the relevant registration body
 - consent to conduct a service check eg previous employment details, previous payments of voluntary redundancy, absentee levels etc
 - health declaration form (if applicable).

See also 6.9. *Documentation and retention of records.*

Confirm information about referees

The convenor should confirm with applicants at interview that their two nominated referees include a current supervisor.

Where the applicant refuses to identify a current supervisor or objects to the current supervisor being contacted, they should be advised that a referee check with the current supervisor is preferred NSW Health policy, and that the purpose of the check is to help verify information relevant to their claim to the position.

While the current supervisor should not be contacted without the applicant's permission, the reasons for the refusal should be canvassed and considered by selection committee members. The applicant should be given the opportunity, if necessary, to provide an alternative referee who is able to assist the committee in verifying relevant information. See also 5.8 *Conduct referee checks*.

5.7 Review the applicants' relative merit for the position

When the assessment processes have been completed, and all necessary information verified as appropriate, the committee should make a preliminary assessment of the relative merit of the applicants for the position against the selection criteria. Normally, the committee should then do **referee checks** on at least the preferred candidate(s).

Only Australian citizens and permanent residents are to be employed in permanent positions in NSW Health, unless the position is in a category where, because of staff shortages in Australia, other arrangements have been entered into by NSW Health eg Labour Agreements with the Department of Immigration and Multicultural Affairs.

Where no such agreements are in place, those without Australian citizenship or permanent resident status who hold visas allowing them to work, are only to be employed on a temporary basis, and only where there are no suitable applicants who are Australian citizens or permanent residents.

Note: New Zealand citizens residing in Australia who hold a current Special Category Visa are considered to have permanent resident status.

For further information, refer to:

- Your HR staff
- [Merit Selection Guide for Public Sector Panels \(OEED\)](#)
- [Merit Selection online refresher training \(OEED\)](#)

- [NSW Health policy on employment health assessment](#)
- [Your OHS/return-to-work staff](#)
- [Anti-Discrimination Act 1997](#)
- [Your Equity staff](#)

When reviewing the outcomes of the assessment processes, the selection committee should consider the following:

- Is all necessary information available to allow the committee to make an informed decision? If not, what further information is required?
- Has information not relevant to the **selection criteria** been excluded from considerations?
- How well does each of the applicants meet the **selection criteria** compared to one another?
- Can a lack of skills be overcome by a short period of on-the-job training?
- Could a disabled applicant perform the **inherent requirements** of the position with **reasonable adjustment**?
- Could a person with carer's responsibilities perform the **inherent requirements** of the job if provided with arrangements to manage their carer's responsibilities?

-
- *Are there suitable applicants who are Australian citizens or permanent residents? If not, are there suitable overseas candidates to fill the position temporarily for the duration of their working visa?*

5.8 Conduct referee checks

Any **referee checks** should be conducted on the preferred candidate(s) before an offer of employment is made.

Where an applicant objects to their current supervisor being contacted, they should not be excluded from being selected. However, the key question for selection committees is whether, in the absence of a reference check with the current supervisor, the committee is still able to access enough relevant information to assess whether the applicant is the most appropriate person for the position.

References that are not current or do not provide work-related information should not be considered. Similarly, committees must confirm the relationship between the referee and the applicant to ensure there is no conflict of interest.

For further information, refer to:

- Your HR staff
- NSW Health Code of Conduct
- NSW Health policies on employment screening and review

Referee checks should generally be done as a **structured interview** with specific questions designed to:

- verify the applicant's claim for the position
- identify any conduct or performance issues that may be of concern
- assist the committee to make a final decision between two or more preferred applicants.

Referees should be advised that selected information obtained from them may form part of the feedback provided to unsuccessful applicants.

5.9 Make recommendations for appointment and eligibility list

Following the assessment of the **referee checks**, the selection committee makes a recommendation to the Chief Executive or delegate on the preferred applicant(s) for appointment, and any **eligibility list** created.

The selection committee should recommend the applicant who is considered the best person for the job, based on a comparative assessment of the applicants' abilities, skills, knowledge, qualifications (where required) and potential against the **selection criteria**, as supported by evidence and referee checks.

Where an **eligibility list** is created, other suitable applicants must be ranked in order of **merit**. Not all suitable applicants have to be included in the **eligibility list**. **Eligibility lists** are current for up to 6 months, or up to 12 months for base grade positions, unless otherwise provided by the relevant award.

The selection recommendations must be documented in a manner that clearly explains the decision making process and be in a form that allows them to be reviewed, if necessary, eg on appeal. The recommendation must not merely state a score or rating of the highest ranked applicant.

If a selection committee is unable to reach a unanimous decision, the committee member in disagreement should prepare a minority report detailing areas of disagreement and provide an alternative recommendation. The minority report is submitted to the Chief Executive or delegate along with the committee's final report.

5.10 Initiate employment screening

Once the preferred applicant(s) has been selected, the relevant Working With Children Check (WWCC) or Criminal Record Check (CRC) must be initiated, as required by the current NSW health employment screening policies.

For further information, refer to:

- *NSW Health policies on employment screening and review*
- *NSW Health policy on employment health assessment*

Where required by the position, and not already conducted, a relevant **health assessment** of the preferred applicant is also to be undertaken.

It is an offence under the Anti-Discrimination legislation to check general health or exclude applicants on the basis of their health, or illness or disability not relevant to the demands of the job.

5.11 Selection decision

The Chief Executive, or delegate, makes the final decision on appointment based on the selection committee's report and recommendation, and keeping in mind the legislative and policy requirements outlined in the first section of this document. The decision will be subject to a satisfactory employment screening result.

If the Chief Executive, or delegate, overturns the selection recommendations, this must be documented in a manner that clearly explains the decision making process and that can be reviewed and defended if an appeal is lodged.

6. Post-selection processes

6.1 Introduction

Before offering the position to the preferred applicant, certain business process steps must be taken to assess and manage any risks the employment of this person may pose to themselves, other staff or patients and clients. In bulk recruitment, matching successful applicants against available positions also takes place at this point.

6.2 Assess the outcomes of employment screening

Working With Children Check (WWCC) or Criminal Record Check (CRC)

Offers of employment are generally not to be made until the outcome of any WWCC or CRC is known, and appropriate risk management action taken as required by the relevant employment screening policies. However, in certain circumstances, it may be possible to make a provisional offer of employment, subject to a satisfactory WWCC or CRC.

For further information, refer to:

- Your HR staff
- *NSW Health policies on employment screening and review*
- *The NSW Health Employment Screening and Review Branch*
- Your OHS staff
- *NSW Health policy on employment health assessment*

The employment screening policies also provide advice on re-screening requirements for existing staff upon transfer, secondment or promotion.

Health assessments

If a **health assessment** finds that an applicant does not meet the **inherent job requirements** of the position because of a disability, consideration must be given to whether a **reasonable adjustment** can be made to the position to allow the applicant to carry out its **inherent requirements**.

6.3 Ensure all required evidence has been sighted

Where any proof or evidence of vaccination status, professional qualifications, and other factors relevant to the selection of the preferred applicant was not available at interview, the applicant must provide such evidence before any formal offer of employment can be made.

6.4 Match successful applicant(s) with positions

In centralised bulk recruitment, successful applicants need to be placed into positions available across an organisation or the entire **NSW public health system**. Any matching of their preferences with available positions must take place after **merit selection**. See NSW Health policy relating to JMO recruitment.

6.5 Make the job offer(s)

Once the process steps listed above have been satisfactorily completed, an offer of employment can be made to the successful applicant(s). Offers are usually made provisionally (verbally or electronically) in the first instance, subject to satisfactory employment screening and the applicant agreeing to the terms and conditions of employment, including to abide by the NSW Health Code of Conduct. Unless the recommended applicant refuses the provisional offer, it is then confirmed by a letter of offer.

The successful applicant should to be given sufficient information about the conditions of their appointment to allow them to make an informed final decision about whether to accept the offer. Having provided such information will also allow the employer to subsequently manage the staff member in accordance with the relevant award, legislative and policy provisions.

For further information, refer to:

- Your HR staff
- NSW Health policy on Aboriginal nursing undergraduate cadetships
- NSW Health policy on employment of undergraduate nursing students as Assistants in Nursing
- Aboriginal & Torres Strait Islander Cadetship Program (OFEED)
- NSW Health policies on employment screening and review
- The NSW Health Employment Screening and Review Unit
- NSW Health policy on employment health assessment
- Section 20 of the Government and Related Employees Appeal Tribunal Act 1980
- NSW Workplace Surveillance Act 2005
- NSW Health policy on Code of Conduct

Such information must be included in any **employment documentation** provided to the prospective member of staff. They must be asked to accept the offer *and* the related conditions in writing.

The following must be identified in any **employment documentation**:

- the position that is being offered to the successful applicant
- the employer
- the location of the position
- the employment conditions for the position eg relevant award, commencing salary etc. Any arrangements which do not form part of the ongoing terms and conditions of employment should be stated in a way that makes it clear that they are not ongoing arrangements eg provision of a private use motor vehicle, managerial allowance.
- the general terms of the appointment eg start date, end date (where applicable), employment status etc
- any other specific conditions that apply to the appointment eg probationary period, conditions arising from a risk assessment, appeal period etc
- any legal requirements re notifications to staff that apply to this appointment/all appointments eg workplace surveillance
- any policy requirements re notifications to staff that apply to this appointment/all appointments eg Code of Conduct, random checks on professional qualifications, intellectual property.
- the fact that any intellectual property created in the course of employment will vest in the employer and acceptance of the offer is also consent to any act by the employer or delegate which may otherwise infringe on the staff member's moral rights in the intellectual property.

See also offer letter checklist at Web appendix 4.5.

Where the successful candidate declines the offer, employment screening should be initiated for the next ranked applicant on the **eligibility list**, and the process steps from 6.2 completed.

6.6 Visa requirements

For further information, refer to:

- Department of Immigration at <http://www.immi.gov.au>
- Area of Need website at <http://www.health.nsw.gov.au/othp>
- NSW Health policy on occupational trainee medical practitioners

Where the recommended applicant is not an Australian citizen or permanent resident, they will need an appropriate working visa to work in Australia. In some cases, sponsorship by an Australian organisation is a requirement for such a visa.

Employers should check for any specific requirements with the Department of Immigration. Also see section 5.7.

6.7 Advise unsuccessful applicants

In accordance with Section 19 of the *Government and Related Employees Appeal Tribunal (GREAT) Act 1980*, once the successful applicant has accepted the offer of employment, all unsuccessful applicants must be advised in writing of this, and when the appointment is published. Such correspondence will also include advice on any **eligibility list** created, and the types of positions, including employment status, and locations it will apply to.

In addition, all applicants from within the **Division** must be advised of when and where the appointment will be published.

Feedback should be provided to unsuccessful applicants upon request. Generally, the feedback should be provided by the convenor. In bulk recruitment, employers may wish to consider providing brief feedback to applicants in their unsuccessful letters, as it may not be practical to provide feedback in person or by telephone due to the volume of requests. A record should be kept of any feedback provided.

Feedback may relate to different stages of the selection process eg written application, interview, referee checks etc.

In all instances, the following principles should be adhered to when providing feedback:

- It should be presented in a useful and constructive way.
- It should relate to the applicant's performance in relation to the specific **selection criteria**.

Effective feedback can reduce the number of unnecessary appeals or Freedom of Information requests by informing applicants of the reasons for the selection decision.

6.8 Publish permanent appointments

All permanent appointment/s must be published within the relevant organisation eg on the intranet, internal newsletter etc in accordance with Section 19 of the *Government and Related Employees Appeal Tribunal (GREAT) Act 1980* within 14 days of acceptance of the offer of employment by the successful person.

6.9 Documentation and retention of records

Record keeping and random checks

To be able to support their selection decisions, and demonstrate that a **fair and transparent** process has been followed in case of an appeal or complaint, employers must keep auditable records of the process leading up to the decision. Such documentation is kept on the relevant recruitment file.

This requirement includes keeping records of any verification of claims, including a signed and dated statement on copies of the relevant documents or any other communication to verify claims. Copies of documentation verifying claims are kept both on the recruitment file and on the successful candidate's personal file.

Confidentiality

Privacy and Personal Information Protection Act 1998

In accordance with the *Privacy and Personal Information Protection Act 1998*, all selection documentation related to personal information about the applicants must be treated confidentially both by the selection committee and other staff involved in managing the recruitment process. All recruitment documentation must be stored securely.

-
- General Disposal Authority (GDA12) – Personnel Records (2.23 Recruitment) issued by the State Records Authority of NSW

Retention of records

The State Records Authority of New South Wales requires that recruitment and selection information must be retained as follows:

- vacancy/recruitment files - 2 years after recruitment has been finalised
- successful applicant – minimum 7 years after employment ceases; in some instances required as State archives
- unsuccessful applications – minimum 1 year, provided that all **eligibility lists** relevant to the position have expired, and that all appeal processes regarding the position have been completed
- any consents or declarations by unsuccessful applicants must be destroyed once the selection process is finalised.

See also Web appendix 5.1 for a record-keeping checklist.

6.10 FOI requests

- For further information, refer to:
- Your FOI coordinator
 - Freedom of Information Act 1989

Applicants are entitled to seek access to selection documentation, including applications and selection committee papers and reports, under the Freedom of Information legislation.

The agency may refuse access to such documents, where the documents are exempt under the Act. This will depend on a number of factors, and must be determined case by case in accordance with current government and NSW Health guidelines.

It should be noted that effective feedback to unsuccessful applicants may reduce the number of FOI requests for selection documentation.

7. Appeals and complaints

7.1 Introduction

A number of appeal and complaint processes are available to applicants, depending on the nature of their concerns. Such processes provide a mechanism of accountability that is independent of the selection committee, or the employer.

Consistent with a fair and transparent recruitment and selection process, employers should advise applicants wishing to lodge an appeal or complaint of their options. The following provides an overview of the options available.

7.2 Internal appeal and complaint mechanisms

Applicants may have appeal rights due to an unfavourable result following a Working With Children Check or a Criminal Record Check, or a **health assessment**, in accordance with the relevant policies.

For further information, refer to:

- Your HR/OHS staff
- NSW Health policies on employment screening and review
- NSW Health policy on employment health assessment

Where appropriate applicants may also access other complaint mechanisms within the organisation at any point in the recruitment and selection process.

Such complaints may relate to a grievance, bullying and harassment, **conflict of interest**, corrupt conduct etc, and must be reported and managed under the appropriate policy and guidelines.

7.3 External appeal and complaint mechanisms

Unions and professional associations

Staff are entitled to seek assistance and advice from their unions and professional associations at any time. Some awards also provide for dispute resolution through a dispute committee established between the organisation and the relevant union.

Government and Related Employees Appeal Tribunal (GREAT)

For further information, refer to:

- Government and Related Employees Appeal Tribunal (GREAT) Act 1980
- Office of Industrial Relations – GREAT

In accordance with Part 3, Division 1 of the *Government and Related Employees Appeal Tribunal (GREAT) Act 1980*, permanent staff in the **NSW Health Service** may appeal against a selection decision to GREAT where their situation meets all the following conditions:

- they applied for the position in accordance with the procedures specified in a notice or advertisement and
- they believe they are more entitled the vacant position than the successful applicant and
- their remuneration is not in excess of the maximum for Clerk Grade 12 under the *Crown Employees (Administrative and Clerical Officers - Salaries) Award* and
- the appointment would be permanent and
- the appointment would be a promotion, or involve an increase in salary for the appellant and the successful applicant and
- the position is within the same **Division of the NSW Health Service** that the appellant is employed in and
- the successful candidate was appointed from within the **Division of the NSW Health Service** that the appellant is employed in.

Appellants have 21 days from the publication of the appointment to lodge an appeal with GREAT. GREAT conducts an independent inquiry into the selection decision. The decision of GREAT is final, subject only to a right of appeal to the Supreme Court on questions relating to points of law.

Other external avenues

Employers should be aware that other external avenues for assistance exist for unsuccessful applicants, depending on their individual circumstances (see web appendix 6.1).

For further information, refer to:

- Anti-Discrimination Board
- HREOC
- ICAC
- Ombudsman's Office
- IRC

These include:

- NSW Anti-Discrimination Board
- Human Rights and Equal Opportunity Commission (Commonwealth)
- NSW Independent Commission Against Corruption (ICAC)
- NSW Ombudsman's Office
- NSW Industrial Relations Commission

7.4 After the appeal/complaint

Where the appeal or complaint changes the outcome of the selection process, the appropriate steps of the post-selection process are followed for the successful appellant.

8. List of web tools

The following tools are available on the NSW Health intranet site at <http://internal.health.nsw.gov.au/jobs/recruitment/recruitselect.html> to assist HR staff and Line Managers in recruitment and selection.

- Appendix 1.1 - Checklist for casual/short-term temporary recruitment
- Appendix 1.2 - Flowchart - Recruitment and selection process
- Appendix 1.3 - Suggested time frame for recruitment and selection processes
- Appendix 1.4 - Checklist - Recruitment and selection process steps
- Appendix 2.1 - Checklist - Job demands (physical, sensory and psychosocial)
- Appendix 2.2 - Checklist - Information to be included in position documentation
- Appendix 2.3 - Sample form - Request to recruit
- Appendix 3.1 - Checklist - Information to be provided to applicants through advertisements/applicant information kits
- Appendix 3.2 - Sample form - Application for employment
- Appendix 3.3 - Sample form - Walk-in application for employment
- Appendix 4.1 - Checklist - Processes for verification of information at interview
- Appendix 4.2 - Form - 100 Point Checklist
- Appendix 4.3 - Contact list - Health professional registration boards
- Appendix 4.4 - Contact list - Allied health professional associations
- Appendix 4.5 - Template - Letter of offer/employment
- Appendix 4.6 - Checklist - Information to be included in selection documentation
- Appendix 5.1 - Checklist - Retention of records
- Appendix 6.1 - Information on external complaint mechanisms
- Appendix 7.1 - Index - Related documents and websites

New tools may be added from time to time.

Grievance Resolution (Workplace): for the Dept of Health and Public Health Organisations

Document Number PD2005_584

Publication date 17-May-2005

Functional Sub group Personnel/Workforce - Conditions of employment
Personnel/Workforce - Occupational Health & Safety
Personnel/Workforce - Conduct and ethics

Summary This NSW Health policy directive requires the Department of Health, public health organisations and the Ambulance Service of NSW to have in place a local workplace grievance management system and procedures that facilitate prompt, fair and flexible management of all workplace grievances, with a focus on effective resolution. The system must incorporate an initial assessment of all matters raised; ensure that serious matters are not handled as workplace grievances and ensure that those managing grievances are competent to do so. Chief Executives must ensure that local systems and procedures are reviewed and updated to comply with this policy directive.

Replaces Doc. No. Grievance Management Systems (Policy Framework and Best Practice Guidelines - Development) [PD2005_149]
Grievance Resolution Procedures - NSW Department of Health only [PD2005_147]

Author Branch Employee Relations

Branch contact Frances Waters 9391 9305

Applies to Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations - Non Declared, NSW Ambulance Service, NSW Dept of Health, Public Hospitals

Audience ALL

Distributed to Public Health System, Health Associations Unions, NSW Ambulance Service, NSW Department of Health, Public Hospitals

Review date 17-May-2010

File No. 03/11191-4

Previous reference N/A
Director-General

Status Active

This Policy Directive may be varied, withdrawn or replaced at any time. Compliance with this directive is **mandatory** for NSW Health and is a condition of subsidy for public health organisations.

**EFFECTIVE WORKPLACE
GRIEVANCE RESOLUTION**

***POLICY AND BETTER PRACTICE
FOR THE DEPARTMENT OF HEALTH AND
PUBLIC HEALTH ORGANISATIONS***

NSW  HEALTH

April 2005

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1.0 About This Document

- 1.1 **Effective Workplace Grievance Resolution** Copies may be obtained at www.internal.health.nsw.gov.au
- 1.2 **Responsibility** Employee Relations
- 1.3 **Version** Final Version April 2005
- 1.4 **Updates and Feedback** Feedback is welcome and should be addressed to the Manager, Employee Relations Policy, NSW Department of Health
- 1.5 **Related Policies**
- PD2005_135 Policy and Guidelines for the Development of Protected Disclosures Procedures in Health Services
 - Guideline on the Management of a Complaint or Concern About a Clinician: A Guideline for Policy Development in Area Health Services and Other Public Health Organisations (Nov 2001)
 - Model Policy on the Management of a Complaint or Concern About a Clinician: A Model Policy for Area Health Services and Other Public Health Organisations (Nov 2001)
 - PD2005_109 Procedures for Recruitment and Employment of Staff and Other Persons – Vetting and Management of Allegations of Improper Conduct
 - 2005_299 Protecting Children and Young People
 - PD2005_223 Joint Management and Employee Association Statement on Bullying, Harassment and Discrimination
 - PD2005_145 EEO Program Minimum Standards for Area Health Services and the NSW Ambulance Service (under review)
 - PD2005_409 Workplace Health and Safety: Policy and Better Practice Guide
 - PD2005_315 Zero Tolerance to Violence in the NSW Health Workplace
 - PD2005_234 Effective Incident Response: A Framework for Prevention and Management in the Health Workplace
 - PD2005_568 Employee Assistance Programs: Policy and Better Practice
 - PD2005_130 Principles/Minimum Standards for the Development of Health Service Codes of Conduct (under review)
 - PD2005_201 Management of Employment, Promotion and Transfer where Employees are Closely Related or Have a Close Personal Relationship
 - PD2005_565 Recruitment and Selection: Policy and Better Practice for Public Health Organisations and the Ambulance Service

**1.5 Related Policies
(contin)**

PD2005_187 NSW Health Policy on Orientation

PD2005_337 Reportable Incidents Briefs to the NSW Department of Health

PD2005_225 A Framework for Managing the Disciplinary Process in NSW Health (under review)

PD2005_180 Managing for Performance – A Better Practice Approach for NSW Health

PD2005_173 Reporting Possible Corrupt Conduct to the Independent Commission Against Corruption

Better Practice Guidelines for Frontline Complaints Handling: February 1998

**1.6 Additional
References and
Resources**

Equal Opportunity in Public Employment, Office of the Director
Level 11, 28 Margaret Street Sydney NSW 2000

Ph: (02) 9248 3555

www.eeo.nsw.gov.au

Department of Health

73 Miller Street North Sydney NSW 2059

Ph (02) 9391 9305

www.internal.health.nsw.gov.au

Anti-Discrimination Board

PO Box A2122 South Sydney NSW 1235

Ph (02) 9268 5544

www.lawlink.nsw.gov.au/adb

WorkCover NSW

Locked Bag 2906 Lisarow NSW 2252

Ph (02) 4321 5000

www.workcover.nsw.gov.au

Office of the NSW Ombudsman

Level 3, 580 George St, Sydney NSW 2000

Ph (02) 9286 1000

www.nswombudsman.nsw.gov.au

Independent Commission Against Corruption

GPO Box 500, Sydney NSW 2001

Ph (02) 8281 5999

www.icac.nsw.gov.au

2.0 Introduction

2.1 Purpose and Scope of the Policy and Guidelines

Good workplace grievance management can prevent minor workplace issues escalating into more serious matters.

The policy applies to all public health organisations.

The guidelines include tools to assist public health organisations meet policy objectives.

The purpose of the policy and guidelines is to ensure that the Department and public health organisations have a system in place that encourages early grievance reporting and that ensures, as far as possible, their speedy and effective resolution.

Such a system allows staff to raise legitimate workplace concerns early, with the option for informal resolution where appropriate. A key objective of grievance management systems is to ensure that minor workplace issues are identified and resolved early, before they develop into more serious workplace concerns.

The policy applies to the Department and all public health organisations. The guidelines will assist chief executives and managers to meet departmental and legislative requirements in relation to grievance management, and should be used to review existing procedures to ensure they comply with, and support the key objectives of, the NSW Health policy.

The document also provides some practical tools to assist managers assess initial complaints, conduct further inquiries and maintain the appropriate records.

2.2 Definitions

Complainant

The person making the grievance.

Disciplinary Process

A process for managing allegations of misconduct, serious performance issues or inappropriate behaviour by NSW health staff, usually involving breaches of NSW Health policy, which, if proven, would lead to the staff member being formally disciplined.

Facilitation

The process whereby a manager facilitates a resolution between staff members without the use of formal procedures.

Frivolous Complaint

A frivolous complaint can be defined as one that is trivial, characterised by a lack of seriousness or sense.

Grievance Contact Officer

A staff member in a public health organisation who is available to provide independent assistance and information on the grievance procedures for pursuing workplace grievances. Grievance Contact Officers do not become involved in the direct resolution of a grievance or the investigation of a complaint.

Grievance Management System

A system for appropriately and consistently responding to and managing workplace grievances, with the key objective of speedy and effective resolution.

Information Gathering

A process of gathering relevant information and identifying the relevant facts associated with a grievance, for the purpose of determining the most appropriate method of resolution.

2.2 Definitions (contin)

Initial Assessment

An initial review by the person receiving the complaint, to ensure that grievance management is the most appropriate means to deal with the complaint or whether referral elsewhere is required.

Malicious Complaint

A malicious complaint can be defined as one instituted with the primary intent of causing distress to another, usually the respondent.

Mediation

The process whereby an appropriately skilled, neutral person acts as a 'mediator' to parties to bring about a resolution of a disagreement.

Public Health Organisation

For the purposes of this policy, refers to the Department of Health, Area Health Services, statutory health corporations, affiliated health organisations and the Ambulance Service of NSW.

Respondent

The person (s) against whom the grievance is made.

Staff Member

Any person working in any capacity in a public health organisation including volunteers, students, visiting medical officers and contractors.

Support Person

An individual of the person's choice who provides support to that person during any meetings attended as part of the grievance management process, but does not advocate on their behalf. Examples include co-worker, friend, family member, union rep etc.

Vexatious Complaint

A vexatious complaint can be defined as one instituted without sufficient grounds and serving only to cause annoyance.

Workplace Grievance

A written or oral statement made by an employee regarding a concern arising in the workplace. Examples may include, but are not limited to, interpersonal conflict, the way work is allocated or managed, interpretation of people management policies, or a perceived unfairness in the workplace. The grievance usually involves some concern or personal distress, and will usually, though not always, involve other people.

2.3 Related NSW Legislation

- Occupational Health and Safety Act 2000
- Anti-Discrimination Act 1977
- Freedom of Information Act 1989
- Industrial Relations Act 1996
- Government and Related Appeals Tribunal Act 1980
- Independent Commission Against Corruption Act 1988
- Protected Disclosures Act 1994
- Ombudsman Act 1974

3.0 Policy

3.1 NSW Health Policy

All staff must have access to an effective grievance management system that focuses on timely and appropriate management and resolution.

Local grievance management systems must:

- **Be flexible enough to allow grievances to be managed promptly and in a way most appropriate to their individual circumstances**
- **Adopt a commonsense approach, with a focus on resolution and fairness**
- **Ensure that all matters are initially assessed to determine that grievance management is the most appropriate pathway for resolution**
- **Ensure that serious matters are not managed as grievances, and that the appropriate referrals are made**
- **Ensure that those managing grievances are competent to do so**
- **Encourage early self-resolution where possible**
- **Support the early use of facilitation and mediation, where appropriate**
- **Identify the rights and responsibilities of all staff**
- **Maintain appropriate confidentiality, documentation and record keeping**
- **Provide access to a review mechanism**
- **Be consistent with relevant industrial instruments**
- **Identify a senior staff member with overall responsibility for the effective operation of the system**
- **Include an evaluation and review process for the purpose of continuous improvement.**

3.2 Policy Objective

The objective of this policy and guidelines is to ensure that all workplace grievances are managed in a fair, timely, appropriate and effective manner.

Effective grievance management contributes to positive working relationships and empowers staff to develop skills to manage their relationships in the workplace. Good workplace grievance management can prevent minor workplace issues escalating into more serious matters.

3.3 Responsibility

It is the responsibility of each Chief Executive to ensure that NSW Health policy is implemented in a timely and effective manner, and that the objective of the policy is met.

Crucial to meeting the policy objective is the ability of managers to:

Managers must know how to manage workplace grievances.

- Conduct an initial assessment of the complaint
- Appropriately refer the matter if it is not to be managed as a grievance
- Where the matter is to be managed as a grievance, to gather and assess the relevant information in order to identify and implement the most appropriate grievance resolution option/s.

Therefore, public health organisations must support managers in relation to these capabilities, and provide advice and access to training as necessary to ensure the policy objective is met.

4.0 Guidelines for Policy Implementation

4.1 Introduction

Local grievance management systems must be flexible, fair, focused on resolution, and accessible to all staff.

It is not the intent of this document to prescribe a rigid procedure for how a workplace grievance will be managed, as, by their very nature, grievances can arise in an extensive range of circumstances and across a continuum of seriousness. Rather, the document focuses on the need for local grievance practices to ensure that each grievance is looked at individually at it arises, and is managed in a way most appropriate to the circumstances.

To support this approach, the guidelines identify a range of options that can be used to manage and resolve workplace grievances. This includes, where the opportunity presents itself, the need for managers to make every effort to resolve potential or actual workplace grievances as informally as possible in the first instance.

4.2 Developing Local Procedures

When developing local procedures public health organisations should ensure that they:

- Are developed in consultation with staff and their representatives
- Are tailored to the specific needs of the workplace
- Clearly articulate, and support, the primary objective of prompt, fair and effective resolution of workplace grievances
- Meet the special needs of staff members from racial, ethnic and ethno-religious minority groups, people with disabilities or people of Aboriginal or Torres Strait Islander descent
- Are communicated to, and are accessible to all staff.

When developing local procedures consideration may be given to establishing a number of additional points of contact for complainants, including grievance contact officers, who can assist those involved to understand the resolution process.

4.3 Staff Rights and Responsibilities

Managers and staff must know their rights and responsibilities, so the grievance management system can operate effectively.

All staff need to know their rights and responsibilities in relation to grievance management, as all parties have a significant role to play in resolving grievances.

Key rights of all staff include:

- Being provided with sufficiently detailed information to allow an appropriate response
- Being treated with respect
- Being given a full and fair opportunity to have their say, and the right of reply
- Being provided with information on progress of the grievance and on any decisions made that may affect them
- Appropriate confidentiality and protection from recrimination
- Impartial, prompt and professional management of the grievance to a speedy resolution.

Key responsibilities of all staff include:

- Recognising their role in harmonious workplace relations
- Raising matters of concern at an early stage and actively participating in the grievance resolution process
- Not raising malicious, vexatious or frivolous complaints.

See Appendix 6.1 for more detailed information on staff rights and responsibilities.

4.4 Confidentiality

All parties have rights and responsibilities in relation to confidentiality.

Information relating to a grievance should only be provided on a 'need to know' basis, and should not be provided to third parties. Those involved in a grievance have both the *right* to confidentiality, and the *responsibility* for maintaining confidentiality. This includes confidentiality of the identity of those involved, as well as the subject matter.

The respondent must be provided with enough information to allow for an adequate opportunity to fully respond to the issues raised.

While the respondent is entitled to, and must be provided with, enough information to allow an adequate response to the complaint, there would need to be a valid reason for others in the workplace not involved in the grievance to have access to any information on who is involved, or on the matters raised.

As most workplace grievances usually involve a complaint by one person against another, the subject of the grievance will generally need to know who raised the complaint, in order to be able to adequately respond to the matters raised.

However, the grievance management process is not to be confused with systems for managing performance, protected disclosures or other serious matters, where it may not be appropriate to divulge the identity of the person making the complaint. This reinforces the need for an adequate initial assessment to ensure that grievance management is the appropriate vehicle for resolving the situation.

4.5 Role of Local HR Departments in Grievance Management

It is usually the role of the manager to take the lead in managing grievances raised by their staff. To support this approach, human resource departments in public health organisations are available to provide advice and guidance to managers on the grievance resolution process. As indicated earlier, there is also the option to have designated Grievance Contact Officers to provide policy and process information to all employees.

4.6 Matters Not Covered Under Grievance Management

Grievance management must not be confused with other management processes.

As the definition suggests (see Section 2.2) grievance management is meant to deal with relatively minor workplace issues or concerns. Therefore it is important to distinguish between workplace grievances, and other more serious matters.

Matters that should not be dealt with under the grievance management system include (but are not limited to):

- Incidents of violence, or of a potentially criminal nature
- Serious bullying, harassment or discrimination (see Section 5.8)
- Serious OHS concerns (see Section 5.9)
- Complaints from clients or patients
- Allegations of serious misconduct, fraud, corruption, maladministration or substantial waste
- Child protection related matters
- Protected disclosures as defined in the Protected Disclosures Act 1994
- Clinical negligence, malpractice or incompetence
- Performance management or disciplinary matters.

4.7 Initial Assessment

In order to determine that grievance management is the most appropriate management approach, some assessment of the matters raised will usually need to be made by the person receiving the complaint. Considering the following questions may assist in this process.

- *Does the matter involve clinical negligence, malpractice or incompetence?*
- *Does the matter involve an allegation of fraud, corruption, substantial waste or maladministration?*
- *Is the matter potentially of a violent and/or criminal nature?*
- *Is the matter a protected disclosure as defined in the Protected Disclosures Act 1994?*
- *Does the matter relate to a child protection issue?*
- *Does the matter relate to a potentially significant breach of OHS legislation (see Section 5.9)?*

If the answer to any of the above questions is yes, then the matter should not be managed as a workplace grievance, and should be promptly referred to more appropriate management mechanisms (see Appendix 6.2).

Other factors should also be considered when conducting the initial assessment. This may on occasion require returning to the person who made the complaint to seek further information

- *Does the complaint allege or suggest bullying, intimidation, or offensive, humiliating or threatening behaviour, discrimination or sexual harassment (see section 5.8)?*
- *Does the complaint relate to a breach of workplace policy including the code of conduct?*
- *Does the complaint relate to a work performance issue?*

If the answer to any of the above is yes, then careful consideration should be given to the degree of seriousness of the matter, in determining whether it should be managed as a grievance, or whether the matter needs to be referred. Considering the following will assist with this determination.

- *How often has the undesirable behaviour taken place?*
- *How long has the undesirable behaviour been going on?*
- *How long has it been since the alleged incident/s took place?*
- *How many people are involved?*
- *What are the roles, responsibilities and relationships of those involved?*
- *How is the issue/s impacting on those involved?*
- *Has the same complaint been raised before?*
- *What action, if any, has already been taken in relation to the complaint?*
- *What are the expectations of the complainant?*
- *What are the potential consequences of the matter?*

Serious matters should not be managed via the grievance management system.

As some of the above questions suggest, information relating to the history, frequency, severity, duration and impact of the incident/s or behaviour/s on the individuals or the workplace may determine that the matter has become more serious than a workplace grievance, and needs to be handled accordingly.

In section 5, a number of examples are given to further illustrate issues that need to be considered, and possible options for resolution.

4.8 Grievance Management, Performance Management and the Disciplinary Process

Grievance management should not be confused with performance management or the disciplinary process. Where a matter is assessed as a grievance, it should not be managed by the disciplinary process. However, where investigation of what initially appears to be a workplace grievance uncovers matters of a more serious nature, then grievance management should immediately cease and the matter should be referred to a more relevant management process eg disciplinary process, performance management, child protection, clinical complaints etc.

Grievances should not be used to confuse or interfere with other management processes.

If a staff member raises a grievance, as defined by this document, about the way a discipline or performance management issue is being managed, then the issue should be looked at, but the performance management or disciplinary process should continue independently.

However, where more serious matters regarding the process are raised, that fall outside the scope of grievance management, then action most appropriate to the particular circumstances will need to be taken.

4.9 Information Gathering

Once the initial assessment has determined that it is appropriate to manage the complaint under the grievance management process, the facts of the matter need to be determined as far as possible. The purpose is to determine whether there is a reasonable basis for the complaint, and to help determine the most appropriate option/s for speedy resolution.

While the degree of formality will depend on the nature of the grievance and those involved, when gathering information there are some key principles that need to be considered.

Information gathering should:

- Be undertaken fairly and impartially, by a competent person
- Maintain appropriate confidentiality (see Section 4.4)
- Ensure that both parties are given full opportunity to have their say
- Include speaking to those identified by either party as having information relevant to the grievance
- Focus on gaining all relevant information, with the objective of affecting a prompt and durable resolution of the matter/s
- Include appropriate documentation and records (see Section 5.12 and 5.13)
- Ensure appropriate security of any related paperwork.

Information gathering should be fair, impartial and focused on resolution.

Where the grievance is lodged against the manager, or the manager feels that they may not be able to be impartial or objective, or be seen to be impartial in assessing the grievance or seeking further information, they should seek advice from their manager/director and/or relevant human resource staff on who should assess the complaint, and manage any ensuing grievance.

Other options need to be available where it is inappropriate for the line manager to manage the grievance.

Where it is inappropriate for the immediate manager or supervisor to manage the issues raised ie the issue involves the manager or supervisor, alternate points of contact need to be available such as a more senior manager.

5.0 Grievance Resolution

5.1 Options for Grievance Resolution

A range of options exist to assist managers resolve grievances promptly and effectively. Because of the diversity of issues and personalities that can be involved, it is important that each grievance is considered individually, in order to determine the best option/s to utilise, and the most appropriate way/s to resolve it. Generally speaking, it is desirable that all reasonable attempts should be made to resolve the grievance informally, before moving to more formal processes.

Based on the information obtained, what may be the best way to resolve the grievance?

Do the findings illustrate the need for training, changes to work processes or administrative procedures?

Will mediation or facilitation assist in the resolution of matters?

Options can be as varied as the issues raised, and can include:

- Encouraging the complainant to try and resolve the issue him/herself eg in minor interpersonal matters (see example A)
- Encouraging/facilitating local resolution prior to moving to more formal management of the grievance eg minor workplace matters (see example B)
- Mediation eg where the above options are not appropriate, or have not been successful (see example C)
- Making minor administrative or work process changes eg where there is perceived unfairness in work arrangements, or to address minor OHS issues etc (see examples D and E)
- Provision of information, education and training eg where a lack of knowledge of workplace policies and/or procedures, roles and responsibilities or cultural issues have lead to/contributed to the grievance (see examples F and G)
- A variety of combinations of the above (see example H).

5.2 Self Resolution

Staff should be encouraged to resolve minor workplace matters themselves.

Many minor workplace issues may benefit from encouraging those involved to attempt to resolve the matter themselves. All staff have a responsibility to contribute to a harmonious workplace, and it should not always be necessary to begin the grievance process to resolve minor matters.

Example A

An employee complains to his manager that a second employee plays his radio during the workday, and that it is affecting the complainant's ability to do his work ie is distracting. The manager asks the complainant if he has raised the matter with the second employee, to be advised that he has not. An option would be for the manager to suggest that the matter might be simply resolved by the complainant quietly and politely requesting that the other employee turn his radio down, or use earphones, and explaining why.

5.3 Facilitation

Facilitation is a process whereby a manager attempts to facilitate a resolution between staff members without the use of more formalised procedures. Consideration should be given to using this as a first option, though it may not always be appropriate.

Example B

An employee complains to his manager that he feels his recently appointed supervisor speaks rudely to him, on one occasion in front of other people, which caused him some embarrassment. The employee says he has tried to raise it with the supervisor, but is not quite sure how to go about it, and feels uncomfortable at the thought of it. An option would be for the manager, with the agreement of the staff member, to speak to the supervisor on his behalf, and if necessary, facilitate a two way dialogue between them to resolve the matter.

5.4 Mediation

Mediation is confidential, voluntary and impartial.

Mediation assists complainants to identify and resolve issues themselves.

Using mediation has a number of benefits.

Mediation is a voluntary and confidential process where an appropriately skilled mediator assists people in conflict to identify and isolate issues under dispute, and to identify and if possible agree on potential options to resolve these issues. Mediators are neutral assistants, who do not make judgements. They can be a trained internal person or an outside professional mediator.

During mediation, the mediator aims to assist parties to find their own solution and may, in some instances, offer suggestions for resolution. However, they do not direct a decision or provide advice about likely outcomes. Both parties to a grievance need to agree to mediation. Additionally, both parties need to be able to accept the mediator as being independent and having no vested interest in the outcome of the mediation.

Because mediation is conducted in a confidential, informal atmosphere that encourages participants to discuss issues in a more open manner than might otherwise be possible, there can be many benefits.

Even if agreement is not reached on all issues in dispute, parties are assisted to air their grievances in a constructive manner, and to reach an understanding of each other's position.

The benefits of using mediation to resolve grievances may include:

- Access to an objective and confidential mechanism for solving problems
- Supports the parties in solving their own problems and making their own decisions
- Can provide a useful option for fair, effective and speedy resolution of workplace grievances.

In addition to trained internal mediators, a number of external organisations provide mediation services, including networks of mediators that are able to provide services to rural areas.

Example C

Two senior members of a team working on a significant project, have on occasion over the previous couple of months argued over who agreed to do what, how, and when in relation to the work they were doing together. The situation appeared to come to a head when one employee complained to the manager about the other. The manager investigated the issue, speaking to both staff members and the project support person, and reviewing paperwork related to the project. It became apparent that the two staff members had different styles of working, different styles of communication, and often misinterpreted points of agreement. Added to this was a lack of notes from project planning sessions, including allocation of tasks and agreed timeframes. A range of other interpersonal issues became evident during the fact finding, and history of a very poor working relationship in a previous work area, with unresolved issues, also came to light.

In this circumstance, mediation may be a useful way of allowing the two employees to air their grievances and work on possible solutions and agreed processes when working together.

5.5 Administrative Changes

Sometimes making minor variations to administrative or work practices can provide a solution to certain types of workplace grievances.

Example D

There is a regular collection point near the exit of a work area for disused boxes, which are collected weekly. A staff member complains to the person collecting the boxes that they constitute an OHS issue (blocking easy egress) and should be collected more frequently, to which the collector replies that their collection procedure only allows for a weekly collection. The staff member subsequently complains about this to his manager. As this is a relatively minor matter, an option may be for the managers of both areas to review the location of the collection point and collection procedures, with the objective of putting more appropriate procedures in place.

Note: Serious OHS issues should not be managed as workplace grievances. See section 5.9.

Example E

An employee regularly starts early and takes the easiest and/or most interesting jobs, regularly leaving the more difficult or boring tasks to a colleague, who commences later. The colleague complains to the other staff member, to be told 'first in, first serve'. The colleague, who has child care responsibilities and cannot commence work any earlier, complains to their manager that he is being treated unfairly, and is being discriminated against because of his child care needs. An option may be for the manager to discuss the matter with both staff members in terms of the need for workplace equity, and the increased skills and experience that access to a full range of tasks represents for both of them, and to put protocols in place for improved communications to all his/her staff and fairer allocation of work.

5.6 Provision of Information and Training

On occasion, workplace grievances can arise from being unaware of certain workplace policies or procedures, and/or matters relating to cultural issues, or because of poor communications skills. Where the investigation of a grievance identifies such shortcomings, the focus should be on provision of appropriate instruction, information and training to address these issues.

Example F

A new staff member, previously working in the private sector, has recently commenced work, and on a number of occasions has told sexist jokes in the open plan work environment. Another staff member has requested that this person stop telling such jokes in the open area, to which the person responded that no one else minded and to not be such a whinger. The staff member subsequently complains to their manager, who looks into the matter. The findings suggest that the individual may not understand the potential seriousness of the behaviour, or the workplace policies that address such matters (EEO, code of conduct), possibly because he has not yet attended induction training. These policies should be promptly brought to the attention of the individual. Depending on the individual's response to the information, further training in the area may be necessary. However, it is important that these matters are dealt with in a balanced way, and that the individual is not made to feel belittled or disparaged for what may have been a case of genuine lack of awareness.

Example G

In example E, if the information gathered suggests that the staff member is aware of such policies and procedures but appears to have a lack of understanding, or little respect for, their significance, a different approach may be required. It may still be appropriate to draw attention to the key principles and related policy requirements, but at the same time making it clear that a manager's responsibility is to ensure that such policies are understood and implemented by staff, and outlining the expected future behaviour, and potential consequences should the policies be breached.

5.7 A Holistic Approach

As some of the above examples suggest, the investigation of grievances can raise a number of issues. Therefore it is important that a holistic approach is taken when responding to the issues.

Example H

A part time employee complains to his manager that another employee of similar level, though working full time, is controlling the amount of information that he is receiving, delegating the least interesting tasks to him and basically making assumptions about what training information should be made available to him.

Because this grievance touches on a range of issues, a number of options may need to be utilised, possibly including:

- Development of clear communication protocols
- More formalised interaction between the manager and the part time employee to ensure appropriate task allocation and employee management
- Provision of information to the full time employee on equal opportunity principles
- Ensuring that the part time employee has access to all relevant workplace training and development opportunities
- Depending on the status of the relationship between the two, providing the opportunity for facilitation with the objective of improving the relationship.

5.8 Bullying, Harassment and Discrimination

Bullying and harassment should not be managed as a workplace grievance.

Bullying, harassment and discrimination are serious workplace issues and it is important to be able to judge where a workplace grievance ends and more serious behaviour begins.

For a matter to constitute bullying and/or harassment, the undesirable behaviour will generally meet the following four criteria:

1. It is repeated
2. It is unwelcome and unsolicited
3. The recipient considers the behaviour to be offensive, intimidating, humiliating or threatening
4. A reasonable person would consider the behaviour to be offensive, intimidating, humiliating or threatening.

Where the initial assessment suggests that the behaviour being complained about may be potentially serious, then the matter should not be dealt with as a workplace grievance. Detailed guidelines are currently being developed to assist public health organisations meet the requirements of NSW Health PD2005_223 *Joint Management and Employee Association Statement on Bullying, Harassment and Discrimination*.

Example I

An employee complains to his manager's director that his manager is rude and abrupt, has an autocratic style, was very critical of him when he failed to complete a task on time and would not listen to him when he tried to explain why the task was not completed. The work area is a busy one, with the manager under work pressures of his own. The staff member indicated he tried to raise the issue with the manager, who responded that he did not have time for this and that he should just get on with his work.

Complaints like that illustrated in Example I need to be carefully assessed.

This grievance needs to be initially assessed very carefully, to determine whether grievance management is the most appropriate pathway to manage and resolve this situation. The person receiving the complaint should carefully consider the questions identified in section 4.7 to assist with this determination.

Even when on first glance the situation seems evident, the initial assessment must not be overlooked.

Questions of particular relevance will include:

- Frequency and severity of the incidents eg how often did they happen, what happened eg specific examples
- How long has the undesirable situation been going on eg weeks, months, years
- Impact on the employee eg is it significantly impacting on the employee, is the employee coping
- Impact on others eg are other staff members being affected by this behaviour
- History of any other similar complaints
- Potential consequences of the matter if it is not resolved eg a workers compensation claim.

This may involve seeking further information from the person raising the matter, in the first instance.

Sometimes more detailed information may be required from the complainant to help with the initial assessment.

Where the resulting information suggests that the episodes have been limited to one or two recent incidents and that there is no history of similar complaints against the manager, then managing the complaint as a grievance may be appropriate.

See NSW Health PD2005_223 (Cir 2001/109) 'Joint Management and Employee Association Statement on Bullying, Harassment and Discrimination'.

However, if it appears that there have been multiple episodes over the long term of potentially significant bullying, intimidation or unfair treatment and/or there is a history of other similar complaints, then the situation should not be managed as a grievance.

A single incident of verbal abuse, if it is serious enough, with significant consequences, should not be managed as a grievance.

If the initial assessment suggests a single incident where there was a serious episode of threatening, humiliating or abusive behaviour such as the individual being abused and/or humiliated, particularly in front of others, then there may have been a serious breach of the code of conduct, and grievance management in this instance would be inappropriate.

Example J

The supervisor of a work team made up of Aboriginal and non Aboriginal members has on occasion told jokes that could be construed as racist, in full hearing of Aboriginal team members. One of the Aboriginal team members complains about the jokes to the manager, and requests that the manager intervene, as the Aboriginal health worker does not feel comfortable raising the matter with the supervisor directly. The initial assessment suggests that there are no other inappropriate behaviours and no overtly malicious intent, so at this point it appears that it may be appropriate to manager the matter as a grievance. The manager subsequently discusses the issue with the supervisor, who expresses surprise that anyone was offended, explaining that it was all just 'in fun'. In this situation it may be appropriate to advise the supervisor of NSW Health policy in relation to these matters, give a clear instruction that the behaviour is to cease and possibly arrange provision of information to the supervisor, and probably the entire team, on cultural respect.

While there may have been some suggestion of discriminatory behaviour in the above scenario, given the full circumstances, managing the matter as a grievance is appropriate. However, serious cases of discrimination should not be handled as a workplace grievance.

Example K

A supervisor manages a number of work teams, each with a specific specialty area. One of the work teams is composed entirely of Aboriginal workers, and there are no Aboriginal workers in the other teams. The supervisor has a very demanding job, and often makes decisions with little consultation with the relevant teams. The supervisor has regularly made jokes and negative comments about Aboriginality. The supervisor also speaks openly to other teams about the poor performance of the Aboriginal team and their inability to 'catch on' to how things should be done, even though poor work performance issues have not been raised with the Aboriginal team members. A number of the Aboriginal team members complain to the manager, following the supervisor requiring that all members of their team are to be at work by 8am, and that during lunch breaks, work phones must be diverted to mobiles. There are no such requirements for the other teams.

Work performance issues should not be managed as a grievance.

The above scenario raises a number of potentially significant issues that need to be considered as part of the initial assessment. They include the type and frequency of the behaviour and its discriminatory nature (cultural disrespect and the imposition of conditions on the Aboriginal team that are different to the non-Aboriginal teams for no apparent valid reason), its effects on those raising the complaint and possible industrial implications. There is also a suggestion that there may be work performance issues with the supervisor, if he is failing to effectively manage the performance of the team, identify training and development needs etc.

The above circumstances suggest that the seriousness of the matter falls outside of the grievance framework. Therefore the matter would be more appropriately addressed as a performance management issue, unless more serious matters emerge during that process that may potentially result in disciplinary action.

5.9 Occupational Health and Safety (OHS)

The OHS legislation in NSW requires employers to ensure, as far as practical, the health and safety of all employees. Where an employer is convicted of a breach of the legislation, this is a criminal offence. However, when initially assessing a complaint, care must be taken not to confuse workplace grievances that may have a minor OHS aspect (see Example D), with significant OHS issues.

One way of assisting in this determination is looking at the risks associated with the complaint, including implications for affected employees, and the public health organisation itself if it fails to take the appropriate action.

Example L

An employee working in a laboratory is required to decant a classified hazardous substance. On donning the required personal protective equipment (PPE), the employee notes that the respirator is damaged, and he is unable to secure it properly. He is unable to locate another respirator, so notifies his supervisor that he is unable to complete the task until an appropriate respirator is available. The supervisor tells him that the substance is needed now, and instructs him to continue the task. The employee refuses, an argument ensues and the supervisor threatens the employee with disciplinary action. The employee complains to their manager.

Serious OHS issues should not be managed as grievances.

By requiring the employee to continue the task without the required PPE, the supervisor is attempting to coerce the employee into breaching safe operating procedures, when in fact the supervisor should be ensuring compliance.

See NSW Health PD2005_409 (Cir 2004/87) 'Workplace Health and Safety: Policy and Better Practice Guide'.

5.10 Using External Experts

The judicious use of external experts can assist in solving high level or complex grievances.

The supervisor is potentially placing the employee at risk of injury from inhaling the fumes, and placing the employer at risk of WorkCover regulatory activity, particularly as it is within the employee's rights to make a complaint directly to WorkCover. These are serious matters, and should be managed under performance management guidelines, or the disciplinary process if it is warranted eg if it is a repeat offence.

There may be certain circumstances where there is a need to consider using an external expert to investigate a grievance, or facilitate or mediate a solution.

While it is expected that such circumstances would not be common, it may be appropriate where:

- It is difficult to identify an internal person who is able to be impartial, or who does not have a conflict of interest, particularly in smaller facilities
- Where very senior staff are involved
- Where there is a lack of appropriately skilled personnel
- Where the situation may come under external scrutiny.

This is a high level decision for the employer to make, after considering all the relevant factors.

5.11 Review Process

An effective review mechanism assists in ensuring that the grievance management and resolution processes are fair and impartial, and can stand up to scrutiny.

The resolution of most grievances will usually be determined and managed by the appropriate manager. On occasion, some or all parties to the grievance may not be happy with the process followed and/or the outcomes of the process. Therefore, there needs to be access to a review mechanism.

The process for requesting a review should be based on the following:

- That the initial grievance management process has been completed, and findings communicated to both parties
- That review of the grievance management process is requested within a reasonable time frame eg within two weeks of its completion
- Sound reasons for requesting the review are identified. It should not be assumed that just because a party to the grievance may not accept the outcome, that there is an automatic right of review
- That, where a review is warranted, it is conducted within an identified, and reasonable, time frame
- That the review is conducted impartially by someone who was not involved in managing the initial grievance
- That the review focuses on the process followed to resolve the grievance eg was it impartial, fair, inclusive and appropriate
- That the findings of the review and their reasons are communicated in writing to the relevant parties.

5.12 Documentation

Those managing grievances need to maintain the appropriate documentation. The type of documentation and level of detail will depend on the type of grievance, whether it was managed formally, level of complexity, and those involved. This can range from a simple diary note to more detailed notes kept locally, or to dedicated files.

The level of detail will depend on the circumstances.

Documentation should include:

- Key step/s taken to manage the grievance
- Key points of information obtained when looking into the matter
- Options activated to resolve the grievance, and time frames
- Any process review.

The person doing the information gathering should keep a record of the findings and the process followed to manage and resolve the grievance.

The purpose of such documentation is to:

- Allow for a review of the management of a grievance if the review process is activated
- Provide access to relevant information if the same grievance is lodged again at a future time, or the grievance worsens despite all efforts to resolve it
- Provide information to support the organisations' actions, should the grievance end up in an external forum.

5.13 Reporting on Workplace Grievances

There needs to be a mechanism in place for employers to determine if the system is operating effectively and in a timely manner. This information should be de-identified, aggregated, high level information for its use when evaluating the effectiveness of the local system.

Reporting should be high level and de-identified.

The sort of information that should be provided includes:

- Date the grievance was first raised
- Employment groups of those involved eg cleaner, manager etc
- Number of times the grievance has been raised (is this the first time, or has the same matter come up a number of times)
- Work location (may need to go up a level if the particular work unit is small and identifying it may lead to the identity of those involved in the grievance)
- Nature of grievance (interpersonal, perceived unfair practices etc)
- Options utilised by the manager to resolve the grievance (self-resolution, mediation, facilitation, administrative changes etc)
- Timeframes
- Whether the review process was activated.

This information can be collected via a simple reporting form, and forwarded to an identified central location. A sample reporting pro forma is at Appendix 6.3.

5.14 Evaluation, Review and Continuous Improvement

As the above suggests, the grievance management system should be regularly reviewed and evaluated, usually under the auspices of the person with overall responsibility for the local grievance management system. The objective of the review is to identify any areas that need updating or improving, and to ensure that the appropriate improvements are then made to the system.

6.0 APPENDICES

6.1 Rights and Responsibilities in Grievance Management

Rights and responsibilities of all staff include:

- The right to a safe and healthy working environment
- The right to seek appropriate external support and assistance in dealing with their work related concerns, including the advice and support of their union
- Taking prompt action on work related grievances in accordance with public health organisation policy and procedures
- Not taking part in, or condoning victimisation and other inappropriate behaviour
- Taking responsibility for their own actions in the workplace, and where the actions of others are disagreeable to them, to attempt to settle matters, where appropriate, with that other person/s in the first instance
- Taking responsibility for assisting in the resolution of the grievance
- Accepting that a resolution may not always satisfy their personal wants
- Not making frivolous, malicious or vexatious complaints
- Cooperating with any grievance procedure.

Rights and responsibilities of those raising issues of concern include:

- To be provided with information regarding their rights and responsibilities
- To seek management counselling without making a formal complaint/grievance
- To withdraw from the grievance at any stage, although the complainant may be advised that management will continue to pursue the complaint if the matter is considered serious or impacts on the organisation's duty of care
- To identify desired outcomes
- To have the issues treated in a fair and impartial manner
- To be informed of all decisions and progress made which may affect them, with consideration given to the privacy of other parties
- To be given protection against any victimisation or harassment because they have raised a grievance
- To raise their grievances at an early stage and providing as much information as possible to assist in the effective resolution of the grievance
- To have a support person present at any meetings they attend relating to the grievance;
- To place comment on the file that contains the record of their involvement
- To not to make malicious, vexatious or frivolous complaints
- To have access to records of meetings which they attended to enable them to confirm that they are an accurate and true record.

Rights and responsibilities of those responding to the issues raised include:

- To be provided with information regarding their rights and responsibilities
- To be provided with protection against any vexatious or malicious complaints
- To be informed promptly of the substance of the grievance
- To be provided with sufficiently detailed information to allow them to respond to the grievance
- To have an opportunity and sufficient time to respond to the grievance
- To seek advice and management counselling
- To have the issues treated in a fair and impartial manner
- To be informed of all decisions and progress made which may affect them, including any evidence found against them, with consideration given to the privacy of other parties
- To provide as much information as possible to assist in the effective resolution of the grievance

Rights and responsibilities of those responding to the issues raised include: (continued)

- To have a support person present at any meetings they attend relating to the grievance
- To have access to records of meetings which they attended to enable them to agree that they are an accurate and true record
- To place comment on the file that contains the record of their involvement.

Supervisor/Manager rights and responsibilities include:

- To be trained in effective grievance management
- To ensure all staff are aware of their rights and know how to access the grievance resolution process
- To proactively identify and resolve, as far as practicable, causes of concern to staff members without waiting for a grievance to be raised
- To treat all workplace grievances seriously, fairly and impartially. If circumstances prevent a person from remaining impartial, the grievance should be referred to the next manager in line or another appropriate person
- To document the process undertaken to resolve a grievance
- To ensure that all documentation in their possession remains confidential and is kept in a secure place
- To ensure that each stage of the grievance is handled as expeditiously as possible
- To ensure that whilst the grievance procedures are being followed, there should be as little disruption to work as possible
- To ensure that professional interpreters are made available to people who do not speak English as their first language or who use sign language
- To make reasonable instructions in relation to work
- To protect staff members from victimisation, harassment and discrimination.

Support Person rights and responsibilities include:

- To provide support to the person they are attending the meeting with, not advocate on their behalf
- To be provided with a copy of the grievance policy and procedure
- To be a witness to the procedure undertaken
- To attend meetings with the party they are supporting, related to the grievance, unless the party no longer requires their involvement.

6.2: A Tool to Assist with Initial Assessment of Complaints Made by Staff

Staff must refer to local policies/procedures reflective of the relevant NSW Health documents. Depending on the nature and complexity of the matters raised, more than one policy may be relevant to the management of the issue, and different pathways may be followed for different aspects of the matters raised.

Nature of Complaint	Guiding NSW Health Policy Directives
<i>Does the complaint primarily consist of a workplace matter raised by an employee that is causing them concern or distress eg interpersonal conflict, the way work is allocated or managed, a perceived unfairness in the workplace?</i>	See NSW Health PD2005_584 Effective Workplace Grievance Resolution: Policy and Better Practice for the Department of Health and Public Health Organisations.
<i>Does the complaint primarily relate to bullying, harassment, threatening or discriminatory behaviour?</i>	See NSW Health PD2005_223 (Cir 2001/109) Joint Management and Employee Association Statement on Bullying, Harassment and Discrimination.
<i>Does the complaint primarily relate to behaviour or activity that, if sustained, is likely to result in disciplinary procedures?</i>	See NSW Health PD 2005_225 (Cir 2001/112) A Framework for Managing the Disciplinary Process in NSW Health.
<i>Does the complaint primarily relate to a work performance issue?</i>	See NSW Health PD2005_180 (Cir 2000/68) Managing for Performance – A Better Practice Approach.
<i>Does the complaint primarily relate to the clinical behaviour or performance of a clinician or public health organisation?</i>	See NSW Health publications: <i>Guideline on the Management of a Complaint or Concern about a Clinician</i> <i>Model Policy on the Management of a Complaint or Concern About a Clinician.</i> <i>Better Practice Guidelines for Frontline Complaints Handling</i> February 1998
<i>Does the complaint primarily relate to matters that may be criminal, or may constitute corrupt conduct, maladministration or substantial waste?</i>	See NSW Health policy directives: PD2005_ (Cir 2000/41) <i>Reporting Possible Corrupt Conduct to the Independent Commission Against Corruption;</i> PD2005_109 (Cir 97/80) <i>Procedures for Recruitment and Employment of Staff and Other Persons – Vetting and Management of Allegations of Improper Conduct;</i> PD2005_315 (Cir 2003/48) <i>Zero Tolerance Response to Violence;</i> PD2005_135 (Cir 98/101) <i>Policy and Guidelines for the Development of Protected Disclosures Procedures in Health Services.</i>
<i>Has the complaint been lodged as a protected disclosure, as defined in the Protected Disclosures Act 1994?</i>	See NSW Health PD2005_135 (Cir 98/101) as above.
<i>Does the complaint primarily relate to allegations of sexual, physical or emotional abuse of a patient or client by an employee?</i>	See NSW Health policy directives: PD2005_109 (Cir 97/80) as above. PD2005_299 (Cir2003/16) <i>Protecting Children and Young People.</i>
<i>Does the complaint primarily relate to allegations of sexual, physical or emotional abuse of a child by an employee, or others?</i>	See NSW Health PD2005_109 (Cir 97/80) as above.
<i>Does the complaint primarily relate to a serious breach of the Code of Conduct?</i>	See NSW Health PD2005_130 (Cir 98/79) <i>Principals and Minimum Standards for the Development of Health Service Codes of Conduct (under review).</i>

6.3 Sample Workplace Grievance Reporting Pro forma

1. **Date Grievance Lodged**.....
2. **Is this the first time this grievance has been lodged by either party? (please circle)**
Yes No
3. **Work Location**.....
4. **Work Category /Type**
Complainant.....
Respondent.....
5. **General Nature of the Grievance**
.....
(eg interpersonal, unfair treatment, work systems or procedures etc)
6. **Option/s Utilised to Resolve Grievance**.....
.....
(eg self resolution, administrative actions, mediation etc)
7. **Date Grievance Finalised**.....
8. **Was the complainant satisfied with the:**
 - a) **Process followed to resolve the grievance (please circle)**
Yes No
 - b) **Outcome of the grievance (please circle)**
Yes No
9. **Was the respondent satisfied with the:**
 - a) **Process followed to resolve the grievance (please circle)**
Yes No
 - b) **Outcome of the grievance (please circle)**
Yes No
10. **Was there a request for a review? (please circle)**
Yes No

Contact Person for the Grievance _____

GPSC2: AMBULANCE SERVICE INQUIRY – ADDITIONAL QUESTIONS

Question 10.

What does the Ambulance Service do to assist officers to find suitable accommodation when transferring to rural stations, and what subsidies do officers receive?

ANSWER

The Ambulance Service applies the provisions of the Crown Employees (Transferred Employees Compensation) Award, which applies across the NSW public sector.

The Ambulance Workforce Unit writes to the individual officers who are transferring to explain the process of appointment to permanent stations in rural stations.

The Ambulance Workforce Unit also follows up with the individuals in person to explain the details regarding the logistics of removals and reimbursements such as:

- travelling costs for officer and partner;
- meals and accommodation for officer and family;
- phone, gas, electricity connection;
- mail redirection;
- storage for furniture;
- assistance with cost of temporary accommodation, if suitable accommodation cannot be found in the initial 4 weeks;
- school uniforms for children; and
- conveyancing and other costs associated with purchase and sale of real estate.

Information about rural locations is available on the Service's intranet. The town profiles provide important town and station facts, as well as services and facilities including accommodation contact numbers.

A user friendly manual regarding the Transferred Officers Award is available to staff.

In addition, Divisional Personnel Officers and Station Officers are available to advise about accommodation, as they each have local knowledge of their Sectors.

Arrangements may be made for individuals to stay in any available nursing quarters – these quarters are not available to the general public.

The Ambulance Service will be assigning a personal contact person in the Workforce Unit for each officer who is transferring to a rural station to better support their needs.

GPSC2: AMBULANCE SERVICE INQUIRY – ADDITIONAL QUESTIONS

Question 11.

What is the Ambulance Service doing to resolve the issue of single officer ambulance crews?

ANSWER

Ambulance responses involving a single officer are integral to the provision of a comprehensive Ambulance Service.

In urban and regional centres, Rapid Response Units (single officers in motor cycles and sedans) are used to maintain a higher availability to respond and increase the flexibility and reliability of emergency coverage.

Extended Care Paramedics are also single responders and are operating on a trial basis in the Nepean area. These single responders assess, treat and discharge a patient for a range of common non-acute clinical presentations. Further detail on the role of the Extended Care Paramedic is provided in the *NSW Health Submission to the Legislative Council, General Purpose Standing Committee No 2, The Management and Operations of the Ambulance Service of NSW* at pages 38 and 39.

Supervisors or officers in transit are also logged into the computer aided dispatch system and made available to respond to emergencies in their vicinity. They may be used to undertake an initial assessment of whether additional resources are required or to assist ambulance crews already on scene.

In areas where population workload is insufficient to establish a full time operation, a variety of on-call and on duty systems are used where a single officer may be the initial resource deployed. Single officers respond from their residence when on-call in rural locations where there are a small number of calls occurring after-hours. Single officer responses are routinely supported by simultaneous dispatch of the duty crew, on-call officer, Police, community first responders or an Ambulance helicopter

For all ambulance responses, specific training and operational policies are in place to identify potentially dangerous situations as early as possible and to arrange Police or other assistance. Paramedics are instructed to "stand-off" at any time they are concerned about safety until additional assistance arrives.

Recent rural staffing enhancements of an extra 230 officers (completed in 2007/2008) has been implemented in close consultation with the Health Services Union to achieve a balance between extending coverage in high work load areas and union priorities to reducing single officer crewing.

GPSC2: AMBULANCE SERVICE INQUIRY – ADDITIONAL QUESTIONS

Question 12.

What training is provided to qualified paramedics to ensure their skills are up to date?

ANSWER

In 2007/08, the Ambulance Service allocated \$12,582,000 for training which represents an increase of \$2,888,000 over the previous financial year (\$9.695M allocated).

Qualified paramedics are required to recertify every three years. The Ambulance Service provides a program of continuing professional development for paramedics through the Certificate to Practice program (CTP).

Traditionally CTP is undertaken as a five day intensive at the Ambulance Education Centre. While this program (CTP Stream 1) is still provided it is only used by a small proportion of staff.

The majority of staff undertake CTP program (CTP Stream 2) ensures that ongoing professional education is aligned to relevant developments in pre-hospital care but is also sufficiently flexible to meet the needs and clinical interests of paramedics at different stages of their careers and in different types of practise throughout New South Wales.

CTP Stream 2 requires paramedics to accrue 100 points for mandatory and professional development education activities over a three year period. CTP Stream 2 was introduced in response to requests by paramedics for more flexibility and relevance in the certification process.

There are two components to the CTP program:

1. **Mandatory Component (40 points)**

Paramedics undertake a face to face workshop with Paramedic Educators and Clinical Training Officers in which protocols, pharmacology and skills are reviewed using presentations, discussion, practical work and practical scenarios.

During the workshop Paramedics are tested on their application of protocols, pharmacology and skills to different pre-hospital scenarios.

2. **Continuing Professional Development Component (60 points)**

Paramedics undertake professional development activities of their own choosing however at least 40 of the 60 points must be accumulated through activities that have a direct clinical focus.

Paramedics may choose to participate in professional development activities provided by Paramedic Educators and Clinical Training Officers or through on-line courses and pod-casts administered by the Ambulance Education Centre.

Paramedics may also receive credit for attending activities provided by external organisations such as the Australian College of Ambulance Professionals, College of Nursing, Universities, Australian Resuscitation Council.

The Ambulance Education Centre supports paramedics in the CTP program through a network of 35 regional paramedic educators leading teams of clinical training officers who facilitate the review and assessment activities and provide a range of educational opportunities.

Clinical Training Officers also conduct education and training in the field and provide learning activities that count towards the professional development component of the CTP. Clinical Training Officers are also able to help staff identify and access suitable professional development activities.

GPSC2: AMBULANCE SERVICE INQUIRY – ADDITIONAL QUESTIONS

Question 13

Can you please elaborate on how the proposed new transfer system between rural and metropolitan areas will work, and when it will be introduced?

ANSWER

Since 2005, the Ambulance Service and the Health Services Union have been involved in discussions about changes to existing officer transfer systems between rural and metropolitan locations, and the benefits for officers in rural and remote locations.

Agreement has not been reached on the Service's proposals to give priority to officers in rural and remote locations when being considered for "lateral transfers", i.e. transfer to another location at the officer's present level.

Both the Service and Union have made submissions on these matters to the Industrial Relations Commission of NSW in the present Work Value and Special Case.

The Service's submissions include a proposal for priority consideration for transfers for officers who have completed service in identified rural and remote locations.

The case is presently before a Full Bench of the Commission.

The proceedings are "*in camera*" and the parties have undertaken to maintain the confidentiality of this process.

Further proceedings are currently set down for 18-22 August 2008, after which a decision in relation to all matters, including the lateral transfer process and benefits for officers in rural and remote locations, is expected.

GPSC2: AMBULANCE SERVICE INQUIRY – ADDITIONAL QUESTIONS.

Question 14

When will ambulances be equipped with GPS navigation?

ANSWER

The Ambulance Service has used Satellite Navigation Units in Rapid Response single officer vehicles for some time and it has proved to be beneficial.

The Service currently has six units on trial in Ambulance vehicles across the State - two in the metropolitan area and four in rural areas. The trial will provide the opportunity to establish training requirements and operating protocols for the units in double crew vehicles. The Service is also examining ways to link the Satellite Navigation Units with the Mobile Data Terminals in ambulance vehicles prior to the installation of these units into frontline Ambulance vehicles in the 2008/09 financial year.

GPSC2: AMBULANCE SERVICE INQUIRY – ADDITIONAL QUESTIONS

Question 15.

Please provide data on emergency demand and non-emergency demand in NSW.

ANSWER

The Ambulance Service of NSW has experienced an eight per cent increase in demand each year since 2002-2003.

The Ambulance Service is called for assistance every 30 seconds. It provides over 1 million responses each year, 785,000 for emergencies. It provides care and transport services for 6.9 million people¹.

The number of emergency incidents increased by 16% in 2006/07 over the previous year. Non emergency incidents decreased in 2006/07 for the first time however increased again in 2007/08.

Further data on emergency demand and non-emergency demand in New South Wales is provided in the *NSW Health Submission to the Legislative Council, General Purpose Standing Committee No 2, The Management and Operations of the Ambulance Service of NSW* at pages 1 and 5 to 13.

¹ 2006/07 figures.

GPSC2: AMBULANCE SERVICE INQUIRY
Question on Notice (16)

The Hon. ROBYN PARKER to ask:

Whether you have done any work on employees within the ambulance service and the prevalence of those workers taking their own lives in comparison with other organisations of similar numbers?

ANSWER

The Australian Bureau of Statistics (ABS) indicates that suicide occurs at the rate of about 10 deaths per 100,000 population per year; however, the rate varies for different age groups. In 2005 the ABS reported the rate of suicide for males aged between 30 and 34 years was 27.5 deaths per 100,000 and 25 deaths per 100,000 for males aged between 40 and 44 years.

The Ambulance Service has data that suggests that over the last 10 years a total of nine employees have taken their own lives. The circumstances in which the deaths occurred are known to have included break-downs in personal relationships, financial distress, health related issues and, in one case, pending dismissal for disciplinary action. One death occurred in circumstances where a grievance alleging bullying and harassment had been lodged and was under investigation.

There is no national data set on occupation and suicide and statistics on suicide and its relation to occupation are not clear. The groups with the highest suicide rates relative to other causes of death throughout the decades remain health professional and agricultural occupations, suggesting a link between occupation and access to, and knowledge of, methods of taking one's own life. No direct link has been demonstrated between suicidality and work environment. Occupation is not a major predictor of suicide.

A range of complex factors contribute to suicides and the top predictors for suicide are diagnosable mental disorder, co-morbid substances use, loss of social support and availability and access to means.

The Ambulance Service provides support 24 hours a day to all staff through an Employee Assistance Program Service (EAPS) provider. Managers may refer staff to the EAPS service however employees are encouraged to make self-referrals. Information about EAPS and other support services including Chaplains and Peer Support Officers are available to all staff through the Intranet.

The Ambulance Service has 110 volunteer Peer Support Officers who provide practical support and advice to colleagues and are able to help colleagues to manage strong emotional reactions to traumatic incidents. The ratio of Peer Support Officers to total staff is comparable to other emergency services programs.

Where an incident occurs – such as the death by suicide of an employee – support resources are immediately activated however the type of resource depends on the nature of the incident. Peer support and the employee assistance program may be activated, senior and divisional management may also conduct critical incident de-briefing if appropriate.

The 2008 Review recommends that the Service evaluate staff support services and take action on the findings of the evaluation by mid-2009. This recommendation has been accepted by Government and will be implemented.

GPSC2: AMBULANCE SERVICE INQUIRY
Question on Notice (17)

The Hon. CHRISTINE ROBERTSON asked for:

A copy of the grievance and complaints handling process to determine the procedures for internal complaints.

ANSWER

- Attached is the "Grievance Resolution Procedures" for the Ambulance Service.
- In addition, the following relevant documents are provided:
 - PD2006_073 *Complaint Management Policy*
 - GL2006_023 *Complaint Management Guidelines*, to provide an operational framework for dealing with a complaint in accordance with the Complaint Management Policy.



GRIEVANCE RESOLUTION PROCEDURES

6.20.1 **AIM**

The Ambulance Service of New South Wales recognises the rights of staff to express their concern about work related issues and to raise grievances within procedures designed to protect those involved. It is the policy of the Ambulance Service of New South Wales to maintain a harmonious working environment which is free from intimidation, harassment and conflict and one which affords equality of opportunity.

6.20.2 **DEFINITIONS**

6.20.2.1 **Grievance**

A grievance is any type of concern, complaint or dispute of an employee related to work or the work environment. A grievance can be about any act, behaviour, omission, situation or decision which an employee thinks is unfair or unjustified.

6.20.2.2 **Grievant**

Any employee with a concern, complaint or dispute related to work or the work environment.

6.20.2.3 **Respondent**

The person/s against whom a concern, complaint or dispute is raised.

6.20.2.4 **Complaint**

A complaint is an allegation or an expression of dissatisfaction or concern about the Ambulance Service's Policies, procedures, employee conduct, provision of information, quality of communication or treatment, or quality, access to promptness of service.

A complaint should be dealt with in accordance to the Ambulance Service's Complaint Resolution Procedures.

6.20.3 **TYPES OF GRIEVANCES INCLUDE**

- Remuneration
- Discrimination
- Location/Transfer
- Harrassment
- Conflict with other employees
- Relief and acting higher duties
- Promotion

A grievance which may allege a breach of discipline by another employee should be dealt with in accordance with the Ambulance Service's (Staff) Regulation 1995 and the Service's Disciplinary Guidelines.



GRIEVANCE RESOLUTION PROCEDURES

6.20.4 RIGHTS AND RESPONSIBILITIES

6.20.4.1 Grievant's Rights & Responsibilities

- To seek management counselling without making a formal complaint/grievance.
- To withdraw from the grievance at any time however, the grievant should note that once a manager or supervisor is notified of a possible breach of the relevant Award, breach of discipline or unlawful behaviour (eg Sexual Harassment) they are responsible for managing the situation accordingly.
- To pursue the grievance through alternative channels or other statutory bodies eg Industrial Relations Commission, Anti Discrimination Board, etc, if they are not satisfied.
- To be kept informed of all decisions and progress made.
- To know that no steps will be taken to resolve or review a grievance without the grievant's knowledge.
- Protection against any victimisation or harassment because they have raised a grievance.
- To be represented by their union if they so wish.
- To raise their concerns or grievance at an early stage and for providing as much information as possible to assist in the effective resolution of the grievance.
- To have an observer of their choosing present at any meetings/interviews relating to the grievance. The role of the observer is not one of advocate adviser but a silent one.

6.20.4.2 Respondent's Rights & Responsibilities

- Protection against any vexatious or malicious complaints.
- To be informed promptly of the details of the grievance.
- To have an opportunity to respond to the grievance.
- To seek alternative advice.
- To be afforded a presumption of innocence until proven otherwise.
- To be represented by their union if they so wish.
- To provide as much information as possible to assist in the effective resolution of the grievance.
- To have an observer of their choosing present at any meetings/interviews relating to the grievance. The role of the observer is not one of advocate adviser but a silent one.



GRIEVANCE RESOLUTION PROCEDURES

6.20.4.3 Supervisor's Responsibilities & Obligations:

- All supervisors and managers have an obligation to identify and resolve, as far as practicable, causes of anxiety to employees without waiting for a grievance to be raised.
- All supervisors and managers have an obligation to identify matters of a serious nature that may lead to breaches of discipline and refer these matters accordingly.
- To treat all grievances seriously, fairly and impartially. If circumstances prevent a person from remaining impartial, it should be suggested to the grievant that the grievance be referred to the supervisor or manager next in line.
- To ensure that during the resolution process all documentation remains confidential and is kept in a secure place.
- To ensure that each stage of the grievance is handled as expeditiously as possible.
- To ensure that whilst the grievance procedures are being followed, there should be as little disruption to work as possible.
- To immediately advise the respondent of possible ramifications if it appears that the grievance raised could lead to criminal charges.
- To ensure that professional interpreters are provided to people who do not speak English as their first language or who use sign language.
- To avoid making early or uninformed judgements regarding grievances.
- To ensure that any grievance which may involve a criminal matter should be referred immediately to the Chief Executive Officer and to the Police.

6.20.5 PROCESS FOR RESOLUTION OF GRIEVANCES

6.20.5.1 **Attempt to directly resolve** - With all grievances, the initial step is for the aggrieved person to attempt to resolve the grievance directly with the person/s concerned.

6.20.5.2 **Reporting a grievance** - If step one is not possible or is unsuccessful, the grievant can refer the matter to their immediate supervisor.

- If the grievant is unable to refer the matter to their immediate supervisor they may consult the next line of management or the Employee Relations Unit. In cases of harassment or discrimination, grievants may directly approach the Senior Employee Relations Officer or the Employee Relations Equity Officer in the Employee Relations Unit (in confidence).



GRIEVANCE RESOLUTION PROCEDURES

- The supervisor (or person receiving the grievance) must listen attentively to the grievant and clarify the facts of the grievance, obtaining as much information about the grievance as possible ie what has occurred, where and when, who is allegedly responsible, what action, if any, has been taken. All the information pertaining to the grievance should be documented.
- This process may require more than one (1) interview with the grievant (as often the grievant may be distressed).
- Grievances may be reported either verbally or in writing. Where a verbal grievance is lodged the supervisor (or person receiving the grievance) must fully document all details pertaining to the grievance.

6.20.5.3 Obtaining the desired outcome - The supervisor must then explore with the grievant their desired outcomes, options, avenues and remedies that can be pursued together with any possible consequences that may result from actions taken:

- The supervisor must seek permission from the grievant before any action is initiated and/or any discussions take place with any individual. However, any permission or lack of permission or withdrawal from the grievance by the grievant does not prevent the supervisor from rectifying any identified illegality, such as breach of the relevant Award, or entitle the supervisor to allow such an illegality to continue, once identified, even if the grievance has not been settled to the satisfaction of the grievant.

6.20.5.4 Ascertaining the facts - Once the nature of the grievance is clarified and the outcomes/options established, the supervisor must inform the respondent/s that a grievance has been lodged and the nature of the grievance.

- If the grievance is lodged against individual/s under another supervisor's control, the supervisor should inform the respondent/s supervisor that a grievance has been lodged and the nature of the grievance.
- The supervisor must give the respondent/s all the relevant details of the grievance. The respondent must be given time to assess the documentation or details, check them and consult with their Union or advisor prior to being called upon to be interviewed.
- The respondent/s should be interviewed separately and impartially and be given the opportunity to respond to the issues raised.
- In the event of conflicting information between the grievant and respondent the supervisor may need to conduct a fact finding inquiry, it may be necessary to clarify the details of the grievance with witnesses.



GRIEVANCE RESOLUTION PROCEDURES

- 6.20.5.5 **Resolving the grievance** - The fact finding process combined with the grievant's expected outcome and any relevant policies or procedures may point to a solution to the grievance. However it may be necessary to resolve a grievance by counselling the parties concerned individually and/or conciliating between them, (eg in the case of sexual harassment it may be sufficient for the behaviour to cease, or to point out to the respondent that the behaviour is unwanted, inappropriate conduct and illegal and that it must cease immediately.)
- If the **grievance is not substantiated**, the reasons for the decision should be explained to both parties and the grievant/s advised that they may take their grievance to a more senior supervisor, the EEO Coordinator, or other bodies, such as their employee association or the Anti Discrimination Board, if not satisfied.
 - If the **grievance is substantiated then appropriate action** should be taken, if disciplinary action is required, it should reflect the severity of the conduct and the Disciplinary Guidelines (Instructional Circular 96/09) and Ambulance Services (Staff) Regulation 1995 must be adhered to. Matters of a serious nature which are substantiated should be recorded on the Personal File of the respondent and the respondent should be afforded the opportunity to place a written response on their Personal File.
 - There is sometimes a period of unease following the resolution of grievances, where the supervisor should monitor the workplace carefully to assist the return of workplace harmony. The supervisor has the responsibility to ensure that the grievant is not victimised or harassed as a result of raising a grievance.
 - Once the grievance is resolved to the satisfaction of all parties, all documentation should be forwarded to the Divisional Personnel/EEO Coordinator to be kept in a secure place for a period of twelve (12) months, after which time the documentation should be destroyed unless the grievant/s advise of further disputes or concerns against the respondent/s.
- 6.20.5.6 **Unresolved Grievances** - If the grievance remains unresolved and all possible steps have been taken by local management, the matter should be referred to the relevant General Manager or State Superintendent. If necessary the matter may be referred to an external agency for review or a party independent of the Service requested to review or in some situations mediate the matter. This option is a last resort and should only be pursued when all other avenues have been exhausted.



GRIEVANCE RESOLUTION PROCEDURES

6.20.5.7 **Reporting** - On a quarterly basis, that is the end of September, December, March and June, Divisions are to report to the Manager, Employee Relations the number of grievances received, the nature of the grievances and whether they were resolved.

6.20.5.8 **Follow up** - Results of action taken to resolve a grievance should be monitored as a follow-up mechanism to ensure that the action taken has been effective. Time frames should be agreed upon between the supervisor and grievant to review the outcome to ensure that a satisfactory resolution to the grievance has been reached. Should the grievant not be satisfied with the outcome of the process, both parties should pursue further resolution.

6.20.6 **GENERAL ISSUES TO OBSERVE IN THE PROCESS OF GRIEVANCE RESOLUTION**

- If the grievance concerns award or agreement interpretation (wages and conditions), employees should follow the issues resolution clauses contained within their award or agreements.
- All grievances will be treated with the upmost **confidentiality**, that is, all people involved in the process either directly or indirectly are bound to keep all matters relating to the grievance confidential, however this does not affect the grievant's right to raise the matter with the employer, through other statutory channels, or their appropriate employee organisation.
- If at any stage throughout this process the grievant feels satisfied that the problem or concern is resolved then no further action need be taken. However follow up is an essential step to ensure that the outcome is satisfactory to all parties involved.
- At any time throughout this process, advice may be sought from the Employee Relations Unit by the grievant/s or respondent/s or the supervisor. Further, advice may be sought from other organisations such as employee associations or the Anti Discrimination Board.
- These Grievance Procedures do not preclude an employee from making a disclosure pursuant to the *Protected Disclosures Act 1994*. The objective of the *Protected Disclosures Act 1994* is to encourage and facilitate the disclosure in the public interest of corrupt conduct, maladministration and serious waste in the public sector.

Complaint Management Policy

Document Number PD2006_073

Publication date 29-Aug-2006

Functional Sub group Corporate Administration - Information and data
Corporate Administration - Governance
Clinical/ Patient Services - Governance and Service Delivery
Clinical/ Patient Services - Incident management

Summary Support clinicians and managers to respond effectively to clinical and corporate complaints that arise in the NSW Health system.

Replaces Doc. No. Complaints Handling Frontline - better practice guidelines - issued 1998 [GL2005_061]
Complaints Data Collection - Statewide [PD2005_288]

Author Branch Quality and Safety

Branch contact Quality and Safety 9391 9200

Applies to Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations - Non Declared, Affiliated Health Organisations - Declared, Public Health System Support Division, Community Health Centres, Dental Schools and Clinics, NSW Ambulance Service, Public Health Units, Public Hospitals

Audience All staff, including managers, clinicians and contractors

Distributed to Public Health System, Community Health Centres, Dental Schools and Clinics, Divisions of General Practice, Government Medical Officers, Health Associations Unions, Health Professional Associations and Related Organisations, NSW Ambulance Service, NSW Department of Health, Public Health Units, Public Hospitals, Private Hospitals and Day Procedure Centres, Private Nursing Homes, Tertiary Education Institutes

Review date 29-Aug-2011

File No. 05/6761

Status Active

Director-General

This Policy Directive may be varied, withdrawn or replaced at any time. Compliance with this directive is **mandatory** for NSW Health and is a condition of subsidy for public health organisations.

COMPLAINT MANAGEMENT POLICY

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1. Introduction

Complaints and compliments provide unique information about the quality of health care from the perspective of consumers and their carers. Management of a complaint provides the opportunity for complainants to have their issues resolved effectively, ensures that any identified risks are managed appropriately and that action is taken to minimise or eliminate those risks.

A key component of complaint management is the systematic recording of issues, risks, complaints, and their resolution, which is achieved through the Incident Information Management System (IIMS).

This policy applies to all complaints about health services made by members of the public or external organisations.

For the purposes of this policy, the term "health services" refers to Public Health Organisations and the Ambulance Service of NSW.

2. Objectives

The objectives of the complaints policy are to:

1. Assist health services with the timely and effective management of complaints.
2. Establish a standard approach to complaints handling including the establishment of performance indicators to monitor compliance.
3. Ensure that health service staff are aware of their responsibilities and are empowered to manage complaints

3. Principles¹

The Complaint Management Policy Directive and associated Guidelines are underpinned by the following guiding principles:

- Health services are committed to consumers and quality improvement.
- Consumers and their carers are encouraged and enabled to provide feedback about the service, including complaints.
- All complaints are acknowledged and responded to promptly and sensitively.
- Complaints are assessed by considering risk factors, the known facts, the wishes of the complainant and accountability of health service staff.

¹ Based on 2004 Better Practice Guidelines on Complaints Management for Health Care Services - A product of the Australian Council for Safety and Quality in Health Care (the Council) sponsored "Turning wrongs into rights: learning from consumer reported incidents project", endorsed by the Australian Health Ministers Conference in July 2004

Title: Complaint Management Policy

- All complaints are dealt with in a manner that is effective, complete, fair to all parties and provides just outcomes.
- Complaint information is openly communicated while protecting confidentiality and personal privacy.
- All complaints are recorded to enable review of individual cases, to identify trends and risk and report on aggregated complaint information.
- Complaint management policy, practices, and data are regularly evaluated and the information is used to improve services.

4. Roles and Responsibilities

Effective complaint management requires a whole-of-organisation approach with clear points of accountability for reporting and feedback, as follows:

4.1 Chief Executive is responsible for:

- Encouraging an environment where complaints are handled seriously and thoroughly.
- Ensuring an effective complaint management system is developed and in place for the health service.
- Ensuring appropriate resources are available and utilised for effective complaint management.
- Reporting to registration boards in accordance with the provisions of the Health Services Act 1997.
- Ensuring appropriate actions are implemented to eliminate or minimise similar problems from occurring.
- Nominating an executive staff member within the health service who is responsible for:
 - Ensuring monitoring and risk rating of all complaints.
 - Ensuring local actions are implemented to eliminate or minimise similar problems from occurring.
 - Reporting trended complaint data at least every quarter to the Health Care Quality Committee and other relevant groups within the health service.
 - Providing a copy of the report tabled at the Health Care Quality Committee to the Quality and Safety Branch, NSW Department of Health.
 - Implementing policies and local procedures that support staff, including staff training on complaint management.

4.2 Director of Clinical Governance is responsible for:

- Providing a single, publicly recognisable point of contact for the receipt and management of serious complaints from members of the public and staff, regardless of whether those complaints are of a clinical or corporate nature.

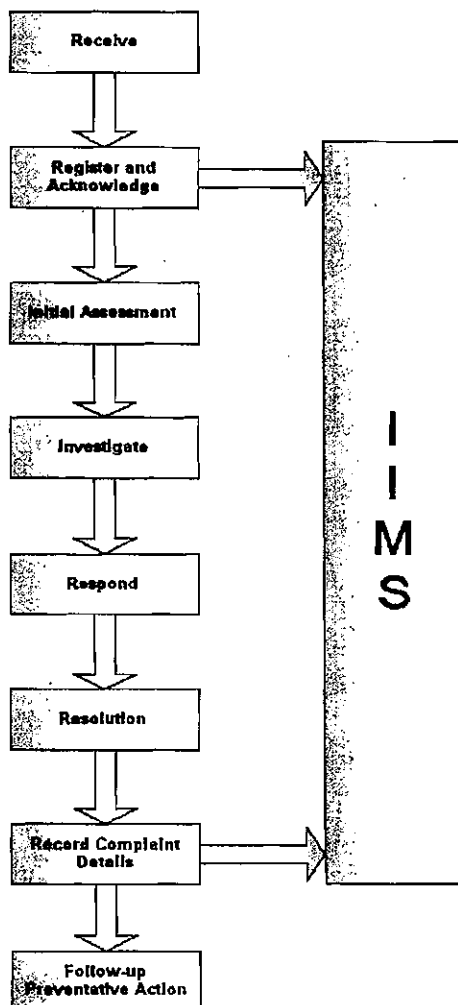
Title: Complaint Management Policy

- Having a designated AHS Senior Complaints Officer available 24 hours a day, 7 days a week.
- Ensuring the proper process for managing complaints is followed by the organisation.

4.3 NSW Department of Health is responsible for:

- Reviewing and evaluating the implementation and effectiveness of complaint management policy.
- Reviewing reports provided by health services on complaint data and trend analysis.
- Ensuring a statewide report on complaint information is produced annually.
- Providing advice to the system in response to specific queries about complaint management.
- Providing advice to the Minister for Health on issues of public concern/media or public attention that arise from complaint management.

5. Steps in the Complaint Management Process



Title: Complaint Management Policy

5.1 Receiving Complaints

Complaints may be received in person, over the telephone or in writing. Staff at all levels must accept complaints and know what action they can take to resolve them.

With complaints received verbally staff should:

- Give a calm explanation of what happened if they do know why it happened.
- Offer an apology if warranted.
- Encourage the complainant to discuss their concerns with the relevant clinician or other staff.
- Speak to the relevant clinician or other staff on behalf of the complainant.
- Advise the complainant of the complaint management process.
- Know when to refer the complaint on.
- Comprehensively record the conversation and concerns, along with all necessary details (names, addresses, hospital numbers, identified providers, etc.)
- If possible, provide a copy of the completed record to the complainant to ensure they agree that it is factually correct.
- Advise them of the appropriately identified person if they wish to send any written correspondence.
- Commence actioning the complaint if possible.

5.2 Registering and Acknowledging Complaints

As soon as a complaint is received:

- It must be registered in IIMS via the Complaint Notification Form. If it involves a clinical incident, the complaint form must be linked to the Clinical Incident Form.
- Acknowledge its receipt within five calendar days. Acknowledgement may be verbally or in writing. Written acknowledgements should:
 - Explain the complaints process
 - Identify contact person/details for the complainant
 - Expected timeframes and what might be requested from the complainant, eg patient authorities.
- Assess the complaint and assign it to the relevant person to co-ordinate its management.

5.3 Initial Assessment

The purpose of the assessment process is to:

- classify the complaint appropriately to determine appropriate action
- ensure the process is commensurate to the seriousness of the complaint and the issues raised
- ensure fairness to any clinicians/staff concerned.

Title: Complaint Management Policy

There are several steps a health service must take in assessing a complaint:

Identify the issues raised

- Identify the issues for resolution, which includes the key concerns raised by the complainant, as well as any other issues that arise or are identified by the health service.
- If any or all of the issues are unclear, before progressing the matter, clarify them with the complainant.

Identify the parties involved

- The relevant parties are those key people involved with the complaint plus those involved with the incident that is the subject of the complaint. They may not always be a respondent to the complaint, but may be key people in the provision of service under inquiry.
- If individual clinicians are identified in a complaint then they must be advised of the concern in keeping with the directives of the Management of a Complaint or Concern about a Clinician PD2006_007.

Obtain Patient Authorities

Patient authorisation is required whenever:

- The complaint relates to the treatment received by the patient and the complainant is not the patient.
- The complaint is made by a Member of Parliament on behalf of their constituents.
- The complaint investigation requires information outside the Health Service

In these instances, an authority to release information is required in order to provide confidential information to the third party.

Health services are to:

- Have the patient sign the authority
- If the patient is a child, is deceased or too ill, the person responsible, guardian, person with power of attorney or executor is able to sign on the patient's behalf.
- Obtain an authority when information on the patient's health status and history must be obtained from outside the health service, for example from private practitioners or hospitals, or from another Area Health Service.
- Explain to the person signing the authority how the information is to be used.

Rate the severity of the complaint

Rating the severity of the complaint may be assisted by using the Severity Assessment Code (SAC) as per the Incident Management Policy (PD2006_030).

The notifying staff member will give the complaint an Initial SAC rating in IIMS that will be subsequently confirmed by a manager with an Actual SAC rating.

Title: Complaint Management Policy

The initial severity assessment will help determine:

- who will deal with the complaint,
- who needs to be notified both internally and externally and
- the best method to achieve resolution.

Assessment results include:

- Provide information, reassurance, or an apology for perceived unsatisfactory conduct or service.
- Conduct a face-to-face meeting using facilitated resolution or mediation.
- Conduct an investigation using Root Cause Analysis or other investigative methodology.

5.4 Investigate the complaint

Information collection

All complaints require to a greater or lesser degree a fact-finding process in order to determine what has happened and what course of action is required in response. Consideration is required to determine:

- what information to obtain
- where it is to be obtained
- how it should best be collected (interview, site inspection, phone call, e-mail), and
- how it is communicated (report, statement)

Health services should:

- Consider who may be appropriate to provide specialist or expert advice/review.
- Consider whether information is needed from external agencies or from other areas in the hospital.
- Consider whether information needs to be secured.
- Construct a chronology of events, or flow chart, particularly if the matter is complex.
- Identify who may be interviewed and the appropriate order of interviews.
- Consider if an interpreter is required.
- Consider whether an on-site investigation is appropriate.
- Develop questions for the key parties based on the analysis of the issues and information required.
- Determine the applicable standards/procedures/policies and whether they were adhered to.

Analysis and review

As information is collected, it must be analysed and reviewed. Analysis includes identifying:

- what can be agreed upon between the parties
- what facts are in dispute
- is information provided relevant and reliable
- sufficient information has been gathered to determine whether particular standards have been met

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- whether there are inconsistencies
- whether independent verification has been obtained
- what systemic and performance factors led to the outcome.

5.5 Respond

Once the information has been analysed, the person managing the complaint makes findings and recommendations for action. Actions taken by a health service to resolve a complaint must be based on the evidence, address any system, process or practitioner issues, and are informed by the principles of public interest and good clinical governance.

Options for appropriate action may include:

- Offering an apology
- Waiving fees
- Develop or amend policy/procedure
- Training/education of staff or public
- Modification of the environment
- Requesting a formal Review
- Ongoing monitoring of an issue, or
- No action recommended

The health service must ensure that the outcome and recommendations are clearly communicated to the consumer, staff, and management, and integrated into quality improvement systems through appropriate implementation and subsequent review of effectiveness.

Complaint Resolution - Final Response

The target for finalising complaints is 35 calendar days.

Final responses will be in the form of a letter from the Chief Executive or their delegate. The final response must be factually correct and:

- Include an apology. NB: This is not necessarily about accepting blame or fault, but will sometimes be an acknowledgement of the complainant's experience and their feelings.
- Address each of the points the complainant has raised with a full explanation or give the reason(s) why it is not possible to comment on a specific matter.
- Give specific details about the investigation, i.e. sources of information, what was discovered, etc
- Give details of action taken as a result of the complaint
- Provide the name and telephone number of the facility manager or investigating officer for further queries/discussion.
- Offer to meet the complainant with the key staff involved. If there is a reason why a specific issue cannot be addressed this should be stated.
- Include details of further action available to the complainant.

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As far as possible, the facility/complaint manager should ensure that department heads and staff members who have been involved are given the opportunity to see the final response before it is sent for final signature.

The final response will be:

- Sent to the complainant and include a copy of the Area Health Service Complaints Brochure.
- Copied to the relevant Manager.
- Copied to any requesting parties to which the patient has given consent e.g. Solicitor, HCCC and/or MP's.
- Copies to the corporate record system record.

Any further correspondence from the complainant, which is being dealt with under the local procedure, will be acknowledged within five calendar days. The facility manager/delegated officer will deal with the points raised within the complaint and ensure it is logged in IIMS.

Timeframes for answering further correspondence will be as those for the first response.

6. Framework for Complaint Management

Complaints can be managed:

- At point of service
- Through a staged process
- Through referral to an external body/agency

6.1 Point of Service Complaints

Ideally, most complaints will be dealt with directly and quickly at the point where the problem arises. Escalation of complaints may be avoided where staff have clear authorisation to resolve complaints at first contact.

Often, no changes to procedures are required as many complaints involve an acknowledgement of the complainant's perspective, an explanation of events and validation of the complainant's satisfaction with the explanation.

Complaints should be referred to a line manager if they:

- remain unresolved,
- involve serious consequences,
- involve complex medical issues or a number of different staff,
- need action that is beyond the responsibility of the staff at point of service,
- require escalation or reporting to an external body under any other NSW Health Policy Directive.

6.2 Escalation process

Complaints are referred to the next level of management when the matter is outside delegation or is unresolved.

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The escalation process proceeds as follows:

- Immediate line manager.
- Facility manager and/or Patient Liaison Officer as appropriate.
- Senior Complaints Officer.

In cases where the complainant does not feel comfortable in making a complaint to those directly delivering the service, the appropriate line or senior manager should be sought to speak to the complainant. If the complainant will not speak with a local manager, they must be offered alternative ways to make their complaint, such as to the Senior Complaints Officer. The recipient of the complaint must then inform the complainant of the course of action that will be taken next.

Complaints should be dealt with by the unit involved where possible, with support from a complaints manager. However, for more serious matters or those with broader implications for the health service, senior management and the executive must be notified and participate in the resolution.

Depending on the type of complaint, it may be necessary to alert the health service's insurer or obtain legal advice. This should not interfere with the aim of resolving the complaint quickly and amicably.

7. Complaint Handling Considerations

7.1 Anonymous complaints

Anonymous callers should be advised that an investigation is made more problematic if they do not divulge identities as this severely limits the service's ability to obtain information. They should then be informed of confidentiality, as applied to the complaint management process, to encourage them to reveal their own and/or the subject's identity.

The complainant needs to be informed:

- there will be disclosure of information to any respondents identified;
- there is "nothing off the record" in information provided to the service;
- what will happen with the information given to the service.

However, the complainant's wishes should be respected, as an assurance of absolute confidentiality cannot be given.

Anonymous written complaints may reveal the identity of the complainant or it may be apparent from the complaint details. An inquiry may still be possible and may be warranted if the complaint raises public health and safety concerns or where external agencies may need to be notified.

7.2 Old Complaints

Normally a complaint will be made within 12 months from the event that caused the problem. If the passage of time has been considerable, it may affect the health service's capacity to investigate a complaint and these constraints should be discussed with the complainant. Although it may not be possible to

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investigate the facts of the case, attempts should be made to achieve resolution.

7.3 Declining to deal with a complaint

A health service may decide to decline to deal with a complaint because it is:

- vexatious or frivolous,
- is outside jurisdiction, or
- the subject matter of the complaint (or part) has been or is under investigation by some other competent person or body or has been or is the subject of legal proceedings.

Care needs to be taken in assessing these complaints to ensure that every effort is made to understand the information the complainant is attempting to convey.

If a complaint has been declined, complainants should be advised of the reasons for the decision as well other agencies that may be able to assist them with their concerns.

7.4 Mandatory notifications

In some cases a complaint raises issues that require mandatory external notification or referral because:

- the complaint should be managed by another government agency (Department of Housing, Department of Community Services, Commonwealth Aged Care Complaints Resolution Scheme, etc) or
- the complaint requires mandatory notification to another agency, such as the Police, the Coroner or the NSW Department of Health.

This may only become apparent once preliminary inquiries are made.

Other external bodies that may need to be involved in a complaint include:

- Health Care Complaints Commission
- Commonwealth Aged Care Complaints Resolution Scheme
- Coroner – in the case of a reportable death
- Professional registration body, e.g. Medical Board
- Medical defence organisation
- Health provider's insurer or legal adviser
- ICAC
- Ombudsman's Office
- NSW Police
- Audit Office

7.5 Complaints and RCAs

Some complaints will also be subject to a Root Cause Analysis (RCA) investigation. When this is the case, it is often not possible to fully respond to the complaint until the RCA investigation of the complaint is complete. However, during the RCA investigation, it should be remembered that the issues raised in the complaint might not always be the same as those raised in the RCA investigation.

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A separate investigation may be required as the RCA process should not be relied upon, by itself, to address complaints.

7.6 Progress Reports for complaints exceeding 35 days to resolve

If at 35 calendar days from the date of acknowledgement, the complaint has not been concluded; a detailed progress report must be sent, under the signature of the facility manager with:

- An apology for the delay;
- A full explanation of the delay;
- Details of the results of the enquiry to date if possible; the date by which a full response can be expected.

A copy of the letter will be sent to the Clinical Governance Unit and a record made on IIMS.

Should a complaint response be delayed further, a holding letter will be sent every 20 days until the final response is sent, unless otherwise indicated, for example, it will incite aggression from the complainant, will be seen as harassing the complainant, or it is not appropriate as litigation is involved.

Where possible and where likely to be of benefit, the facility manager or the investigating officer should also contact the complainant to discuss the delay and alleviate any anxiety this delay might cause.

7.7 Unresolved Complaints

If a complainant remains dissatisfied following the service's response, they have several options available to them, which may include:

- Review by another senior member of staff or the Senior Complaints Officer
- Independent review by external agency/person
- Referral to HCCC

Complainants have the right to pursue their complaint until it is resolved to their satisfaction. However, there are reasonable limits in terms of dealing with continued contact and correspondence with dissatisfied complainants and matters that might be frivolous or vexatious complaints. Health services should make every attempt to resolve the issues that have been made.

At this stage, where it is felt appropriate, services are encouraged to suggest to complainants that a face-to-face meeting may be helpful. If the complainant agrees, they should be involved in determining who should be present.

7.8 Independent Review Request

Requests for an independent review will only be considered if made in writing. Once received by any member of staff the review request should be referred immediately to the Health service's senior complaints manager.

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7.9 File Maintenance

The delegated officer managing the complaint will be responsible for maintaining the appropriate corporate file or record and the relevant IIMS fields during the management of the complaint.

Copies of letters/memos sent including up-date letters, acknowledgement letters, letters requesting information or clarification, letters notifying parties of a complaint, should become part of the corporate record system. File notes should record the subject matter of telephone conversations and other actions.

These files will be kept in accordance with the State Records Act.

Complaint records are not to be kept with a patient's medical file.

8. Performance Indicators

The following process performance measure is to be developed and reported to the Chief Executive by the health service:

- Documented local policies and procedures consistent with this Policy Directive are in place in each health service by **24th November 2006**

The following performance indicators are to be included in the quarterly reports to the Health Care Quality Committee:

- Within five calendar days acknowledge receipt of each complaint (Benchmark – 100%)
- Within 35 calendar days finalise the outcome of each complaint and advise the complainant (Benchmark – 80%)
- The proportion of complaints received from consumers where matters closed by the health service were reviewed or escalated upon the complainant's request.

9. Definitions

Ambulance Service of NSW

The Ambulance Service of NSW as defined in the Health Services Act 1997.

Apology

An apology is an expression of sympathy or regret, or of a general sense of benevolence or compassion, in connection with any matter whether or not the apology admits or implies an admission of fault in connection with the matter.

Area Health Services (AHS)

Organisations constituted under the Health Services Act 1997 that are principally concerned with the provision of health services to residents within a designated geographic area.

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Clinician

A health practitioner or health service provider regardless of whether the person is registered under a health registration act.

Complainant

Any member of the public or external organisation making a complaint. A complainant may choose to remain anonymous.

Complaint

A complaint is:

1. An expression of dissatisfaction with a service offered or provided, or
2. A concern that provides feedback regarding any aspect of service that identifies issues requiring a response.

Department

NSW Department of Health.

Complaint management

Involves notification and acknowledgement, assessment, information collection, analysis and review, and appropriate action.

Clinical Governance

Clinical governance can be considered as the responsibility of governing bodies to demonstrate sound strategic and policy leadership in clinical safety and quality, to ensure appropriate safety and quality systems are in place and to ensure organisational accountability for safety and quality.

Grievance

A personal complaint or difficulty about a work related issue that affects a staff member and that he/she considers to be discriminatory, unfair or unjustified.

This includes:

- A workplace communication or interpersonal conflict.
- An occupational health and safety issue.
- An allegation of discrimination within the meaning of the Anti-Discrimination Act 1977, including harassment.
- Concerns regarding allocation of work, job design, or performance management.
- Concerns regarding the interpretation and application of conditions of employment.

An employee grievance (i.e. expression of unfairness or injustice) is not a complaint and processes for dealing with a grievance differ from those processes that deal with a complaint.

Health Service

Refers to Public Health Organisations and the Ambulance Service of NSW.

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IIMS

NSW Health Incident Information Management System. A database and system for recording the details of a complaint, including its management and outcomes.

Incident

Any unplanned event resulting in, or with the potential for, injury, damage or other loss.

Incident Management

A systematic process for identifying, notifying, prioritising, investigating and managing the outcomes of an incident.

Investigation

1) Incident investigation

The management process by which underlying causes of undesirable events are uncovered and steps are taken to prevent similar occurrences.

2) Complaint investigation

The process of using inquiry and examination to gather facts and information in order to solve a problem or resolve an issue.

Jurisdiction

A sphere of authority:

- 1) the limits within which any particular power may be exercised, e.g. the NSW Police Service, the Department of Community Services; or
- 2) within which a government or a court has authority, e.g. the NSW Government, the State Government of Victoria, the Coroner's Court of NSW, the Mental Health Review Tribunal.

KPI

Key Performance Indicator.

Notification

The process of entering or documenting data about a complaint into the IIMS.

Parties

Persons or bodies who are in a dispute that is handled through a dispute resolution process.

Public health organisation (PHO)

An area health service, statutory health corporation or an affiliated health organisation in respect of its recognised establishments and recognised services as defined in the Health Services Act 1997. For the purposes of this policy, the relevant statutory health corporations and affiliated health organisations are set out in Appendix B of the Policy Directive (PD2006_030) Incident Management Policy.

Public interest

Anything affecting the rights, health, or finances of the public at large.

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RCA (Root Cause Analysis)

A method used to investigate and analyse a clinical SAC 1 incident to identify the root causes and factors that contributed to the incident and to recommend actions to prevent a similar occurrence.

SAC (Severity Assessment Code)

A numerical score applied to an incident based on the type of event, its likelihood of recurrence and its consequence. A matrix is used to stratify the actual and/or potential risk associated with an incident.

Vexatious or Frivolous Complaints

Vexatious or frivolous complaints are those matters that are clearly insufficient in substance or are not calculated to lead to any practical result having one or more of the following characteristics:

- Essentially illogical, e.g. no cause or relationship is effectively established between an alleged act and its alleged consequences.
- Whilst not logically impossible, requires a great deal of faith to agree to the likelihood, e.g. a complainant alleges they have become caught in a web of conspiracy.
- Can be often characterised by the complainant ignoring requests to provide specific information to back up the original, somewhat illogical, complaint.
- Can be of little or no weight or importance or not worth serious attention.
- Can be one that is manifestly futile.

10. Related Policies

This Policy forms part of a suite of incident, complaint and accountability documents operating in NSW Health. When a complaint is made, managers must consider whether action is also required in accordance with other policies and guidelines.

- Complaint or Concern about a Clinician - Principles for Action (PD2006_007) January 2006. Describes the principles for managing complaints or concern regarding all clinicians and outlines the roles and responsibilities for ensuring all complaints or concerns are managed by the health service, and outlines the legislative responsibility for doing so.
- Complaint or Concern about a Clinician - Management Guidelines (GL2006_002) January 2006. Sets out an operational framework for the use of health services when dealing with a complaint or concern about an individual clinician and guides for the process for implementing the NSW Health Policy Directive Complaint or Concern about a Clinician - Principles for Action (PD2006_007).
- Complaint involves system related incidents - Incident Management Policy (PD2006_030). Advises staff on how to respond effectively to all clinical and corporate incidents that occur in the health system. It outlines

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the requirements for submission of a Reportable Incident Brief. The requirement for open disclosure is also included in the policy.

- **Disciplinary matters - A Framework for Managing the Disciplinary Process in NSW Health (PD2005_225).** A framework of principles for disciplinary policy and procedures to ensure matters are dealt with effectively in health services.
- **Grievances - Effective Grievance Resolution: Policy & Better Practice (PD2005_584).** Requires the Department of Health and health services to have in place a local workplace grievance management system and procedures that facilitate prompt, fair and flexible management of all workplace grievances, with a focus on effective resolution.
- **Matters relating to child protection - Child Related Allegations, Charges and Convictions Against Employees (PD2006_025), and Protecting Children and Young People (PD2005_299),** noting the specific reporting and investigation requirements outlined in these policies.
- **Harassment matters - Harassment Policy & Procedures (PD2005_223) Procedures and Policy to be followed regarding the non-tolerance of harassment in the Department of Health.**
- **Possible corrupt conduct - Reporting Possible Corrupt Conduct to the Independent Commission Against Corruption (PD2005_173).** Specifies when, what and how corrupt conduct is to be reported.
- **Possible criminal conduct – Criminal allegations, charges and convictions against employees (PD2006_026).** Sets out the mandatory requirements for responding to any allegation, charge or conviction against a Health Service employee where it involves a criminal matter.
- **Protected disclosures – Disclosure by staff of corrupt conduct, maladministration and serious waste – Protected Disclosure Procedures in Health Services (Policy and Guidelines for the Development of) (PD2005_135)**
- **Lookback Policy – (PD2006_070).** Sets out the process for a consistent, coordinated and timely approach for notifying and managing potentially/affected patients when necessary.
- **Open Disclosure Policy – (PD2006_069).** Establishes a standard, direct approach in communicating with patients, families/carers and other stakeholders after incidents involving potential injury, damage, loss or other harm to patients.

Complaint Management Guidelines

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Functional Sub group Corporate Administration - Information and data
Corporate Administration - Governance
Clinical/ Patient Services - Governance and Service Delivery
Clinical/ Patient Services - Incident management

Summary To provide an operational framework for dealing with a complaint in accordance with the Complaint Management Policy (PD2006_073). These guidelines provide interpersonal strategies for dealing with consumers at the first point of contact, assessing the severity of complaints, investigating complaints, and resolving complaints.

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Applies to Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations - Non Declared, Affiliated Health Organisations - Declared, Public Health System Support Division, Community Health Centres, Dental Schools and Clinics, Government Medical Officers, NSW Ambulance Service, Public Health Units, Public Hospitals

Audience All staff, including managers, clinicians and contractors

Distributed to Public Health System, Community Health Centres, Dental Schools and Clinics, Divisions of General Practice, Government Medical Officers, Health Associations Unions, Health Professional Associations and Related Organisations, NSW Ambulance Service, NSW Department of Health, Public Health Units, Public Hospitals, Private Hospitals and Day Procedure Centres, Private Nursing Homes, Tertiary Education Institutes

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Complaint Management Guidelines

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Further copies of the Guidelines are available at the NSW Health website at:
<http://www.health.nsw.gov.au/quality/complaints/index.html> .

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1. Introduction

These guidelines provide a suggested framework for dealing with a complaint in accordance with the *Complaint Management Policy (PD2006 073)*. The Guidelines may prove helpful when considering how to progress matters as mandated by the Policy. Staff may use this complaint management process when complaining on behalf of the patient/consumer. When a complaint is made however, managers must consider whether action is also required in accordance with other policies and guidelines as set out in *10. Related Policies of the Complaint Management Policy (PD2006 073)*.

The focus of these guidelines is on a **consumer-focused approach** to complaints. If staff at the point-of-service have the authorisation to resolve complaints at first contact, escalation can be avoided and complaints can be resolved directly and quickly to the satisfaction of all parties.

These guidelines provide interpersonal strategies for dealing with consumers at the first point of contact, assessing the severity of complaints, investigating complaints, and resolving complaints.

The Guidelines aim to ensure that identified risks arising from complaints are managed appropriately, that complainants' issues are addressed satisfactorily, that effective action is taken to improve care for all patients, and that health service staff are supported.

For the purposes of these guidelines "health services" refers to any facility, program or care provided to a patient or their carer.

The outcomes of effective complaints management include:

- identifying emerging patterns of practice
- highlighting systems and process deficiencies
- addressing individual performance issues
- providing critical clinical information
- restoring trust and support for the service provider.

Satisfaction for a complainant is achieved through:

- an objective mechanism for monitoring clinical processes as an alternative to reliance on peer review and self-regulation
- recognition and acknowledgement of the person's right to complain
- demonstration of the health service's commitment to providing a quality service
- demonstration of the health service's ability to respond effectively and efficiently.

Background

In 1998, NSW Health released the *Complaints Handling Frontline - Better Practice Guidelines* to provide a consistent and continuous improvement approach to frontline complaints handling in the NSW public health system, specifically in health care facilities

providing direct services to consumers.

In 2004, the Patient Safety & Clinical Quality Program PD2005 608 (PSCQP) was launched by the Minister for Health. Key components of the PSCQP were the establishment of the Area Health Service Clinical Governance Units, the Clinical Excellence Commission, and the management of all incidents and complaints.

Since May 2005, complaints have been captured for statewide analysis in the Incident Information Management System (IIMS) that replaced the 1999 Statewide Complaint Data Collection.

2. Understanding complaints

Managing complaints is the responsibility of everyone in NSW Health. It is part of communicating effectively with patients and their carers, and providing quality health care.

People who complain about a service want to be treated with dignity. They want to be assured that their complaint is taken seriously. A positive attitude by clinicians and staff is crucial to the success of the complaint management process.

What is a complaint?

A complaint is:

- an expression of dissatisfaction with a service offered or provided, or
- a concern that provides feedback regarding some aspect of the health service that identifies issues requiring a response.

A good way of determining whether an expression of dissatisfaction is a complaint or not is to ask: "What is being sought and what is needed to resolve this matter?" If some action or response is identified, then you are dealing with a complaint.

A complaint may be about policies, procedures, employee conduct, provision of information, quality of communication or treatment, quality of a service, or access to and promptness of a service.

Complaints **do not** include requests for services or information, explanations of policies and procedures, or industrial matters between the health service and unions.

Complaints may be made in person, by telephone, letter, survey, and in some cases through the media.

This broad definition of a complaint underpins the value of a consumer-focused health service where the flow of feedback serves to identify system failures or practitioner issues that require attention.

Why do people complain?

Although health sciences have improved over time, this does not mean that quality service is always provided. The complexities of technology, the plethora of health information, and human error may in some way reduce the quality of service that we intend to give rather than enhance it.

These days, consumers are better informed about their rights and treatment options, and have high expectations of health providers. However, a common source of complaint is that people do not get sufficient information to be fully involved in their health care.

Consumers are concerned about clinical care. A large number of complaints deal with incorrect, insensitive or misleading information, or incorrect treatment or diagnosis.

Some complainants want to prevent an incident from recurring—for example, where an attempt to resolve a concern at the frontline has failed—or to learn the truth about an occasion of care, or to receive an apology.

A patient may have suffered an adverse outcome either through error, oversight, a mistake, poor standard of care or other avoidable factor. If the health care relationship has been a positive one up to this point, the patient is more likely to respond to attempts to resolve the problem before it proceeds to the complaints process.

What is resolution?

Resolution is the desired outcome of a complaint. It is a responsive process that seeks to address a person's concerns and accompanying emotions.

Resolution is a continuum, ranging from informal "on the spot" discussions to more structured and planned resolution negotiations and meetings. A resolution is not only an outcome but a temporary relationship between the parties involved. It is a process whereby complaints are heard, assessed, negotiated, responded to, and resolved.

For the complainant, the process is as important as the result. People who complain have basic expectations. They want to:

- be heard and understood
- be respected
- be taken seriously
- be given support or assistance if required
- have their concerns dealt with effectively and efficiently
- be informed of the process, progress, findings and outcome
- have appropriate action taken as a result of their complaint.

If the complainant's expectations are met, as appropriate, then a great deal has been achieved. The complainant will be satisfied with the process and consider that their complaint has been dealt with fairly. Even if the complainant is overwrought with grief, anger, desires for revenge or just difficult, they are less likely to complain about the complaints process if they have been treated fairly, if reasonable expectations have been negotiated, and if the limits of the process have been explained.

This is an effective customer-centred resolution process where everyone involved can focus on arriving at a satisfactory outcome.

3. The complaint management process

The four major stages in the process are:

1. **Receive** the complaint
2. **Assess** the complaint
3. **Investigate** the complaint
4. **Resolve** the complaint.

This chapter describes strategies for dealing with each stage of the complaint management process.

Stage 1: Receive the complaint

The key actions for staff when receiving a complaint are to:

- **actively listen to the complainant;**
- **empathise, understand and acknowledge their viewpoint;**
- **express regret that they have had a poor experience, and**
- **assure them steps will be taken to investigate and resolve their concerns.**

There are key steps in face-to-face interactions that you can follow at the point-of-service when you are dealing with someone who has a complaint. The following traffic light gives a visual summary of these steps. Assessing and identifying opportunities **immediately** to address dissatisfaction benefits both you and the complainant.



Stop before you speak

Allow the person to "vent" and do not react defensively

Listen for understanding

Actively listen to the complainant

Empathise, understand and acknowledge their viewpoint

Look for solutions

Express regret that they have had a poor experience

Consider options for action to resolve the issue

Stop before you speak

A person who is complaining about a service may have an emotional need to vent their anger over what has happened to them. It is important that you respond in a positive and helpful manner and that you remain calm and objective. Here are some tips.

- Let the person be angry and do not interrupt as they tell their story. Arrange for a sign or language interpreter or advocate, if necessary.
- Keep the volume and pitch of your voice low. Lowering your voice and speaking calmly helps to calm an emotional person.
- Reinforce the person's right to complain, to be heard, and to receive a response.
- Be open, non-judgmental and empathic. Use phrases such as:
 - I can see why you feel that way
 - I see what you mean
 - That must be upsetting
 - I understand how frustrating that must be.
- Respect and empower the complainant.
- Accept what is being said without attempting to justify another's actions or without denying the complainant's perspective.

Listen for understanding

- Take time to listen to the person's concern.
- Adopt good listening skills by nodding and saying "I see", maintaining eye contact, leaning forward if you are sitting down, adopting an open body posture, and looking interested.

If you are on the phone, add tone and expression to your voice to show you are listening, eg. by saying "yes", "mm", etc.

- Never speak over a person. It gives the impression that you are not listening.
- Seek clarification of points in a non-judgmental way by using open-ended questions that start with How? When? Where? Who? Why?
- Use plain English and choose words naturally without using jargon.
- Try to understand and appreciate the person's point of view, without necessarily adopting it.
- Make it clear that you have understood the complaint by summarising the main points and asking whether that is correct.
- Keep your own emotions in check and be aware of any responses carried over from a previous call, work or personal matter.

- Listen to the problem fully before deciding if you can or cannot assist in the matter. Some people may answer their own questions as they explain them. Others might turn a simple complaint into an elaborate story.

Look for solutions

- Ask the person what they want to happen to address their concerns.
- Try to meet reasonable requests to resolve the matter.
- If you can, respond by making an offer to remedy the situation.
- Provide relevant information that will assist the person to better understand the decision or action that they are aggrieved about.
- If there are things you can do straight away, do so.
- Give reasons for what happened and, if appropriate, apologise.
- Focus on solving the problem rather than blaming or finding fault.
- Explain clearly what can and cannot be done.
- Offer possible resolution methods. Providing alternatives will empower the person and give them a feeling of entering into a partnership in the process of resolving the complaint.
- If an action needs consideration or approval by a supervisor, inform the supervisor and work out when and how you will inform the complainant of the outcome.
- Decide the appropriate action to adopt and, if possible, get agreement from the person for this action.
- Explain to the client that to deal with the complaint properly, you may need to give their information to another person or obtain further information relevant to the complaint from their medical record or other health service provider.
- Log the complaint and the action taken for later trend analysis.
- Make sure something is done, say something like: "I'll make sure this information gets to the right person".
- Provide a name and contact number and an approximate timeframe for action. If you are forwarding the person to a colleague, follow up with that colleague.
- Let the client know what you intend to do and when you will get in touch with them. Contact them the on the day and at the time you said you would, even if you haven't made any further progress, just to keep them informed.
- Inform the complainant when you have taken this action.
- Make sure you follow-up on a promised action.
- In more complex or difficult complaints or complaints where you have not had a more direct involvement, some of considerations mentioned above may need to be addressed as management of the complaint progresses.

If you are on the phone...

... be prepared for the call by having information and resources to hand. The first minutes of contact are crucial in conveying an attitude of interest, engaging with the caller, and assessing the circumstances. Greeting the caller with a polite and friendly voice may help reduce some tension. As well as the above tips, bear the following in mind the following:

- Do not use speakerphones. They can cause distortion and give the impression of distance and lack of attention. The caller may also be concerned about privacy and confidentiality.
- Use the person's name. One of the best ways to calm or connect with a caller is to use their name as often as possible. Also ask how they would prefer to be addressed. This shows respect.
- Minimise distractions and give the caller your full attention.
- Transfer the call, only if necessary. Explain why you are transferring the call and the name and number of the colleague you are transferring to. Stay on the line to introduce the person.
- End the conversation with agreement on what is to happen next.
- Thank the person for calling and invite them to call back if they have any further queries.
- Tell the person when they can expect a response.
- Confirm the outcome of the conversation and make sure that the person agrees with what has been decided.

Acknowledge receipt of the complaint

When a complaint is received by a service its receipt must be acknowledged. This may be done verbally or in writing. A standard letter saves time but it should also reflect some acknowledgement of the individuality of the complaint. It should include contact details and information as to what the complainant should expect next. Sample acknowledgement letters are found at Appendices 6 & 7 at pages 42 & 43. The date of the acknowledgement is to be recorded in Incident Information Management System (IIMS).

Record the complaint

You need to create a comprehensive record of conversations, concerns, names, addresses, hospital numbers, providers, etc. Other key aspects are the service provided, dates and times.

The written record of the complaint is the basis of any action taken about the complaint.

Request confirmation

If a complaint is to be investigated, ask the complainant to provide you with a written, signed letter of the complaint.

If assistance is required to make a complaint, this should be offered, either in terms of arranging an interpreter or arranging for the person to be interviewed, with a support

person if desirable. A Patient Representative may be called upon to assist in this process. In considering whether assisting the complainant is reasonable and appropriate the following factors should be considered:

- the complainant's capacity to write the complaint themselves;
- disabilities which might hamper or prevent a complaint being written by the complainant;
- education and literacy of the complainant;
- English language skills (generally taking the complaint in the complainant's first language followed by translation will be preferable) and
- the readiness or availability of other means of assistance to help the complainant reduce their complaint to writing (eg specialist or community legal centres, other community agencies).

Stage 2: Assess the complaint

The purpose of the assessment process is to:

- classify the complaint appropriately to determine appropriate action
- ensure the process is commensurate to the seriousness of the complaint and the issues raised
- ensure fairness to any clinicians/staff concerned.

There are several steps a health service must take in assessing a complaint as set out in the *Complaint Management Policy (PD2006 073)*.

- Identify the issues raised
- Identify the parties involved
- If necessary obtain patient authorities
- Rate the severity of the complaint.

Rating the severity of a complaint helps determine the course of action to be taken. The following Complaint Management Risk Assessment Matrix is offered to assist in this process by using a Complaint Risk Code (CRC).

To arrive at the **CRC**, you first apply the **consequence category** and the **likelihood category**.

The CRC correlates with a set of actions that guide you to the level of response appropriate to the complaint. It also provides you with a clear course of action and may be used to generate awareness alarms to relevant staff in the complaint management process.

Consequence category

The consequence category is determined by the impact of the complaint in terms of injury, length of stay, level of care required, actual or estimated resource costs, and impact on

quality health care service delivery in general. The category is applied to both adverse events and potential events or "near misses".

The following tables are adapted from the *Incident Management Policy PD2006_030*, Severity Assessment Code (SAC). The tables frame the assessment categories in terms of complaint management and may prove a useful adjunct to the IIMS SAC system.

The following table lists the consequence categories.

Category	Description
Serious	Issues regarding serious adverse events, sentinel events, long-term damage, grossly substandard care, professional misconduct or death that require investigation. Highly probable legal action and Ministerial notification.
Major	Significant issues of standards, quality of care, or denial of rights. Complaints with clear quality assurance or risk management implications or issues causing lasting detriment that require investigation. Threat of legal action and Ministerial notification.
Moderate	Issues that may require investigation. Potential to impact on service provision/delivery. Legitimate consumer concern, especially about communication or practice management, but not causing lasting detriment. Potential for legal action.
Minor	No impact on or risk to the provision of health care or the organisation. Complaint could be easily resolved at the frontline.
Minimum	Trivial, vexatious, misconceived.

For adverse events, severity is assigned on the actual condition of the complainant. If the event is a near miss, severity is assigned on the most likely scenario.

Likelihood category

The likelihood or probability category is based on the knowledge or experience of the staff member doing the assessment. The Complaints Manager or a more senior staff member, who has more detailed knowledge of other similar incidents, may revise this.

The following table lists the likelihood categories.

Category	Description
Frequent	Recurring, done, found or experienced often.
Probable	Will probably occur in most circumstances several times a year
Occasional	Happening from time to time, not constant, irregular
Uncommon	Rare, unusual but may have happened before.
Remote	Usually a "one off", slight/vague connection to healthcare service provision.

Complaint Management Risk Assessment Matrix

Severity of Patient's Complaint	Probability of Recurrence				
	Frequent	Probable	Occasional	Uncommon	Remote
Serious	1	1	1	1	2
Major	1	1	2	2	3
Moderate	2	2	2	3	3
Minor	3	3	3	4	4
Minimum	3	3	4	4	4

Complaint Risk Code (CRC)

The consequence category and the likelihood category enable you to determine the **CRC**. There are four CRCs numbered 1 to 4.

The following table shows the recommended **action required** for each CRC.

CRC	Action required
1	<p>Immediate action</p> <p>Equivalent to a SAC 1 Incident where IIMS has the capacity to generate an electronic notification to the manager of the relevant department, executive management, and the quality team. Typically The Director of Clinical Governance, Director of Operations and the Senior Complaints Officer would be notified. Root Cause Analysis (RCA) investigation commenced.</p> <p>A Reportable Incident Brief (RIB) is completed and forwarded to the Department in accordance with Incident Management Policy PD2006 030.</p>
2	<p>The complaint is referred to line management/complaints manager</p> <p>Equivalent to a SAC 2, where IIMS may generate a notification to the manager of the relevant department, executive management and the quality team.</p> <p>The Director of Clinical Governance and Director of Operations are notified if there are clinical issues involved and/or a Root Cause Analysis (RCA) investigation is to be undertaken at the discretion of management.</p>
3	<p>Where appropriate, the complaint is resolved at the local level</p> <p>A notification may be provided to the manager of the relevant department and/or the Complaints Manager.</p>
4	<p>Generally resolved at the local level</p> <p>Difficult-to-manage complaints can be referred to Complaints Manager.</p> <p>The complaint is managed by routine procedure and is reported.</p>

Stage 3: Investigate the complaint

The purpose of the investigation is to obtain a sufficient amount of clinical and other information in order to decide what has occurred and identify appropriate action. Not all complaints need to be dealt with in exactly the same way. These guidelines should be varied in accordance with the circumstances of the complaint.

The information you gather is determined by the seriousness of the complaint and what the complainant expects as an outcome.

Prepare an issues document that sets out the facts as understood by the complainant, and identifies the issues and desired outcomes. Use this document as a guide for fact finding inquiries and reviewing systems issues.

This information could include records, reports, test results and x-rays, and may be in the form of copies of original documents or verbal responses to inquiries.

During an investigation, you need to:

- clarify the complainant's expectations
- clarify the allegations
- identify resources required
- obtain a Patient Authority, if necessary (sample form at Appendix 1, page 34)
- take immediate action, eg. remove faulty equipment
- put the allegations to the service provider for a response
- put the service provider's response back to complainant
- seek evidence to establish facts of the case
- weigh up the information (is it reliable? is there better information?)
- check the applicable standards/procedures/policies and whether there was a departure
- decide if there is sufficient evidence to continue the investigation or to make a finding.

This section looks at planning the investigation, managing the complainant's expectations, clarifying the allegations, developing an Investigation Action Plan, deciding on the appropriate action.

Manage the complainant's expectations

Explain the complaint management process to the complainant as early as possible. Speak to the complainant again to find out what they think should happen to resolve the issue. This may reveal why they made the complaint in the first place. What they want to happen and what is a possible and reasonable outcome need to be balanced. For example, complaints about inadequate resources or government policy may not be readily resolved in the short term.

On the other hand, a simple explanation of an incident or treatment plan or outcome may suffice. This may mean obtaining a copy of the relevant medical records and going through them with the complainant, or more appropriately, arranging to have an informed person who was involved with the provision of care to discuss what happened and what the notes mean. Likewise, providing access to medical tests, x-rays and reports may assist a complainant to understand the basis for clinical decisions.

Clarify the allegations and the issues to be investigated

It is important to clarify the allegations and ascertain if the complaint has arisen from personal agendas rather than from issues related to standards or conduct. For example, a personal dimension may include revenge. Another factor may be family conflict. All these will bear on the nature of the complaint or what is being sought in response to the complaint, and may also determine what access you have to information.

In some cases, clarifying the allegations may mean not dealing with the matter at all, as it should be referred to another agency for action.

Develop an Investigation Action Plan

An *Investigation Action Plan* (see Appendix 3 page 37) is a useful tool and provides a standard method to plan and keep an overview of the status of an investigation.

The *Investigation Action Plan* is not a static document, as investigations rarely proceed as initially predicted. As new situations arise during an investigation, the plan will require review and modification. In planning an investigation:

- Consider who may be appropriate to provide specialist or expert advice/review.
- Consider whether information is needed from external agencies or from other areas in the hospital.
- Construct a chronology of events, or flow chart, particularly if the matter is complex.
- Consider if an interpreter is required.
- Consider whether an on-site investigation is appropriate (see the *Sample Receipt of Goods Form* at Appendix 2 on page 36) for any physical evidence collected).
- Develop questions for the key parties based on the analysis of the issues and information required. For example, if a complainant alleges their elderly mother was misdiagnosed with pneumonia on admission. Typical questions could include:
 - What is the subject's medical/surgical history?
 - What were the clinical findings on presentation?
 - What was your provisional diagnosis/differential diagnosis?
 - What investigation(s) did you order/perform and what were the results?
 - What treatment(s) were ordered and the patient's response?
 - Were there complications or side-effects?
 - What follow-up advice did you provide?

- Identify questions for witnesses;
 - Identify handling factors;
 - Establish time frames for actions.
- Ascertain whether the issue has been investigated in any other manner, e.g. RCA.

Information collection

Once the required information and the manner of its collection has been identified the investigator then gathers the pertinent data as per the investigation action plan. It is at this stage that any identified respondents are requested to provide a response to the complaint. Any further action will depend on the nature of the response and information received.

Analyse the information collected

Analysis is an ongoing process during the investigation and is a critical component of adequate investigations.

After information has been gathered it has to be evaluated. This includes identifying:

- What can be agreed upon between the parties.
- What facts are in dispute.
- Is there sufficient information to determine whether particular standards have been met?
- Whether there are inconsistencies.
- Is there independent verification.
- What systemic and performance factors led to the outcome.

Prepare Investigation Report

At the conclusion of the fact-finding or investigative stage a report is prepared. Depending on the complexity of the complaint, the detail of the report or the written response provided will vary. A report serves several functions:

- Provides a concise record of the complaint, investigation process and outcome.
- Provides relevant information to the parties of a complaint.
- Provides a means of accountability concerning the investigation and how the outcome was reached.
- Provides a quality assurance check by ensuring that the relevant issues have been addressed in the investigation and whether the investigation process was appropriate: if not, there is an opportunity to address those issues prior to the conclusion of the matter.

The report:

- Is a factual document that may be subject to internal and external review.

- Should contain an accurate, objective and comprehensive summary of the complaint, the issues it raises, the investigation, information received, analysis of issues, conclusions and recommendations.
- Should be marked 'confidential' in recognition that it may contain a range of information about different patients and staff, and care should be taken in responding to any requests for access to the report.
- Should be concise and comprehensive enough to cover the key issues and to demonstrate how conclusions were drawn.
- Should contain medical terminology but should footnote the meanings if they are not clear or unlikely to be understood by the readers.

Structure of investigation reports and written responses

When corresponding with complainants, health services may provide a written response in the form of a letter that covers the key steps and may include a copy of the report compiled by the investigator. Each written response or report will be different, depending on the type of complaint, but the following represents a format that sets out the key steps, as above, clearly and logically. (Refer to page 19 for more details)

The complaint

This section should contain a concise summary of the complaint, any background information or patient history that provides a context for the complaint, and any relevant health outcomes.

The issues

All the issues raised by the complaint should be identified in this section. This includes the issues raised by the complainant, and any other issues identified in the analysis of the complaint.

The manner in which each issue was dealt with should be described, eg investigated, resolved directly, not warranting further inquiry or being referred elsewhere if they fell outside the health service's jurisdiction etc.

Information obtained

It is not necessary to list all documents obtained, unless appropriate. A summary of information however adds clarity to the report, as they will be referred to in the body of the report. For instance, you may summarise the information as:

"all medical records including admission and discharge summaries, test results and pathology reports, statements from relevant parties and reports from practitioners involved with 'x's' care and treatment."

Analysis of issues

Each issue is listed, relevant information summarised, any opinions in relation to each issue stated and a conclusion drawn for each issue.

All key information should be contained in this section. If there are varying versions of events, these should be stated. If there is any corroborating evidence to support any of

the versions, these should be stated. If the conflicting information cannot be resolved, the reason should be stated. Where evidence has been taken from reports or other documents, the status of the author should be noted, for example, Chief Executive, subsequent or previous treating doctor, midwife, Director of Nursing etc.

If opinions have been expressed this should be included and any action, or not, arising should be stated and reasons given.

It should be clear how a conclusion was reached, based on the analysis for each issue.

Action arising from the complaint

In some instances, actions may be taken by the respondent or health service that address some or all of the issues during the investigation. For instance, a hospital and the investigator may identify a policy issue. The hospital may review the policy and issue a new policy, whilst the investigation is in progress, that addresses identified deficits in practice. There is no benefit in making a recommendation in an area where action has already been taken. The revised policy should be noted in the investigation report for completeness. It is also important to show what happened as a result of the complaint.

This section may also be used when information is received which results in a revision of the proposed recommendations.

Discussion

Not all reports need further discussion at this point. However, if there are numerous complex factors which need to be considered it is important to note these in order to account for the conclusions drawn. Mitigating circumstances, a demonstrated positive improvement in quality of the service arising because of the inquiry, are factors to be taken into account in making recommendations.

Conclusion

The overall conclusion will state whether the issues have been substantiated and a summary of any factors that may affect the recommendations made.

Recommendations

Drawing on from the conclusion, this section will state clearly what the investigator recommends.

Stage 4: Resolve the complaint

At the end of the investigative stage, the parties to a complaint are advised about the outcome. This may be achieved by providing a copy of the investigation report or it may be more appropriate to communicate the report's information in a letter format. Where a number of individuals have been identified, it is essential for privacy considerations that the reports to individuals will only contain those aspects of the complaint that deal directly with them. The report will therefore need to be abridged, and a covering letter explaining why an edited version has been provided, for each individual respondent.

Correspondence should set out the status of the complaint. Complainants should be advised that they might discuss the contents of the report or the conclusions, seek an

interview or seek a review, and whom to contact if they wish to follow up any aspect of the investigation.

The provision of the report or written response is generally considered to conclude the service's handling of the matter with the parties directly involved. It may however become the basis for further discussion by the facility to enable aggrieved parties to discuss their concerns. One of the recommendations made may include offering the opportunity for the complainant/s to discuss the findings in an informed way, and to come to any agreement as to future care and treatment needs, if relevant, or any other appropriate action. Should such a meeting be arranged, the complainant should be offered the chance to bring a support person with them.

It may be that the complainant is satisfied that their concerns have been taken seriously and there has been some acknowledgement of their grievances. In any case, complainants should be offered the opportunity to discuss the report with the author or manager of the service.

When finalising the management of a complaint staff may wish to use the Investigation Checklist at Appendix 5 on page 41)

Conciliation

A complaint may not have been serious enough to warrant a full investigation, although a straightforward resolution may not be possible.

Conciliation is a process whereby a conciliator facilitates the resolution of disputes. A complaint may be suitable for conciliation if there has been a breakdown in communication between the parties, if insufficient information was provided, if an inadequate explanation was given for an adverse outcome, or if there was an inadequate service.

Conciliation may take place on various levels, either at a semi-formal level using senior staff as conciliators, or at a more formal level of using the services of a trained and independent conciliator. The level of conciliation used depends on the nature of the complaint and the issues raised.

Conciliation by a senior officer may be appropriate for issues concerning communication, perceived rudeness and misunderstandings concerning treatment, care and responsibilities and to maintain impartiality. Many of these issues may be dealt with locally, such as having the concerns discussed with the people concerned, but this may not be successful in diffusing a heated situation.

Formal conciliation

In some complaints, having a senior member of staff facilitate is not sufficient or not appropriate in dealing with complaints, which may be more complex or serious for the complainant. In these circumstances, bringing in a trained conciliator may be an effective means of resolving a dispute, especially if the perception of impartiality is an issue.

Access to a trained conciliator may be arranged by referring the matter to any formal conciliation service. There is also the Conciliation Registry of the Health Care Complaints Commission (HCCC). The Health Conciliation Registry is constituted under the *Health Care Complaints Act 1993* as a statutory body operating independently within the HCCC.

Its purpose is to appoint a conciliator to conciliate a complaint by assisting the parties to reach agreement. Conciliators are appointed based on their qualifications and experience, and conciliation may be arranged in city or rural areas. Conciliation is voluntary.

All complaints, which are to be conciliated via the Conciliation Registry, must be referred by the HCCC. Consequently, it is recommended that any such complaint be forwarded to the HCCC with a covering letter containing an explanation of the health service's assessment of the complaint, the reasons for its referral to the HCCC and its recommendation that it be referred for conciliation. The HCCC will assess the complaint and take into account any recommendation made by the health service in its referral, although no guarantee can be made that the HCCC will assess the complaint as suitable for conciliation.

When conciliation is not appropriate

- The complaint is very complex.
- The facts are in dispute and investigation is warranted.
- The complaint is of such seriousness that it must be investigated (either internally or if very serious, by the HCCC).
- The outcome expected by the complainant cannot be delivered through conciliation.

Conciliation may be used either when the complaint is received, or can also be an outcome of investigation.

The Conciliation Process

In some cases an agreement to enter into more formalised mediation or conciliation may be appropriate. This approach is particularly appropriate in situations where the complainant remains distressed about the events outlined in the complaint or where the complainant is dependent on the health service, the subject of the complaint, for ongoing care. If a complaint cannot be resolved satisfactorily at initial contact with the complainant, or it is believed that the provision of the investigation report may not satisfactorily answer all of their concerns, the complaint process may need to be progressed to a resolution meeting.

At this stage, the steps are:

- Prepare for a resolution meeting
- Conduct the meeting
- Follow up outcomes of the meeting.

Prepare for a resolution meeting

The more meticulous the preparation for a resolution meeting is, the higher the likelihood of a satisfactory outcome.

To prepare for a resolution meeting, you need to:

1. Nominate a facilitator to oversee the resolution process
2. Confirm the issues of the complaint
3. Gather the information required to resolve the complaint
4. Identify the relevant parties involved
5. Engage the complainant in the process

Nominate a facilitator

Each health service should have its own procedures and delegations to facilitate a resolution, and it is expected that the people handling complaints have sufficient authority to effect a resolution.

Confirm the issues of the complaint

The issues include the key concerns raised by the complainant as well as any other issues that arise from the complaint. People rarely put their concerns in writing in a manner that reflects the main issues of concern. If any or all of the issues are unclear, this is the time to clarify them with the complainant. It is strongly recommended that prior to moving from this stage you speak with the complainant to clarify their issues of concern.

Identify the relevant parties

The relevant parties are the people involved with the complaint and the people involved with the incident that is the basis of the complaint.

The people involved with the complaint are the complainant, the patient who may or may not be the complainant, parents of a patient, their carer, any significant others who may be witnesses, offspring, or close friends. The complainant may also seek the support of a patient representative or other advocate to attend any meeting that may be arranged as part of the resolution.

The people involved with the incident may be the staff named in the complaint, the service provider, the staff of a unit in a hospital, one or two people who provided treatment or care. Not everyone who is involved with the incident may be held responsible, but they are relevant parties. Their information may contribute significantly to understanding the factors giving rise to the complaint, and their cooperation should be sought at an early stage to obtain their explanation of events.

If language is an issue, an interpreter should be arranged to attend.

Note that the more people there are involved in the resolution, the less likely that it will be successful. Often, every participant has a different version of events, and every person has an emotional reaction to the event. The sum total of this can lead to difficulties, and little is achieved. If an agreement can be reached to limit the number to a few select key people, this will usually contribute to a more fruitful outcome.

Base your decision on who will attend a resolution meeting on the following:

- The express wishes of the complainant for particular people to attend.
- A variety of perceptions of an incident between the complainant and the health

providers, in which case the health provider should present their side of the matter.

- The wishes of the health providers.

Ensure all parties understand the resolution process and how the resolution is to be conducted.

Does the complainant need an advocate?

You may wish to encourage the complainant to have a support person or advocate attend the resolution meeting. Advocate and support people may provide assistance in a number of ways, such as:

- Helping the complainant feel supported and less vulnerable.
- Interpreting what has been said.
- Providing a debriefing after the meeting.

Having an advocate or support person attend is particularly important in the following circumstances:

- Strong emotions expressed by the complainant or the service provider.
- One or both parties are being inflexible.
- There are communication problems.
- The service provider displays actual or potential stereotypical views of the complainant, for example, discrimination.
- The complainant or the subject of the complaint is a sick person who is dependent on the health service.
- If more than two service providers need to attend the meeting.
- There is an imbalance of power.
- The service provider displays defensive or arrogant behaviour.
- The complainant shows a significant lack of confidence in the process.

Engage the complainant

Engaging the complainant in the resolution process demonstrates respect for their right to complain and to be taken seriously. Involving the complainant may be a matter of explaining the process and assisting them to have a realistic expectation of the possible outcome of their complaint. In other cases, the complainant is further involved if issues need to be clarified or further information obtained. It is a good opportunity to explain the complaint management process and determine whether further support will be required to assist them through the process.

If a complainant is involved from the beginning, they are far more likely to be satisfied that the health service is effectively dealing with their complaint. It also assists in restoring trust in the service by demonstrating that it can respond efficiently to consumer needs.

The complainant is more likely to agree to a direct resolution of their concerns if they feel they are participants in the process.

Conduct the resolution meeting

Resolution meetings are face-to-face meetings between the parties of a complaint and may be facilitated by a senior manager who is not a party to the complaint.

Prior to a resolution meeting, establish whether the complaint and any information obtained identify elements of poor care. If inadequate or inappropriate service has been identified, remedial action should be discussed at the meeting.

Resolution meetings provide an opportunity for:

- a clear understanding of the issues of concern by the complainant and service provider
- all parties to be heard and feel respected
- informal apologies by service providers or managers
- solutions to be discussed and agreed upon.

Format of the resolution meeting

Introduction	The facilitator introduces everyone, and establishes any rules
Sharing stories, versions, perceptions	The parties in turn are provided with an opportunity to explain their experience
Clarification	The facilitator summarises what has been shared to clarify
Issue and agenda setting	The points for discussion/resolution are identified & agreed upon
Identification of roles and responsibilities	The facilitator ensures responsibility of senior management and service providers is clear. Key questions must be asked on
Exploration	The facilitator leads discussion by exploring the significance of what was shared to bring insight between the parties
Option Generation	The parties generate options that are mutually acceptable
Reality testing	The facilitator tests the proposed options for fairness and viability
Agreement	What is agreed upon between parties is formalised
Closure	The facilitator summarises and thanks attendees

Ways to assist parties to adopt a more flexible approach

Inflexible attitudes or approaches to a resolution meeting will reduce the likelihood of a satisfactory outcome including service improvement. Approaches include:

- clarifying and responding to beliefs, values, special circumstances, expectations and fears

- reality testing, i.e. providing information and other perspectives, and focussing on what is reasonable
- gently challenging attitudes
- allowing the parties to ventilate fears and anxieties.

Recording resolution meetings

It is not necessary to make a verbatim recording of resolution meetings for several reasons. For example, people may be inhibited if every word uttered is recorded and it is not always possible to take comprehensive notes while participating in the meeting.

Essential elements to record include:

- the provider's response to the desired outcomes, in particular, reasons for non-agreement
- timeframes for implementing any changes to training, orientation, policy, etc;
- how the complainant will be advised of completion of agreed-upon tasks
- any apology offered
- significant agreement or disagreement on facts.

Reading your notes at the end of the meeting will allow everyone present to reach agreement on content.

Follow up outcomes arising from the meeting

An offer to change services or processes in response to a person's concerns is appropriate and worthwhile. The complainant may have more confidence that the changes will occur if they are provided with progress reports or feedback when the changes have been implemented. With this in mind, a timeframe to implement the change and a mechanism to provide feedback to the complainant should be identified.

It may be worthwhile involving the complainant in the change process. The complainant may be able to provide feedback on any proposed guidelines or policy, or participate in or attend training sessions.

Decide on appropriate action

Appropriate action is required to adequately address poor systems or practitioner performance identified by the investigation and resolution process.

Recommendations must be based on the evidence and informed by the principles of public interest and good clinical governance.

Possible outcomes from managing complaints may include:

- Insufficient evidence:
- no further action necessary
- no action possible

- complaint not substantiated
- information provided
- resolution meeting
- policy/protocol change
- Complaint substantiated
- policy/protocol change
- equipment reviewed/repaired/replaced
- apology or other redress offered
- staff education provided
- resolution meeting
- information provided
- service to be provided
- monitor trend
- refer to a quality improvement committee or equivalent
- community education
- referred to appropriate authority, eg, HCCC, Department of Health, Police, professional bodies
- conduct clinical audit
- systems review
- consideration of a financial settlement (subject to discussion with Treasury Managed Funds)
- refer for action under another policy, eg Complaint or Concern about a Clinician - Principles for Action (PD2006 007)

Review and appeal

Complainants need to know that if they are not satisfied with the outcome of an investigation or resolution process, there are avenues through which they may express their dissatisfaction and have available some access to a review process.

A review process may involve a review by a more senior officer who will have a wider delegation to overturn a previous decision and consider remedies. Other options may be offering the opportunity of a meeting with a senior officer to discuss the concerns, entering into formal conciliation or utilising a mediator.

Complaints that are about communication are often conducive to this approach and may result in a formal apology on behalf of the organisation or a commitment to undertake

corrective action. For example, a complaint may have been about perceived rudeness of a staff member towards a patient. The senior officer, having heard the complaint, may offer an apology and undertake to discuss the issue with the staff member concerned, or their supervisor. The complainant then feels that their complaint has been validated, they have been heard, and corrective action taken.

In some cases, a complainant will remain aggrieved because they do not consider their issues have been addressed, nor will they be appeased if their perception is one of bias in the process. In instances where they have a view that the internal investigation was biased or incorrect, an independent review may be warranted or encouraged.

Complainants may either refer the matter to the Health Care Complaints Commission or may take their concerns to the Department of Health, the Ombudsman or even the Independent Commission Against Corruption (ICAC). Agencies should take all reasonable steps to seek to address concerns and support a complainant. It may be however that some complainants will never be fully satisfied and other solutions. In such cases, the AHS may wish to consider other options such as offering grief counselling, referral to support agencies etc, or as noted above, referral to external investigative agencies.

Recording and using complaints data

Complaints information is used to record data, to monitor trends and to assist in service quality improvement.

Referring to the Complaint Management Policy Flowchart (reproduced in Appendix 11 at page 47), at the conclusion of managing a complaint and when the parties have been informed of the outcome, review for opportunity for improvement should then be considered. In fact, this should be considered in the course of the resolving the complaint and the recommendations should reflect this. After the complaint has been concluded, actions to ensure that the identified opportunities for service improvement should be put into motion.

Putting these recommendations into action means referring them to the relevant person or committee within the service, providing a report to senior management and having a system in place which allows for follow up of actions recommended to ensure the recommendations do not falter or fail to progress. For information arising from complaints to make a difference, effective processes must be in place to ensure that the information is taken on, considered and integrated, and that the people who need to know are informed and are accountable.

As stated in the Complaint Management Policy PD2006 073, complaint data is recorded via the Incident Information Management System. This information provides performance indicators that form the basis for improvements in complaints handling. Trend analysis will provide evidence that information is used to improve practice.

Finally, it is important to reiterate the goals set out in the document 'A Framework for Managing the Quality of Health Services in NSW'. The Framework states:

The way in which performance data are reported and disseminated plays a major role in the way in which the information is used to effect change....

The fundamental aspect of the reporting framework is the closure of the "quality improvement loop". Over recent years the collection of data on the inputs and outputs of

our care processes has become commonplace in some health care facilities. There is doubt however, that the majority of this data collection has resulted in any improvements in the care delivered to patients or to the outcomes of that care. If the results of the data collection and analysis are not fed back to those who collect it, meaningful change and therefore improvement is unlikely to occur.¹

Data collected and analysed from complaints is essential to this process.

¹ A Framework for Managing the Quality of Health Services in NSW, PD2005_585 NSW Health Department, January 1999, pp 41 - 43

4. Definitions

Acknowledgement	Communication to the complainant or their agent that the complaint has been received and is being actioned.
Adverse event	Unintended patient injury or complication from treatment that results in disability, death or prolonged hospital stay and is caused by health care management.
Agent	Person who represents a complainant and liaises with the service provider who is managing the complaint. Examples include lawyer, Member of Parliament.
Apology	A key aspect of open disclosure is saying sorry or offering an apology to the patient and their family/carer following an adverse event. An apology is an expression of sympathy or regret, or of a general sense of benevolence or compassion, in connection with any matter whether or not the apology admits or implies an admission of fault in connection with the matter.
Area Health Service	Area Health Services provide the operational framework for the provision of public health services in particular geographic areas in NSW. They are constituted under the Health Services Act 1997.
Area Health Care Quality Committee	Part 5 of the 2005 Standard Form of By-Laws for public health organisations requires Chief Executives to establish specific committees to provide assistance to enable them to perform their statutory duties. The Area Health Care Quality Committee assist the Chief Executive ensure the integrity of the public health organisation's system to monitor the quality of care and service provided, and to ensure continuous improvement occurs in the quality of care and service.
Carer	Family members, guardians or friends who have an interest in, or are responsible for, the care of a consumer
Clinician	A health practitioner or health service provider regardless of whether the person is registered under a health registration act.
Complainant	Any member of the public or external organisation making a complaint
Complaint	A complaint is: <ol style="list-style-type: none">1. an expression dissatisfaction with a service offered or provided, or2. a concern that provides feedback regarding any aspect of service that identifies issues requiring a response.
Complaint Risk Code (CRC)	A suggested rating system that assesses the severity of a complaint to help determine the course of action to be taken.
Conciliation	Conciliation is a process in which the parties to a dispute, with the assistance of a dispute resolution practitioner (the conciliator), identify the issues in dispute, develop options, consider alternatives and endeavour to reach an agreement. The conciliator may have an advisory role on the content of the dispute or the outcome of its resolution, but not a determinative role. The conciliator may advise on or determine the process of conciliation whereby resolution is attempted, and may make suggestions for terms of settlement, give expert advice on likely settlement terms, and may actively encourage the participants to reach an agreement. Conciliation of health care complaints is managed through the Health Conciliation Registry.

Department	NSW Department of Health.
Director of Clinical Governance	The senior clinician responsible for the management of the Clinical Governance Unit. They are the designated Senior Complaints Officer. The Designated Senior Complaints Officer or their delegate must be contactable 24 hours a day, 7 days a week. The DCG is responsible for ensuring the proper process for managing complaints is understood and followed by the organisation.
Evidence	The available facts that form the grounds for belief or a proposition and tends to prove or disprove something.
Health Care Complaints Commission (HCCC)	The NSW Health Care Complaints Commission (HCCC) is an independent statutory body, established by the Health Care Complaints Act 1993. It acts in the public interest by receiving, reviewing and investigating complaints about health care in NSW.
Health Registration Act	Includes any of the Acts listed below, Chiropractors Act 2001, Dental Technicians Registration Act (1975), Dental Practice Act (2001), Medical Practice Act (1992), Nurses and Midwives Act (1991), Optical Dispensers Act (1963), Optometrists Act (2002), Osteopaths Act (2001), Pharmacy Act (1964), Podiatrists Act (1989) & Podiatrists Act (2003) uncommenced, Psychologists Act (2001) No 69
health service	Includes: <ul style="list-style-type: none"> • Medical, hospital and nursing services • Dental services • Psychiatric and psychological services • Pharmaceutical services • Ambulance services • Community health services • Health education services • Services provided by podiatrists, chiropractors, osteopaths, optometrists, physiotherapists, acupuncturists, occupational therapists, speech therapists, audiologists, audiometrists, radiographers, social workers, nutritionists and dieticians, orthoptists, environmental and public health professionals, prosthetists and therapeutic counsellors • Services provided in other allied or alternative health care fields • Welfare services necessary to implement any services referred to above
IIMS	The NSW Health Incident Information Management System. The IIMS incorporates the Advanced Incident Management System (AIMS®) software application as its underlying database.
Incident	An event or circumstance, which could have, or did lead to unintended and/or unnecessary harm to a person, and/or a complaint, loss or damage.
Incident Management	A systematic process for identifying, notifying, prioritising, investigating and managing the outcomes of an incident.
Investigation	1. Incident investigation The management process by which underlying causes of undesirable events are uncovered and steps are taken to prevent similar occurrences. 2. Complaint investigation The process of using Inquiry and examination to gather facts and information in order to solve a problem or resolve an issue.
Leaders	Principal partners, executive managers and directors of a service –

	the people with ultimate responsibility for clinical, financial and other forms of governance.
Line Manager	The manager to whom an individual reports
Mediation	Mediation is a process in which the parties to a dispute, with the assistance of a dispute resolution practitioner (the mediator), identify the disputed issues, develop options, consider alternatives and endeavour to reach an agreement. The mediator has no advisory or determinative role in regard to the content of the dispute or the outcome of its resolution, but may advise on or determine the process of mediation whereby resolution is attempted. Mediation may be undertaken voluntarily, under a court order, or subject to an existing contractual agreement.
Near miss	Any event that could have had adverse consequences but did not and is indistinguishable from an actual incident in all but outcome.
Notification	The process of entering or documenting data about an incident or near miss for any of the incident categories into the IIMS. The process whereby parties to a complaint are advised of the complaint being lodged and the resolution strategy being adopted
Open Disclosure	The open discussion of incidents that result in harm to a patient while receiving health care. The elements of open disclosure are an expression of regret, a factual explanation of what happened, the potential consequences of the incident, and the steps taken to manage the event and prevent recurrence.
Patient Representative	A person or office that assists patients who have complaints.
Parties	Persons or bodies who are in a dispute that is handled through a dispute resolution process
Performance	Refers to the knowledge and skill possessed and applied by the clinician in the course of their duties. Performance is also influenced by experience, application and attitude.
Public health organisation (PHO)	This term refers to a AHS, statutory health corporation or an affiliated health organisation in respect of its recognised establishments and recognised services as defined in the Health Services Act 1997.
Reportable Incident Brief (RIB)	The method for reporting defined health care incidents to the NSW Department of Health. The RIB process encompasses clinical and corporate incidents occurring in the health care setting under 4 incident categories: <ul style="list-style-type: none"> • clinical; • staff, visitor, contractor; • property, security, hazard; and • complaints. <p><u>Research and Investigation Authorised Under the Health Administration Act 1982 PD2006 058</u> imposes practical restrictions on the use and flow of information prepared by, at the request of, or solely for the purpose of the Reportable Incident Review Committee including any clinical RIBs submitted to the Department via the RIB reporting system.</p>
Respondent	A person or health service named in a complaint; a person or health service alleged to have been the cause of dissatisfaction; a person or firm against whom a complaint is made. These may include <ul style="list-style-type: none"> • Individual clinicians. • Wards, outpatients, departments.

	<ul style="list-style-type: none"> • Hospitals or community health services. • An Area Health Service. • Program areas, for example, mental health services.
Risk Management	Clinical and administrative activities undertaken to identify, evaluate, and reduce the risk of injury to patients, staff, and visitors and the risk of loss to the organisation itself.
Root Cause Analysis (RCA)	A method used to investigate and analyse a SAC 1 incident to identify the root causes and factors that contributed to the incident and to recommend actions to prevent a similar occurrence.
SAC 1 Incidents	A clinical SAC 1 incident requiring and RCA. See <u>PD2005 634 Definition of a Reportable Incident- Section 20L of the Health Administration Act.</u>
Service	Health care services, being any service that provides for a person's health or wellbeing, including primary and office-based health care, community health care, mental health services, and acute health care services.
Severity Assessment Code (SAC)	A numerical score applied to an incident based on the type of event, its likelihood of recurrence and its consequence. A matrix is used to stratify the actual and/or potential risk associated with an incident.
Subject	The person who received the health service identified in a complaint. Usually termed so in matters where the complainant is not the patient.
Support person	Support person/persons may be any individual, identified by the patient as a nominated recipient of information regarding their care. This may include family, friend, partner or those who care for the patient. Their role is one of support, advocacy when interacting with the health service.

5. Appendices - Sample Forms, Templates and Guides

Appendix 1 - Sample Patient Authority Form

To obtain personal health information from external service providers

(A separate form is to be completed for each clinician or organisation from whom records or information is requested)

I, _____ of _____

hereby authorise officers of the _____ Area Health Service to access
(including the right to request, inspect, copy and retain) information held by
_____ and relating to _____

including access to the following information:

all medical records

all reports and other correspondence

I also authorise the provision of a report by _____

in response to a request from the Area Health Service.

PARTICULARS:

Full name of person giving Authority: _____

Date of birth: _____

Address: _____

Address at time of treatment: _____

Period of treatment covered by this authority: _____

Signature

Date

Area Health Service use only

File No.:

Officer's Reference:

Sample Release of Information Form

For third party Complaints

I, _____ of _____

hereby authorise officers of the _____ Area Health Service to release information held by _____

to _____

of _____ Phone _____

This authorisation includes release of the following information:

1. all information obtained by the Area Health Service or Facility in relation to the complaint concerning _____ including any investigation report and/or

2. _____

3. _____

PARTICULARS:

Full name of person giving

Authority: _____

Date of birth: _____

Address: _____

Address at time of treatment: _____

Period of treatment covered by this authority: _____

Person giving Authority

Date

Witness

Date

Appendix 2 - Sample Receipt for Goods

For physical evidence collected

File/IIMS No: _____

I,.....(name and designation of
Health Service officer) hereby acknowledge receipt of the following item(s) from
..... (name of person providing goods):

[List and brief description of document(s)/item(s)].

1.

2.

3.

Signature: _____

Date: _____

(Health Service Officer)

Signature: _____

Date: _____

(Person Providing Goods)

Appendix 3 - Investigation Action Plan

FILE NUMBER/IMS REF:

STATUS CODE:

COMPLAINANT:

RESPONDENT:

SUBJECT:

SUMMARY OF COMPLAINT:

Issues		Respondent	Sys/Ind
1.			
2.			
3.			

Handling factors:

Note: Investigators may use this plan in electronic form, which enables the size of text box to be increased as required.

EVIDENCE MATRIX

Issues	Elements to be tested / determined / Standard to be applied (This section is used to identify those aspects which will determine whether the issue is proven or not. It specifies the various areas of information required and the questions to be answered to make a finding regarding the issue. A standard against which events of care may be compared is also noted together with any information required to identify system or process conditions.)	Best method of obtaining information (This section identifies the method by which the information will be obtained. A variety of sources may be required.)	Time frame (What is the timeframe for the requested information?)	Status (What is the status of the issue based on the information obtained?) Status: Not resolved Resolved Information obtained
1.				
2.				
3.				

Completion of information and evidence gathering	
Review & Analysis of Information (This section is used to summarise the information obtained pertaining to each issue and identifies where the parties are in agreement and disagreement in relation to the "facts at issue". It includes consideration of the evidence that has been gathered during the investigation. This involves weighing the relevance and credibility of the evidence with reference to the requirements of the relevant legislation/policies/standards/procedures/expert advice.)	
1.	
2.	
3.	
Completion of Investigation: Findings & Recommendations	
Findings	Recommendation
1.	
2.	
3.	

Appendix 4 - Sample Statement Format

Name:

Address:

Occupation:

Date:

This statement made by me accurately sets out the evidence which I would be prepared, if necessary, to give in Court as a witness. The statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything that I know to be false or do not believe to be true.²

I am..... years old.

I have been legally registered as a for years.

My qualifications are.....

Signature:

Date:

Witness:

² This section is optional. It may be included if the investigator believes that the statement may be rendered in Court. A simpler formula to use is: This statement made by me is true to the best of my knowledge and belief.

Appendix 5 - Investigation Checklist

- Contact the complainant to:
 - Obtain any additional information to fully understand the complaint and clarify issues of concern;
 - Identify desired outcome; determine if they have any supporting documentation or witnesses;
 - offer assistance if additional information is required and the complainant requires support, eg, language, sight;
 - provide information on the investigation process and anticipated time frames.
- Register complaint and document significant actions during the investigation.
- Assess the complaint - is there a jurisdiction issue, should the matter be referred to another agency or higher level in organisation? Identify any handling factors.
- Does the investigator have sufficient experience and/or qualifications? Does the investigator have any conflicts of interest? Is the investigator assigned to the complaint suitable? Do we need a small team of people with relevant expertise to conduct the investigation?
- Check previous complaints from the complainant and identified practitioner or service area.
- Are there any immediate safety issues that need to be addressed?
- Maintain confidentiality.
- Analyse the complaint, identify each issue raised, identify relevant parties and identify sources of information including policies and guidelines.
- Seek clinical/professional advice.
- Formulate an investigation plan.
- Gather information - interviews, reports, medical records, policies and guidelines other relevant documentation.
- Continuous analysis - compare information when obtained to identify gaps, inconsistencies or ambiguities in the information. Consult clinical/professional adviser as required. Seek corroborative evidence if conflicts arise in information obtained.
- If systemic issues identified utilise systemic investigative methodologies, eg root cause analysis.
- Ensure requirements of procedural fairness are met:
 - was the respondent given sufficient details of the complaint?
 - was the respondent given an opportunity to respond to the complaint?
 - was the respondent informed of any adverse proposed actions and the grounds for these?
 - were submissions made by the respondent duly considered?
- Prepare an investigation report noting information obtained and recommendations for any corrective action.
- Advise relevant parties of outcome.

Appendix 6 - Sample acknowledgement letter to consumer - 1

[On corporate letterhead]

Reference No:

To: [Name]
Address: [Line One]
[Line Two]
[Line Three]

Insert Date:

Dear [insert name],

I have received your complaint about [insert summary description of complaint].

[Insert apology or expression of regret. For example, 'we are sorry that you experienced a delay in the oncology unit the other day'].

I understand your complaint is about [insert details of the complaint].

We plan to review what has happened to you, why it happened and what we can do to prevent it happening again. As part of our inquiries, we will consider what you have told us and provide a copy of your complaint to the [doctors/nurses/clinicians] who were caring for you. We will also interview those who were caring for you, and examine your medical records and other internal documents and policies. [As the incident has been rated as serious, we will also be notifying insurers/the Department of Health/other].

Our inquiries should be completed within [xx] days/weeks.

If you are not satisfied with the way we handle your complaint, you can contact the NSW Health Care Complaints Commissioner (02) 9219 7444 at any stage.

If you have any queries or would like to discuss anything in the meantime, please feel free to contact me on [insert telephone no. and days available if part-time].

Yours sincerely,

[name and position title]

Appendix 7 - Sample acknowledgement letter to consumer - 2

[On corporate letterhead]

Reference No:

To: [Name]
Address: [Line One]
[Line Two]
[Line Three]

Insert Date:

Dear [insert name],

I have received your complaint about [brief description].

Thank you for bringing your concerns to our attention. We value feedback from patients and their families as it enables us to improve services and provide better health care.

Your complaint is currently being investigated. I will keep you informed of progress and hope to resolve your complaint as soon as possible.

If you have any queries or would like to discuss anything in the meantime, please feel free to contact me on [insert telephone no. and days available if part-time].

Yours sincerely,

[name and position title]

Appendix 8 - Sample Letter confirming a complaint has been resolved - 1

[On corporate letterhead]

Reference No:

To: [Name]

Address: [Line One]

[Line Two]

[Line Three]

Insert Date:

Dear [insert name],

Thank you for discussing your concerns about [insert details about the complaint] on [insert date of telephone discussion or face-to-face meeting].

I wish to confirm that we have agreed to [insert details about agreed facts, any actions taken or promised to be taken].

I understand that you do not want us to take any further action on this matter. Please let me know if there is anything else you would like to discuss with me.

Thank you for taking the time to assist us.

Yours sincerely,

[name and position title]

Appendix 9 - Sample Letter confirming a complaint has been resolved - 2

[On corporate letterhead]

Reference No:

To: [Name]
Address: [Line One]
[Line Two]
[Line Three]

Insert Date:

Dear [insert name],

Thankyou for bringing your concerns to our attention. [Insert apology or expression of regret. For example, 'again we are sorry that you experienced a delay in the oncology unit the other day'].

I understand your complaint is about [insert details of the complaint].

Our investigation/inquiry [explain scope of the investigation what information/evidence was gathered and how].

The specific issues we inquired into included [list the actual issues]

We understand that [provide an analysis of each issue and include the pertinent information and evidence gathered from each source, provide full disclosure to ensure lack of bias.]

Our inquiries concluded that [report the findings in relation to each issue].

In response we are [list what is to be done to prevent a recurrence or remedy situation]

I understand that you do not want us to take any further action on this matter. Please let me know if there is anything else you would like to discuss with me.

Thank you for taking the time to assist us.

Yours sincerely,

[name and position title]

Appendix 10 - Dealing With Complaints – Easy Reference

Complaints are a valuable source of feedback for the health service. All patients and their families and friends have the right to make a complaint about any aspect of their health care. They should be treated with respect and their complaint attended to quickly.

What to do when receiving a complaint

- Introduce yourself.
- Listen carefully to what the consumer is saying.
- Try to see things from their point of view.
- Clarify anything you're not sure about.
- Deal with the issue on the spot if possible.
- Write down the details on a complaint/feedback form for later entry into the Complaint Form in IIMS.
- Thank the person for their feedback.
- Tell them what will happen next.

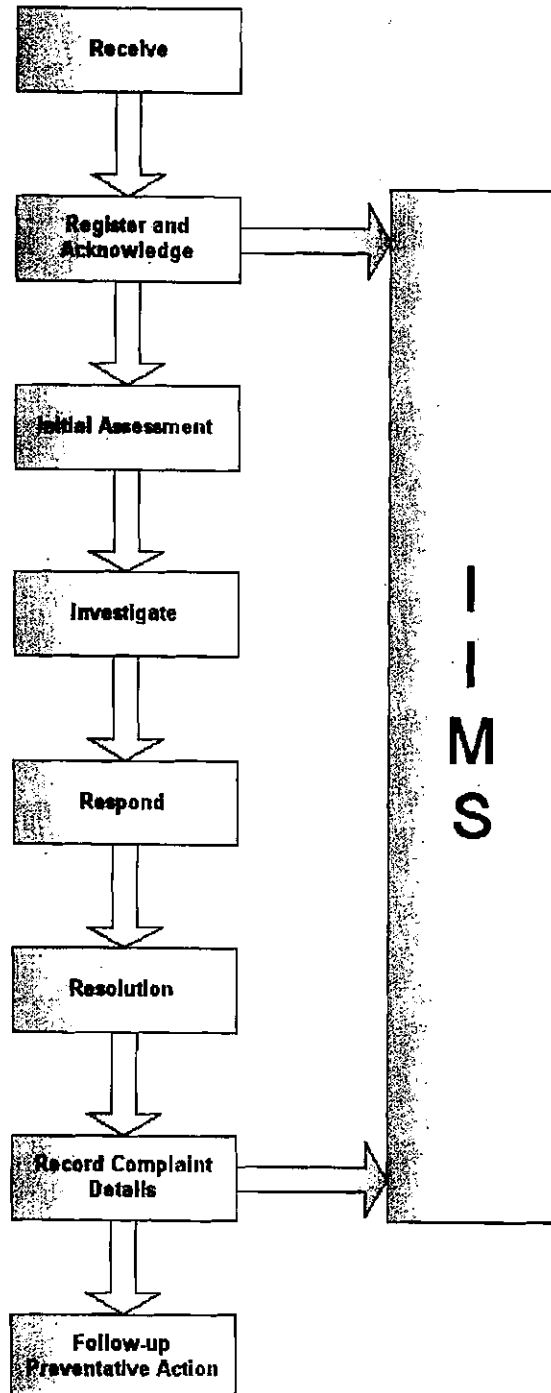
What NOT to do when receiving a complaint

- Be defensive or take it personally.
- Blame others.
- Make assumptions without checking your facts.
- Argue with the consumer.
- Be dismissive – it takes courage to complain.

Difficult situations

- Remain polite and respectful.
- Focus on the issue at hand, rather than the personalities.
- Take time to understand what the problem is – there may be an easy solution.
- Be prepared to listen, without getting caught up in emotions – the person wants to be heard.
- Be patient.
- Provide information or an expression of regret as appropriate.
- Ask another staff member for help if necessary.

Appendix 11 - Complaint Management Policy Flowchart



Appendix 12 - Complaint management principles and criteria

The following table provides the principles that underpin the NSW Health complaints management process as set out in the *Complaint Management Policy (PD2006_073)*. The suggested criteria are drawn from the 2004 Better Practice Guidelines on Complaints Management for Health Care Services and the previous NSW Health Better Practice Complaints Guidelines 1998. The criteria are provided to offer guidance in the application of the principles in local practice.

Principles	Criteria ³
<p>1. Commitment to consumers and quality improvement</p> <p><i>Leaders in the health care service promote a consumer-focused approach to complaints as part of a continuous quality improvement program</i></p>	<p><i>1.1 The health service provides sufficient human and material resources to ensure all complaints are adequately managed and investigated.</i></p> <p><i>1.2 The health service has developed and implemented a defined and consistent complaint management process.</i></p> <p><i>1.3 The health service manages the complaint management process within recommended timeframes.</i></p> <p><i>1.4 Staff and service providers at all levels receive information about complaint management at orientation and at regular intervals about:</i></p> <ul style="list-style-type: none"> <i>• their responsibility under relevant legislation, codes of practice, policies and industrial awards, including grievance and dispute handling processes,</i> <i>• overall issues, trends and complaints specific to the service and particular work units.</i> <p><i>1.5 A system exists to review and evaluate staff and other service providers' awareness and understanding of the complaint management process.</i></p> <p><i>1.6 An education and training program for staff is in place to support the development of skills for complaint management at all levels of the service, including but not limited to:</i></p> <ul style="list-style-type: none"> <i>• The complaints management process and notifying complaints in IIMS.</i> <i>• Communication.</i> <i>• Ethics.</i> <i>• Legislative requirements.</i> <i>• Conflict resolution.</i> <i>• Interpersonal skills.</i> <i>• CALDI and ATSI awareness.</i> <i>• Groups with special needs.</i> <i>• Negotiation/mediation skills.</i> <i>• Investigation skills.</i> <i>• Report writing skills.</i> <p><i>1.7 The health service regularly reviews and evaluates educational programs to ensure that staff and other service providers have the necessary skills to respond to complaints.</i></p> <p><i>1.8 Consumers are involved in development and evaluation of the health service's complaint management process.</i></p> <p><i>1.9 Support is provided to health service staff dealing with complaints.</i></p> <p><i>1.10 The health service's organisational structure clearly identifies delegated persons responsible for the management of the complaint management process, who have authority—together with senior management—to resolve complaints. The organisational structure should identify an appropriately skilled and senior member of staff to be responsible for the complaint</i></p>

³ Based on 2004 Better Practice Guidelines on Complaints Management for Health Care Services - A product of the Australian Council for Safety and Quality in Health Care (the Council) sponsored "Turning wrongs into rights: learning from consumer reported incidents project", endorsed by the Australian Health Ministers Conference in July 2004

Principles	Criteria ³
	<p>management process, who reports to senior management.</p> <p>1.11 The health service is committed to empowering and enabling frontline staff to resolve complaints within the level of their authority.</p> <p>1.12 The health service undertakes benchmarking with both healthcare and non-healthcare services.</p>
<p>2. Accessible</p> <p>The service encourages consumers to provide feedback about the service including concerns and complaints, and makes it easy to do so.</p>	<p>2.1 Information is made available at all points of entry to the health service through a community information strategy about the complaint management process. Consumer information should cover, at least:</p> <ul style="list-style-type: none"> • The consumer's rights and responsibilities. • The consumer's right to complain. • The range of internal and external avenues for lodging a complaint. • The option to initiate or request external investigation. • Avenues of complaint resolution, appeals and potential outcomes. • Details of the complaints management process, including resolution processes and expected timeframes for response • Continuing support if referral occurs. • Names and contact details of complaint management personnel. • The health service's policies and procedures for complaint management. • That review of decisions can be requested. • That confidentiality will be maintained, legislative requirements notwithstanding. • The availability of the Health Care Complaints Commission to independently review their complaint. • The nature and extent of adverse events in the health system. • Realistic expectations of health care. • Changes to the regulatory framework for health care complaints and consumer rights. <p>2.2 The health service provides information to consumers in a format that they can understand, and provides further explanation of this information when requested.</p> <p>2.3 The health service operates a complaint management process in an environment that recognises the importance of openness, accountability and service improvement.</p> <p>2.4 The health service actively receives and accepts complaints and provides opportunities for patients and consumers to provide feedback about their service using a range of methods, including but not limited to:</p> <ul style="list-style-type: none"> • Questionnaires. • Focus groups. • Consumer councils. • Written consumer surveys. • Telephone surveys. • Face-to-face interviews. • Public education and information campaigns. <p>2.5 The health service recognises that details of a complaint may be accessible by all parties involved under Freedom of Information Legislation</p> <p>2.6 Patients/consumers with special needs (eg. disability, elderly, remote, indigenous, culturally and linguistically diverse) are provided with appropriate information and/or assistance in making a complaint.</p> <p>2.7 The health service offers assistance/support to the complainant in making a complaint.</p> <p>2.8 The health service encourages complainants to bring a family member/support person to any meetings with hospital/health service staff.</p> <p>2.9 The health service provides confirmation of the receipt of a verbal complaint and provides a written summary of the complaint as requested by</p>

Principles	Criteria ³
	<i>the complainant.</i>
<p>3. Responsive and Timely</p> <p><i>The service acknowledges all complaints and concerns and responds promptly and sensitively</i></p>	<p>3.1 <i>The health service attempts to resolve complaints at the point of service and to refer complaints that require further action.</i></p> <p>3.2 <i>The health service responds appropriately to minimise the likelihood of dispute or conflict.</i></p> <p>3.3 <i>The health service acknowledges all complaints within five calendar days of receipt of the complaint.</i></p> <p>3.4 <i>The health service informs the complainant of the approximate time that it will take to resolve the complaint.</i></p> <p>3.5 <i>The health service resolves complaints within 35 calendar days of receipt.</i></p> <p>3.6 <i>The health service advises the complainant of the progress of the investigation at 21 working-day intervals.</i></p>
<p>4. Effective Assessment</p> <p><i>The service assesses complaints to determine appropriate responses by considering risk factors, the wishes of the complainant and accountability</i></p>	<p>4.1 <i>The health service uses the Severity Assessment Code (SAC) to assess all complaints to determine the most appropriate management process, taking into account the seriousness and complexity of the complaint and the requests of the complainant. A complaint may raise a number of issues.⁴</i></p> <p>4.2 <i>The health service ensures that senior management are notified of serious risks rapidly and effectively, enabling prompt and appropriate action.</i></p> <p>4.3 <i>The health service's complaint management process sets out the circumstances whereby external bodies, such as professional registration boards, the Health Care Complaints Commission, the Coroner, police and other regulators, are consulted or notified.</i></p>
<p>5. Appropriate resolution</p> <p><i>The service deals with complaints in a manner that is complete, fair to all parties and provides just outcomes.</i></p>	<p>5.1 <i>The health service has clear and simple processes for complaint management and investigation that are easily understood by complainants and staff.</i></p> <p>5.2 <i>The health service emphasises a joint problem-solving approach in the resolution of complaints.</i></p> <p>5.3 <i>The health service uses investigative methodologies that:</i></p> <ul style="list-style-type: none"> <i>• Are complete and based on facts.</i> <i>• Use relevant documentation, policies and information provided by complainants, other witnesses, clinicians and staff directly involved in a complaint.</i> <i>• Seeks to establish the events that occurred, to identify the underlying causes or contributing factors, and to recommend preventative strategies.</i> <p>5.4 <i>The health service uses equitable, objective and fair complaint resolution strategies with regard to all parties.</i></p> <p>5.5 <i>The health service informs complainants and staff of the outcomes of investigations and provides reasons for its decisions.</i></p> <p>5.6 <i>The health service provides just outcomes for complainants that are appropriate to the circumstances.</i></p> <p>5.7 <i>The health service provides independent review mechanisms for complainants dissatisfied with their complaint management experience.</i></p>
<p>6. Openness</p> <p><i>The service manages information in</i></p>	<p>6.1 <i>The health service investigates and resolves complaints in a confidential manner.</i></p> <p>6.2 <i>The health service informs complainants at the time a formal complaint is</i></p>

⁴ Each issue or complaint element identified in a complaint may require a separate risk rating, although only the most severe rating can be recorded in IIMS.

Principles	Criteria ³
<p>a fair manner, enabling relevant facts and decisions to be openly communicated while protecting confidentiality and personal privacy.</p>	<p>first acknowledged about how their personal information is likely to be used.</p> <p>6.3 The health service collects and stores complaints records separately from patient medical records and ensures that identifying personal information in the records is accurate and stored and used in accordance with privacy obligations and the <u>NSW Health Records Management Statement (PD2005 231)</u>.</p> <p>6.4 The health service responds promptly to requests from consumers and their authorised representatives, for access to personal health records and to amend errors in the record. Refer to <u>Privacy Manual (Version 2) - NSW Health (PD2005 593)</u>.</p> <p>6.5 The health service has a documented open disclosure policy that is in keeping with the national standard and is understood by relevant staff.</p>
<p>7. Gathering and using information</p> <p>The service records all complaints to enable review of individual cases, to identify trends and risk and report on how complaints have led to improvements.</p>	<p>7.1 The health service manages all consumer complaints, which may include patient/consumer accidents, clinical incidents and clinical adverse events, within IIMS policy and procedures, and reports through the IIMS using the complaint form.</p> <p>7.2 The health service ensures the appropriate systematic recording of complaints and their outcomes. When entering and retrieving complaints data in IIMS, the health service considers the range of topics, the content, level of detail, and the format for statistical reports. At a minimum, such reports include the following information:</p> <ul style="list-style-type: none"> • The number and issue of complaints received. • The type of services or practices about which complaints are made. • Response times against defined parameters. • Demographic details, such as name, age, gender. • Demographic analysis (people, service, department and organisation). • Referral source of the complaint. • Staff resources. • Resolution mechanism and actions planned or taken, including remedies/determinants/results. • Trend analysis of complaints issues. • System changes and outcomes introduced as a result of a complaint. <p>7.3 The health service ensures individual complaints and trends in complaints are analysed for clinical governance and quality improvement purposes. The ward/unit/program area/facility/health service classifies and analyses complaints to identify and rectify recurrent system problems. The reports generated are used to:</p> <ul style="list-style-type: none"> • improve organisational practices and procedures • redesign care and services • give early warning about potential problems • ensure staff are aware of changes in care and service delivery • continually reassess consumer needs. <p>7.4 The health service recognises that hospitals/health services receive compliments as well as complaints. Procedures are in place for the appropriate review and dissemination of this feedback.</p> <p>7.5 Complaints data, investigation outcomes, analysis of trends, and system changes are to be reported regularly, depending on severity, to:</p> <ul style="list-style-type: none"> • the Chief Executive/ General Manager / Service Director • health service committees where appropriate • Quality Management Committee of each health service. <p>7.6 At hospital/health service level, de-identified aggregated data analysis of trends and outcomes from complaints management is communicated to staff at all levels.</p> <p>7.7 Complaint data is provided quarterly to the Area Health Care Quality Committee and the NSW Department of Health. The health service provides regular complaints information to clinicians and staff and offers forums for staff to discuss the outcomes of complaints, the lessons learned from complaints,</p>

Principles	Criteria ³
	<p><i>and how recommendations resulting from complaints have been implemented and monitored.</i></p> <p><i>7.8 The health service provides periodic public information about its consumer feedback, including complaints, as part of its quality improvement reporting. Reports to the public includes useful information, such as:</i></p> <ul style="list-style-type: none"> <i>• Number and complaint issues in current year compared with previous years.</i> <i>• Common types of outcomes resolution mechanisms.</i> <i>• Initiatives taken to address consumer complaints (QI activities).</i> <i>• Impact of improvements made as a result of the complaints management process.</i> <i>• Performance of the complaints management process compared with the complaints policy.</i> <i>• Summary reports of consumer satisfaction surveys.</i>
<p>8. Making improvements</p> <p><i>The service uses complaints to improve the service, and regularly evaluates the complaint management policy and practices.</i></p>	<p><i>8.1 The health service routinely uses complaint information as part of clinical governance, quality improvement, planning, and to inform staff training and professional development.</i></p> <p><i>8.2 The health service ensures that senior clinicians and managers respond to complaints after completing a risk assessment and conduct appropriate investigation, reporting, analysis, review and follow-up.</i></p> <p><i>8.3 The health service monitors complainant and staff satisfaction in accordance with the complaints resolution process and the outcomes of complaints resolution.</i></p> <p><i>8.4 The health service monitors continuously and compares regularly the performance of the complaints management process with the complaints management policy and external standards.</i></p> <p><i>8.5 The health service regularly evaluates policies and practices on complaint management to determine their effectiveness, and make improvements when required.</i></p> <p><i>8.6 The health service involves consumers and staff in the design and evaluation of the complaints management process.</i></p> <p><i>8.7 The health service ensures that an evaluation of the complaints management process is undertaken on a regular basis. The results of the evaluations of the complaints management process are reported to the Area Health Care Quality Committee.</i></p>

6. References

1. NSW Health, Better Practice Guidelines for Frontline Complaints Handling, 1998
 2. Queensland Health, Complaints Coordinators Handbook, Making Feedback Work for You, 2002
 3. Government of Western Australia, Department of Health, Complaint Management Policy: driving quality improvement by effective complaints management, 4th ed, 2003
 4. NSW Health Care Complaints Commission, Complaint Resolution Training Manual, 2002
 5. NSW Health Department (1999) A Framework for Managing the Quality of Health Services in NSW.
 6. The Australian Council for Safety and Quality in Health Care, Complaints Management Handbook for Health Care Services, 2005
 7. The Australian Council for Safety and Quality in Health Care, Better Practice Guidelines on Complaints Management for Health Care Services, 2004
 8. NSW Ombudsman, The Complaint Handler's Tool Kit, June 2000
 9. Victorian Health Services Review Council, Guide to Complaint Handling in Health Care Services, 2005
 10. Complaint Management Policy (PD2006_073)
 11. Incident Management Policy PD2006_030).
 12. NSW Health Records Management Statement (PD2005_231).
 13. Privacy Manual (Version 2) - NSW Health (PD2005_593).
 14. Research and Investigation Authorised Under the Health Administration Act 1982 (PD2006_058)
-

7. Contacts

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GPSC2: AMBULANCE SERVICE INQUIRY
Question on Notice (18)

The Hon. GREG DONNELLY to ask:

My question relates to the grievance procedure and grievance handling issue. I acknowledge the detailed response that Mr Peters has already given, but I want to clarify the issue. Internal procedures will be provided to us to outline the ways in which you deal with grievances. Does the award that covers employees in the service contain its own grievance procedure? Does a separate grievance procedure operate by virtue of the industrial instrument?

.... can you tell me whether there is any inconsistency between the two? Do they marry together?

... I am keen to ensure that there is a marrying together of those issues and for you to analyse them. If there is not a marrying together, or a seamlessness between the two, therein might lie some of the bases upon which there could be issues. I ask you to take that question on notice, to analyse it and to provide us with some insights as to whether they are consistent and there is seamlessness between the two, or whether there are differences and the extent to which there are differences. It would be useful to know what are those differences.

ANSWER

Does the award that covers employees in the service contain its own grievance procedure?

Yes, Clause 41 Issues Resolution of the Operational Ambulance Officers (State) Award.

Does a separate grievance procedure operate by virtue of the industrial instrument? can you tell me whether there is any inconsistency between the two? Do they marry together?

NSW Health Policy Directive PD 2005-584 – *Effective Workplace Grievance Resolution: Policy and Better Practice for the Department of Health and Public Health Organisations*, April 2005 (copy attached) applies to the Ambulance Service.

The Award has a focus on application and operation of grievance procedures.

The Policy provides greater guidance including on the initial assessment of a grievance, information gathering, confidentiality, and options for resolution.

There is a different focus between the Award and Departmental policy but the two documents are consistent. Both the Award and Policy are focussed on raising matters with the supervisor, early resolution, escalating matters to higher levels of management when appropriate, and documentation.

Grievance Resolution (Workplace): for the Dept of Health and Public Health Organisations

Document Number PD2005_584

Publication date 17-May-2005

Functional Sub group Personnel/Workforce - Conditions of employment
Personnel/Workforce - Occupational Health & Safety
Personnel/Workforce - Conduct and ethics

Summary This NSW Health policy directive requires the Department of Health, public health organisations and the Ambulance Service of NSW to have in place a local workplace grievance management system and procedures that facilitate prompt, fair and flexible management of all workplace grievances, with a focus on effective resolution. The system must incorporate an initial assessment of all matters raised; ensure that serious matters are not handled as workplace grievances and ensure that those managing grievances are competent to do so. Chief Executives must ensure that local systems and procedures are reviewed and updated to comply with this policy directive.

Replaces Doc. No. Grievance Management Systems (Policy Framework and Best Practice Guidelines - Development) [PD2005_149]
Grievance Resolution Procedures - NSW Department of Health only [PD2005_147]

Author Branch Employee Relations

Branch contact Frances Waters 9391 9305

Applies to Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations - Non Declared, NSW Ambulance Service, NSW Dept of Health, Public Hospitals

Audience ALL

Distributed to Public Health System, Health Associations Unions, NSW Ambulance Service, NSW Department of Health, Public Hospitals

Review date 17-May-2010

File No. 03/11191-4

Director-General Previous reference N/A

Status Active

This Policy Directive may be varied, withdrawn or replaced at any time. Compliance with this directive is **mandatory** for NSW Health and is a condition of subsidy for public health organisations.

**EFFECTIVE WORKPLACE
GRIEVANCE RESOLUTION**

***POLICY AND BETTER PRACTICE
FOR THE DEPARTMENT OF HEALTH AND
PUBLIC HEALTH ORGANISATIONS***

NSW  HEALTH

April 2005

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1.0 About This Document

- 1.1 Effective Workplace Grievance Resolution** Copies may be obtained at www.internal.health.nsw.gov.au
- 1.2 Responsibility** Employee Relations
- 1.3 Version** Final Version April 2005
- 1.4 Updates and Feedback** Feedback is welcome and should be addressed to the Manager, Employee Relations Policy, NSW Department of Health
- 1.5 Related Policies**
- PD2005_135 Policy and Guidelines for the Development of Protected Disclosures Procedures in Health Services
 - Guideline on the Management of a Complaint or Concern About a Clinician: A Guideline for Policy Development in Area Health Services and Other Public Health Organisations (Nov 2001)
 - Model Policy on the Management of a Complaint or Concern About a Clinician: A Model Policy for Area Health Services and Other Public Health Organisations (Nov 2001)
 - PD2005_109 Procedures for Recruitment and Employment of Staff and Other Persons – Vetting and Management of Allegations of Improper Conduct
 - 2005_299 Protecting Children and Young People
 - PD2005_223 Joint Management and Employee Association Statement on Bullying, Harassment and Discrimination
 - PD2005_145 EEO Program Minimum Standards for Area Health Services and the NSW Ambulance Service (under review)
 - PD2005_409 Workplace Health and Safety: Policy and Better Practice Guide
 - PD2005_315 Zero Tolerance to Violence in the NSW Health Workplace
 - PD2005_234 Effective Incident Response: A Framework for Prevention and Management in the Health Workplace
 - PD2005_568 Employee Assistance Programs: Policy and Better Practice
 - PD2005_130 Principles/Minimum Standards for the Development of Health Service Codes of Conduct (under review)
 - PD2005_201 Management of Employment, Promotion and Transfer where Employees are Closely Related or Have a Close Personal Relationship
 - PD2005_565 Recruitment and Selection: Policy and Better Practice for Public Health Organisations and the Ambulance Service

**1.5 Related Policies
(contin)**

PD2005_187 NSW Health Policy on Orientation

PD2005_337 Reportable Incidents Briefs to the NSW Department of Health

PD2005_225 A Framework for Managing the Disciplinary Process in NSW Health (under review)

PD2005_180 Managing for Performance – A Better Practice Approach for NSW Health

PD2005_173 Reporting Possible Corrupt Conduct to the Independent Commission Against Corruption

Better Practice Guidelines for Frontline Complaints Handling: February 1998

**1.6 Additional
References and
Resources**

Equal Opportunity in Public Employment, Office of the Director
Level 11, 28 Margaret Street Sydney NSW 2000
Ph: (02) 9248 3555
www.eeo.nsw.gov.au

Department of Health
73 Miller Street North Sydney NSW 2059
Ph (02) 9391 9305
www.internal.health.nsw.gov.au

Anti-Discrimination Board
PO Box A2122 South Sydney NSW 1235
Ph (02) 9268 5544
www.lawlink.nsw.gov.au/adb

WorkCover NSW
Locked Bag 2906 Lisarow NSW 2252
Ph (02) 4321 5000
www.workcover.nsw.gov.au

Office of the NSW Ombudsman
Level 3, 580 George St, Sydney NSW 2000
Ph (02) 9286 1000
www.nswombudsman.nsw.gov.au

Independent Commission Against Corruption
GPO Box 500, Sydney NSW 2001
Ph (02) 8281 5999
www.icac.nsw.gov.au

2.0 Introduction

2.1 Purpose and Scope of the Policy and Guidelines

Good workplace grievance management can prevent minor workplace issues escalating into more serious matters.

The policy applies to all public health organisations.

The guidelines include tools to assist public health organisations meet policy objectives.

The purpose of the policy and guidelines is to ensure that the Department and public health organisations have a system in place that encourages early grievance reporting and that ensures, as far as possible, their speedy and effective resolution.

Such a system allows staff to raise legitimate workplace concerns early, with the option for informal resolution where appropriate. A key objective of grievance management systems is to ensure that minor workplace issues are identified and resolved early, before they develop into more serious workplace concerns.

The policy applies to the Department and all public health organisations. The guidelines will assist chief executives and managers to meet departmental and legislative requirements in relation to grievance management, and should be used to review existing procedures to ensure they comply with, and support the key objectives of, the NSW Health policy.

The document also provides some practical tools to assist managers assess initial complaints, conduct further inquiries and maintain the appropriate records.

2.2 Definitions

Complainant

The person making the grievance.

Disciplinary Process

A process for managing allegations of misconduct, serious performance issues or inappropriate behaviour by NSW health staff, usually involving breaches of NSW Health policy, which, if proven, would lead to the staff member being formally disciplined.

Facilitation

The process whereby a manager facilitates a resolution between staff members without the use of formal procedures.

Frivolous Complaint

A frivolous complaint can be defined as one that is trivial, characterised by a lack of seriousness or sense.

Grievance Contact Officer

A staff member in a public health organisation who is available to provide independent assistance and information on the grievance procedures for pursuing workplace grievances. Grievance Contact Officers do not become involved in the direct resolution of a grievance or the investigation of a complaint.

Grievance Management System

A system for appropriately and consistently responding to and managing workplace grievances, with the key objective of speedy and effective resolution.

Information Gathering

A process of gathering relevant information and identifying the relevant facts associated with a grievance, for the purpose of determining the most appropriate method of resolution.

2.2 Definitions (contin)

Initial Assessment

An initial review by the person receiving the complaint, to ensure that grievance management is the most appropriate means to deal with the complaint or whether referral elsewhere is required.

Malicious Complaint

A malicious complaint can be defined as one instituted with the primary intent of causing distress to another, usually the respondent.

Mediation

The process whereby an appropriately skilled, neutral person acts as a 'mediator' to parties to bring about a resolution of a disagreement.

Public Health Organisation

For the purposes of this policy, refers to the Department of Health, Area Health Services, statutory health corporations, affiliated health organisations and the Ambulance Service of NSW.

Respondent

The person (s) against whom the grievance is made.

Staff Member

Any person working in any capacity in a public health organisation including volunteers, students, visiting medical officers and contractors.

Support Person

An individual of the person's choice who provides support to that person during any meetings attended as part of the grievance management process, but does not advocate on their behalf. Examples include co-worker, friend, family member, union rep etc.

Vexatious Complaint

A vexatious complaint can be defined as one instituted without sufficient grounds and serving only to cause annoyance.

Workplace Grievance

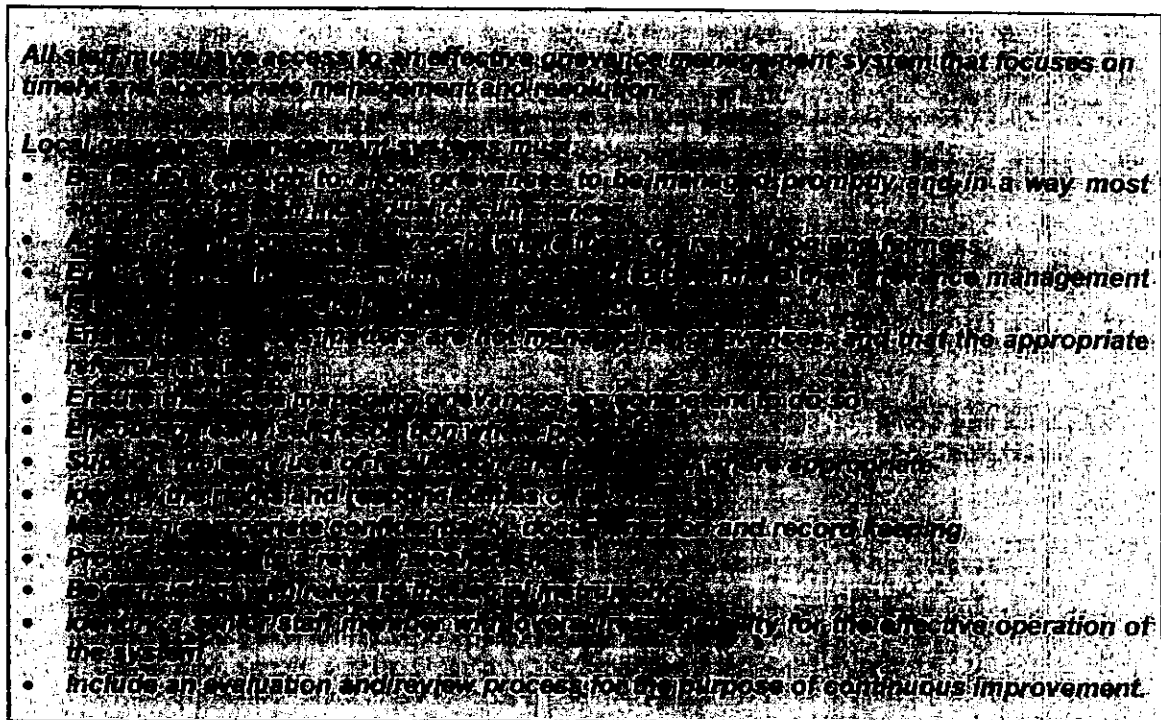
A written or oral statement made by an employee regarding a concern arising in the workplace. Examples may include, but are not limited to, interpersonal conflict, the way work is allocated or managed, interpretation of people management policies, or a perceived unfairness in the workplace. The grievance usually involves some concern or personal distress, and will usually, though not always, involve other people.

2.3 Related NSW Legislation

- Occupational Health and Safety Act 2000
- Anti-Discrimination Act 1977
- Freedom of Information Act 1989
- Industrial Relations Act 1996
- Government and Related Appeals Tribunal Act 1980
- Independent Commission Against Corruption Act 1988
- Protected Disclosures Act 1994
- Ombudsman Act 1974

3.0 Policy

3.1 NSW Health Policy



3.2 Policy Objective

The objective of this policy and guidelines is to ensure that all workplace grievances are managed in a fair, timely, appropriate and effective manner.

Effective grievance management contributes to positive working relationships and empowers staff to develop skills to manage their relationships in the workplace. Good workplace grievance management can prevent minor workplace issues escalating into more serious matters.

3.3 Responsibility

It is the responsibility of each Chief Executive to ensure that NSW Health policy is implemented in a timely and effective manner, and that the objective of the policy is met.

Managers must know how to manage workplace grievances.

Crucial to meeting the policy objective is the ability of managers to:

- Conduct an initial assessment of the complaint
- Appropriately refer the matter if it is not to be managed as a grievance
- Where the matter is to be managed as a grievance, to gather and assess the relevant information in order to identify and implement the most appropriate grievance resolution option/s.

Therefore, public health organisations must support managers in relation to these capabilities, and provide advice and access to training as necessary to ensure the policy objective is met.

4.0 Guidelines for Policy Implementation

4.1 Introduction

Local grievance management systems must be flexible, fair, focused on resolution, and accessible to all staff.

It is not the intent of this document to prescribe a rigid procedure for how a workplace grievance will be managed, as, by their very nature, grievances can arise in an extensive range of circumstances and across a continuum of seriousness. Rather, the document focuses on the need for local grievance practices to ensure that each grievance is looked at individually at it arises, and is managed in a way most appropriate to the circumstances.

To support this approach, the guidelines identify a range of options that can be used to manage and resolve workplace grievances. This includes, where the opportunity presents itself, the need for managers to make every effort to resolve potential or actual workplace grievances as informally as possible in the first instance.

4.2 Developing Local Procedures

When developing local procedures public health organisations should ensure that they:

- Are developed in consultation with staff and their representatives
- Are tailored to the specific needs of the workplace
- Clearly articulate, and support, the primary objective of prompt, fair and effective resolution of workplace grievances
- Meet the special needs of staff members from racial, ethnic and ethno-religious minority groups, people with disabilities or people of Aboriginal or Torres Strait Islander descent
- Are communicated to, and are accessible to all staff.

When developing local procedures consideration may be given to establishing a number of additional points of contact for complainants, including grievance contact officers, who can assist those involved to understand the resolution process.

4.3 Staff Rights and Responsibilities

Managers and staff must know their rights and responsibilities, so the grievance management system can operate effectively.

All staff need to know their rights and responsibilities in relation to grievance management, as all parties have a significant role to play in resolving grievances.

Key rights of all staff include:

- Being provided with sufficiently detailed information to allow an appropriate response
- Being treated with respect
- Being given a full and fair opportunity to have their say, and the right of reply
- Being provided with information on progress of the grievance and on any decisions made that may affect them
- Appropriate confidentiality and protection from recrimination
- Impartial, prompt and professional management of the grievance to a speedy resolution.

Key responsibilities of all staff include:

- Recognising their role in harmonious workplace relations
- Raising matters of concern at an early stage and actively participating in the grievance resolution process
- Not raising malicious, vexatious or frivolous complaints.

See Appendix 6.1 for more detailed information on staff rights and responsibilities.

4.4 Confidentiality

All parties have rights and responsibilities in relation to confidentiality.

Information relating to a grievance should only be provided on a 'need to know' basis, and should not be provided to third parties. Those involved in a grievance have both the *right* to confidentiality, and the *responsibility* for maintaining confidentiality. This includes confidentiality of the identity of those involved, as well as the subject matter.

The respondent must be provided with enough information to allow for an adequate opportunity to fully respond to the issues raised.

While the respondent is entitled to, and must be provided with, enough information to allow an adequate response to the complaint, there would need to be a valid reason for others in the workplace not involved in the grievance to have access to any information on who is involved, or on the matters raised.

As most workplace grievances usually involve a complaint by one person against another, the subject of the grievance will generally need to know who raised the complaint, in order to be able to adequately respond to the matters raised.

However, the grievance management process is not to be confused with systems for managing performance, protected disclosures or other serious matters, where it may not be appropriate to divulge the identity of the person making the complaint. This reinforces the need for an adequate initial assessment to ensure that grievance management is the appropriate vehicle for resolving the situation.

4.5 Role of Local HR Departments in Grievance Management

It is usually the role of the manager to take the lead in managing grievances raised by their staff. To support this approach, human resource departments in public health organisations are available to provide advice and guidance to managers on the grievance resolution process. As indicated earlier, there is also the option to have designated Grievance Contact Officers to provide policy and process information to all employees.

4.6 Matters Not Covered Under Grievance Management

As the definition suggests (see Section 2.2) grievance management is meant to deal with relatively minor workplace issues or concerns. Therefore it is important to distinguish between workplace grievances, and other more serious matters.

Matters that should not be dealt with under the grievance management system include (but are not limited to):

- Incidents of violence, or of a potentially criminal nature
- Serious bullying, harassment or discrimination (see Section 5.8)
- Serious OHS concerns (see Section 5.9)
- Complaints from clients or patients
- Allegations of serious misconduct, fraud, corruption, maladministration or substantial waste
- Child protection related matters
- Protected disclosures as defined in the Protected Disclosures Act 1994
- Clinical negligence, malpractice or incompetence
- Performance management or disciplinary matters.

Grievance management must not be confused with other management processes.

4.7 Initial Assessment

In order to determine that grievance management is the most appropriate management approach, some assessment of the matters raised will usually need to be made by the person receiving the complaint. Considering the following questions may assist in this process.

- Does the matter involve clinical negligence, malpractice or incompetence?
- Does the matter involve an issue of health and safety, or a substantial waste or maladministration?
- Is the matter potentially or a violation of criminal law?
- Is the matter potentially a violation of the Protected Disclosures Act 1994?
- Does the matter involve a potentially significant breach of OHS legislation (see Section 5.9)?

If the answer to any of the above questions is yes, then the matter should not be managed as a workplace grievance, and should be promptly referred to more appropriate management mechanisms (see Appendix 6.2).

Other factors should also be considered when conducting the initial assessment. This may on occasion require returning to the person who made the complaint to seek further information

- Does the complaint allege conduct that is abusive, offensive, humiliating or threatening behaviour?
- Does the complaint allege a breach of the code of conduct?
- Does the complaint relate to work performance issues?

If the answer to any of the above is yes, then careful consideration should be given to the degree of seriousness of the matter, in determining whether it should be managed as a grievance, or whether the matter needs to be referred. Considering the following will assist with this determination.

- How often has the behaviour occurred?
- How serious is the behaviour?
- How long has the behaviour lasted?
- How many people are involved?
- How often has the behaviour occurred?
- How serious is the behaviour?
- How long has the behaviour lasted?
- How many people are involved?

Serious matters should not be managed via the grievance management system.

As some of the above questions suggest, information relating to the history, frequency, severity, duration and impact of the incident/s or behaviour/s on the individuals or the workplace may determine that the matter has become more serious than a workplace grievance, and needs to be handled accordingly.

In section 5, a number of examples are given to further illustrate issues that need to be considered, and possible options for resolution.

4.8 Grievance Management, Performance Management and the Disciplinary Process

Grievance management should not be confused with performance management or the disciplinary process. Where a matter is assessed as a grievance, it should not be managed by the disciplinary process. However, where investigation of what initially appears to be a workplace grievance uncovers matters of a more serious nature, then grievance management should immediately cease and the matter should be referred to a more relevant management process eg disciplinary process, performance management, child protection, clinical complaints etc.

Grievances should not be used to confuse or interfere with other management processes.

If a staff member raises a grievance, as defined by this document, about the way a discipline or performance management issue is being managed, then the issue should be looked at, but the performance management or disciplinary process should continue independently.

However, where more serious matters regarding the process are raised, that fall outside the scope of grievance management, then action most appropriate to the particular circumstances will need to be taken.

4.9 Information Gathering

Once the initial assessment has determined that it is appropriate to manage the complaint under the grievance management process, the facts of the matter need to be determined as far as possible. The purpose is to determine whether there is a reasonable basis for the complaint, and to help determine the most appropriate option/s for speedy resolution.

While the degree of formality will depend on the nature of the grievance and those involved, when gathering information there are some key principles that need to be considered.

Information gathering should:

- Be undertaken fairly and impartially, by a competent person
- Maintain appropriate confidentiality (see Section 4.4)
- Ensure that both parties are given full opportunity to have their say
- Include speaking to those identified by either party as having information relevant to the grievance
- Focus on gaining all relevant information, with the objective of affecting a prompt and durable resolution of the matter/s
- Include appropriate documentation and records (see Section 5.12 and 5.13)
- Ensure appropriate security of any related paperwork.

Information gathering should be fair, impartial and focused on resolution.

Where the grievance is lodged against the manager, or the manager feels that they may not be able to be impartial or objective, or be seen to be impartial in assessing the grievance or seeking further information, they should seek advice from their manager/director and/or relevant human resource staff on who should assess the complaint, and manage any ensuing grievance.

Other options need to be available where it is inappropriate for the line manager to manage the grievance.

Where it is inappropriate for the immediate manager or supervisor to manage the issues raised ie the issue involves the manager or supervisor, alternate points of contact need to be available such as a more senior manager.

5.0 Grievance Resolution

5.1 Options for Grievance Resolution

A range of options exist to assist managers resolve grievances promptly and effectively. Because of the diversity of issues and personalities that can be involved, it is important that each grievance is considered individually, in order to determine the best option/s to utilise, and the most appropriate way/s to resolve it. Generally speaking, it is desirable that all reasonable attempts should be made to resolve the grievance informally, before moving to more formal processes.

Based on the information obtained, what may be the best way to resolve the grievance?

Do the findings illustrate the need for training, changes to work processes or administrative procedures?

Will mediation or facilitation assist in the resolution of matters?

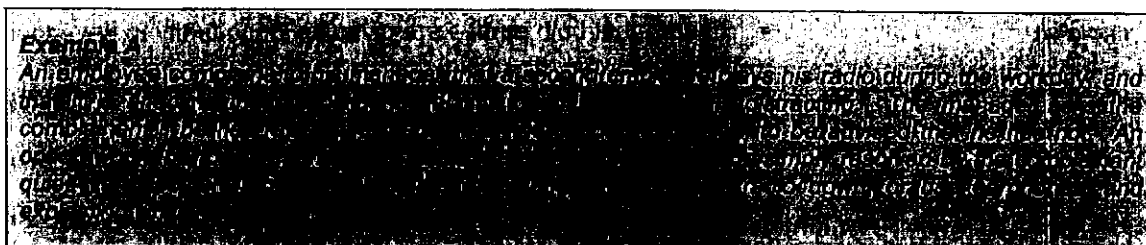
Options can be as varied as the issues raised, and can include:

- Encouraging the complainant to try and resolve the issue him/herself eg in minor interpersonal matters (see example A)
- Encouraging/facilitating local resolution prior to moving to more formal management of the grievance eg minor workplace matters (see example B)
- Mediation eg where the above options are not appropriate, or have not been successful (see example C)
- Making minor administrative or work process changes eg where there is perceived unfairness in work arrangements, or to address minor OHS issues etc (see examples D and E)
- Provision of information, education and training eg where a lack of knowledge of workplace policies and/or procedures, roles and responsibilities or cultural issues have lead to/contributed to the grievance (see examples F and G)
- A variety of combinations of the above (see example H).

5.2 Self Resolution

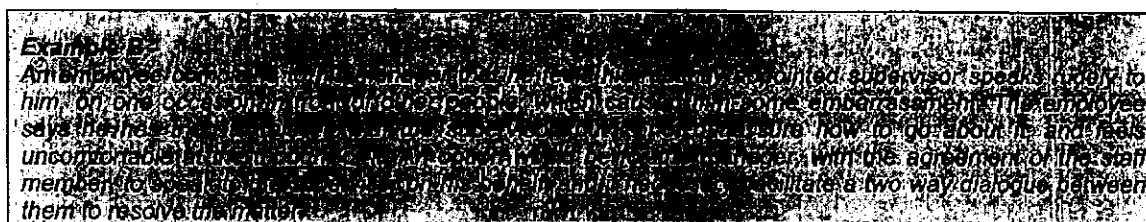
Staff should be encouraged to resolve minor workplace matters themselves.

Many minor workplace issues may benefit from encouraging those involved to attempt to resolve the matter themselves. All staff have a responsibility to contribute to a harmonious workplace, and it should not always be necessary to begin the grievance process to resolve minor matters.



5.3 Facilitation

Facilitation is a process whereby a manager attempts to facilitate a resolution between staff members without the use of more formalised procedures. Consideration should be given to using this as a first option, though it may not always be appropriate.



5.4 Mediation

Mediation is confidential, voluntary and impartial.

Mediation assists complainants to identify and resolve issues themselves.

Using mediation has a number of benefits.

Mediation is a voluntary and confidential process where an appropriately skilled mediator assists people in conflict to identify and isolate issues under dispute, and to identify and if possible agree on potential options to resolve these issues. Mediators are neutral assistants, who do not make judgements. They can be a trained internal person or an outside professional mediator.

During mediation, the mediator aims to assist parties to find their own solution and may, in some instances, offer suggestions for resolution. However, they do not direct a decision or provide advice about likely outcomes. Both parties to a grievance need to agree to mediation. Additionally, both parties need to be able to accept the mediator as being independent and having no vested interest in the outcome of the mediation.

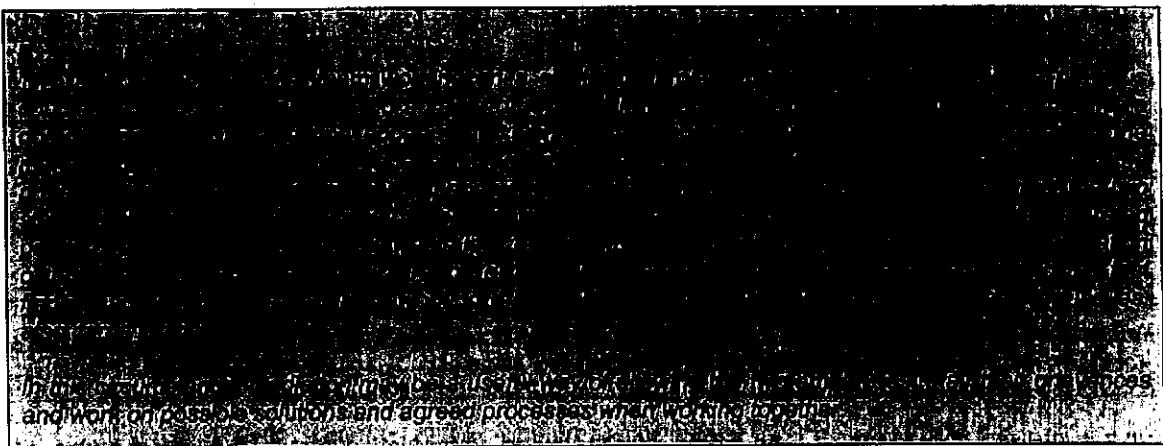
Because mediation is conducted in a confidential, informal atmosphere that encourages participants to discuss issues in a more open manner than might otherwise be possible, there can be many benefits.

Even if agreement is not reached on all issues in dispute, parties are assisted to air their grievances in a constructive manner, and to reach an understanding of each other's position.

The benefits of using mediation to resolve grievances may include:

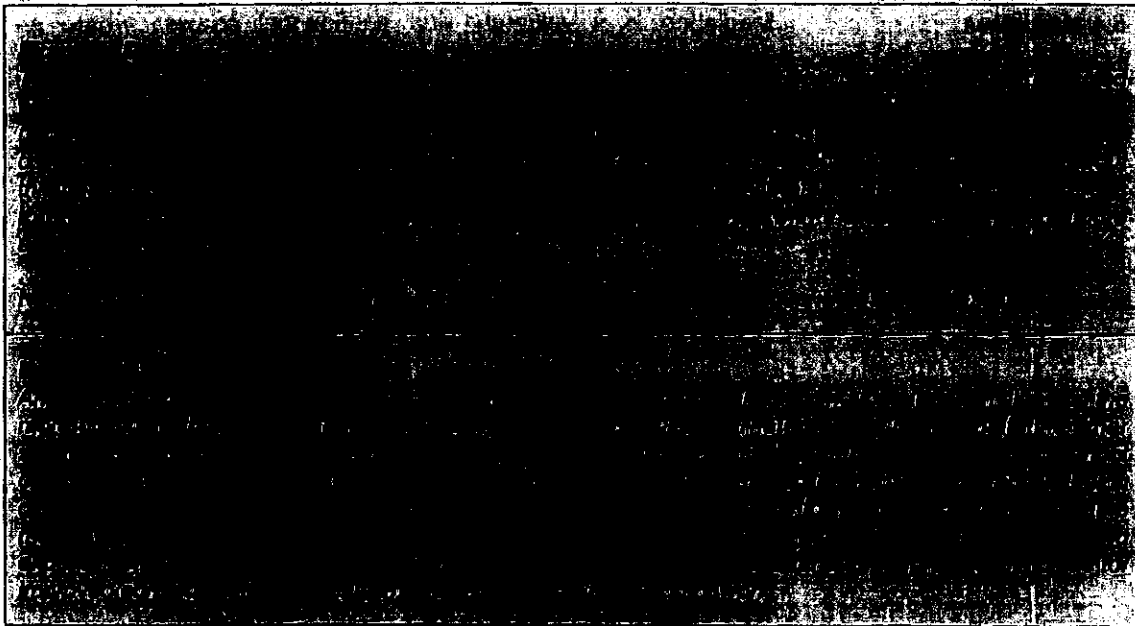
- Access to an objective and confidential mechanism for solving problems
- Supports the parties in solving their own problems and making their own decisions
- Can provide a useful option for fair, effective and speedy resolution of workplace grievances.

In addition to trained internal mediators, a number of external organisations provide mediation services, including networks of mediators that are able to provide services to rural areas.



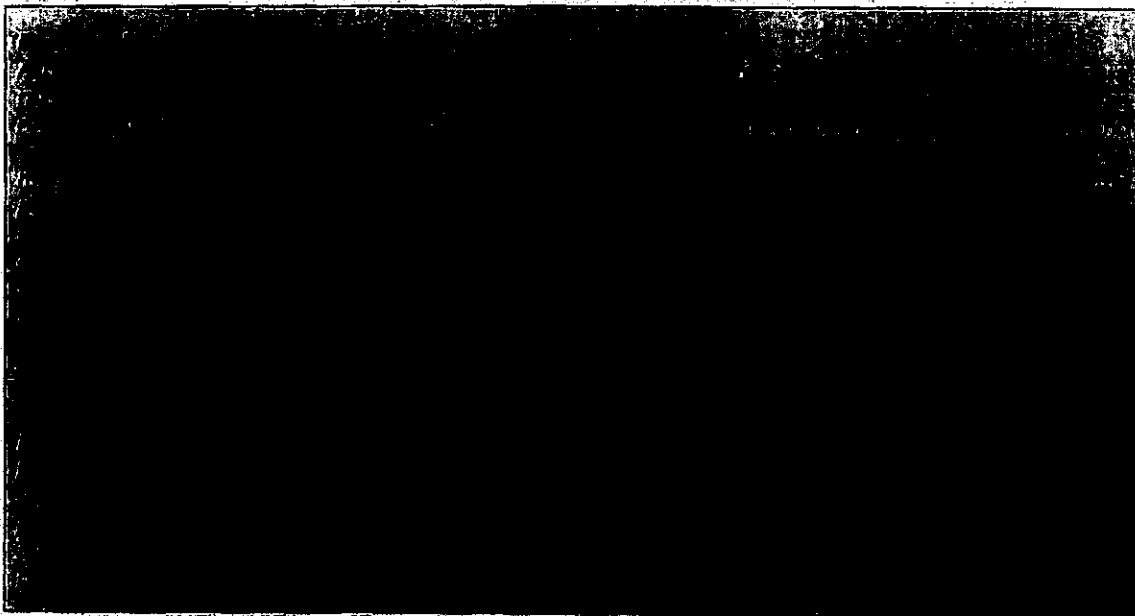
5.5 Administrative Changes

Sometimes making minor variations to administrative or work practices can provide a solution to certain types of workplace grievances.



5.6 Provision of Information and Training

On occasion, workplace grievances can arise from being unaware of certain workplace policies or procedures, and/or matters relating to cultural issues, or because of poor communications skills. Where the investigation of a grievance identifies such shortcomings, the focus should be on provision of appropriate instruction, information and training to address these issues.



5.7 A Holistic Approach

As some of the above examples suggest, the investigation of grievances can raise a number of issues. Therefore it is important that a holistic approach is taken when responding to the issues.

Example 11
 A part time employee complains to his manager that another employee who is working full time, is copying the amount of information that he is responsible for and taking it to him and basically making assumptions about what training information should be made available to him.

Because this grievance touches on a range of issues, a number of options may need to be utilised, possibly including:

- Development of clear communication protocols
- More formalised interaction between the manager and the part time employee to ensure appropriate task allocation and employee management
- Provision of information to the full time employee on equal opportunity principles
- Ensuring that the part time employee has access to all relevant workplace training and development opportunities
- Depending on the status of the relationship between the two, providing the opportunity for facilitation with the objective of improving the relationship.

5.8 Bullying, Harassment and Discrimination

Bullying, harassment and discrimination are serious workplace issues and it is important to be able to judge where a workplace grievance ends and more serious behaviour begins.

Bullying and harassment should not be managed as a workplace grievance.

For a matter to constitute bullying and/or harassment, the undesirable behaviour will generally meet the following four criteria:

1. It is repeated
2. It is unwelcome and unsolicited
3. The recipient considers the behaviour to be offensive, intimidating, humiliating or threatening
4. A reasonable person would consider the behaviour to be offensive, intimidating, humiliating or threatening.

Where the initial assessment suggests that the behaviour being complained about may be potentially serious, then the matter should not be dealt with as a workplace grievance. Detailed guidelines are currently being developed to assist public health organisations meet the requirements of NSW Health PD2005_223 *Joint Management and Employee Association Statement on Bullying, Harassment and Discrimination*.

Example 12
 An employee complains to his manager that another employee who is working full time, is copying the amount of information that he is responsible for and taking it to him and basically making assumptions about what training information should be made available to him.

Complaints like that illustrated in Example 1 need to be carefully assessed.

This grievance needs to be initially assessed very carefully, to determine whether grievance management is the most appropriate pathway to manage and resolve this situation. The person receiving the complaint should carefully consider the questions identified in section 4.7 to assist with this determination.

Even when on first glance the situation seems evident, the initial assessment must not be overlooked.

Questions of particular relevance will include:

- Frequency and severity of the incidents eg how often did they happen, what happened eg specific examples
- How long has the undesirable situation been going on eg weeks, months, years
- Impact on the employee eg is it significantly impacting on the employee, is the employee coping
- Impact on others eg are other staff members being affected by this behaviour
- History of any other similar complaints
- Potential consequences of the matter if it is not resolved eg a workers compensation claim.

This may involve seeking further information from the person raising the matter, in the first instance.

Sometimes more detailed information may be required from the complainant to help with the initial assessment.

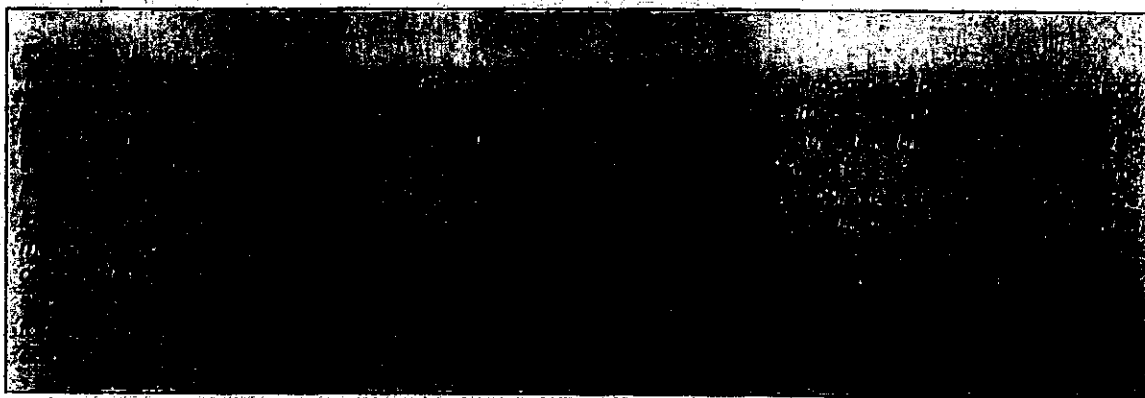
Where the resulting information suggests that the episodes have been limited to one or two recent incidents and that there is no history of similar complaints against the manager, then managing the complaint as a grievance may be appropriate.

See NSW Health PD2005_223 (Cir 2001/109) 'Joint Management and Employee Association Statement on Bullying, Harassment and Discrimination'.

However, if it appears that there have been multiple episodes over the long term of potentially significant bullying, intimidation or unfair treatment and/or there is a history of other similar complaints, then the situation should not be managed as a grievance.

A single incident of verbal abuse, if it is serious enough, with significant consequences, should not be managed as a grievance.

If the initial assessment suggests a single incident where there was a serious episode of threatening, humiliating or abusive behaviour such as the individual being abused and/or humiliated, particularly in front of others, then there may have been a serious breach of the code of conduct, and grievance management in this instance would be inappropriate.



While there may have been some suggestion of discriminatory behaviour in the above scenario, given the full circumstances, managing the matter as a grievance is appropriate. However, serious cases of discrimination should not be handled as a workplace grievance.

Example K

A supervisor manages a number of work teams, each with a specific specialisation. One of the work teams is composed entirely of Aboriginal workers, and there are also Aboriginal workers on the other teams. The supervisor has a very demanding job, and often makes decisions with the consultation with the relevant teams. The supervisor has regularly made jokes and negative comments about Aboriginality. The supervisor also speaks openly to other teams about the poor performance of the Aboriginal team and their inability to catch on to how things should be done. Even though poor work performance issues have not been raised with the Aboriginal team members, a number of the Aboriginal team members complain to the manager. In fact, the supervisor requires the members of their team to be at work by 8am, and mandatory lunch breaks, work phones must be on and ready to use. There are no such requirements for the other teams.

Work performance issues should not be managed as a grievance.

The above scenario raises a number of potentially significant issues that need to be considered as part of the initial assessment. They include the type and frequency of the behaviour and its discriminatory nature (cultural disrespect and the imposition of conditions on the Aboriginal team that are different to the non-Aboriginal teams for no apparent valid reason), its effects on those raising the complaint and possible industrial implications. There is also a suggestion that there may be work performance issues with the supervisor, if he is failing to effectively manage the performance of the team, identify training and development needs etc.

The above circumstances suggest that the seriousness of the matter falls outside of the grievance framework. Therefore the matter would be more appropriately addressed as a performance management issue, unless more serious matters emerge during that process that may potentially result in disciplinary action.

5.9 Occupational Health and Safety (OHS)

The OHS legislation in NSW requires employers to ensure, as far as practical, the health and safety of all employees. Where an employer is convicted of a breach of the legislation, this is a criminal offence. However, when initially assessing a complaint, care must be taken not to confuse workplace grievances that may have a minor OHS aspect (see Example D), with significant OHS issues.

One way of assisting in this determination is looking at the risks associated with the complaint, including implications for affected employees, and the public health organisation itself if it fails to take the appropriate action.

Example L

An employee working in a laboratory is required to decontaminate a classified hazardous substance. On donning the required personal protective equipment (PPE), the employee notes that the respirator is damaged, and he is unable to secure it properly. He is unable to locate another respirator, so notifies his supervisor that he is unable to complete the task until an appropriate respirator is available. The supervisor tells him that the substance is needed now, and instructs him to continue the task. The employee refuses, an argument ensues and the supervisor threatens the employee with disciplinary action. The employee complains to their manager.

Serious OHS issues should not be managed as grievances.

By requiring the employee to continue the task without the required PPE, the supervisor is attempting to coerce the employee into breaching safe operating procedures, when in fact the supervisor should be ensuring compliance.

See NSW Health PD2005_409 (Cir 2004/87) 'Workplace Health and Safety: Policy and Better Practice Guide'.

5.10 Using External Experts

The judicious use of external experts can assist in solving high level or complex grievances.

The supervisor is potentially placing the employee at risk of injury from inhaling the fumes, and placing the employer at risk of WorkCover regulatory activity, particularly as it is within the employee's rights to make a complaint directly to WorkCover. These are serious matters, and should be managed under performance management guidelines, or the disciplinary process if it is warranted eg if it is a repeat offence.

There may be certain circumstances where there is a need to consider using an external expert to investigate a grievance, or facilitate or mediate a solution.

While it is expected that such circumstances would not be common, it may be appropriate where:

- It is difficult to identify an internal person who is able to be impartial, or who does not have a conflict of interest, particularly in smaller facilities
- Where very senior staff are involved
- Where there is a lack of appropriately skilled personnel
- Where the situation may come under external scrutiny.

This is a high level decision for the employer to make, after considering all the relevant factors.

5.11 Review Process

An effective review mechanism assists in ensuring that the grievance management and resolution processes are fair and impartial, and can stand up to scrutiny.

The resolution of most grievances will usually be determined and managed by the appropriate manager. On occasion, some or all parties to the grievance may not be happy with the process followed and/or the outcomes of the process. Therefore, there needs to be access to a review mechanism.

The process for requesting a review should be based on the following:

- That the initial grievance management process has been completed, and findings communicated to both parties
- That review of the grievance management process is requested within a reasonable time frame eg within two weeks of its completion
- Sound reasons for requesting the review are identified. It should not be assumed that just because a party to the grievance may not accept the outcome, that there is an automatic right of review
- That, where a review is warranted, it is conducted within an identified, and reasonable, time frame
- That the review is conducted impartially by someone who was not involved in managing the initial grievance
- That the review focuses on the process followed to resolve the grievance eg was it impartial, fair, inclusive and appropriate
- That the findings of the review and their reasons are communicated in writing to the relevant parties.

5.12 Documentation

Those managing grievances need to maintain the appropriate documentation. The type of documentation and level of detail will depend on the type of grievance, whether it was managed formally, level of complexity, and those involved. This can range from a simple diary note to more detailed notes kept locally, or to dedicated files.

The level of detail will depend on the circumstances.

Documentation should include:

- Key step/s taken to manage the grievance
- Key points of information obtained when looking into the matter
- Options activated to resolve the grievance, and time frames
- Any process review.

The person doing the information gathering should keep a record of the findings and the process followed to manage and resolve the grievance.

The purpose of such documentation is to:

- Allow for a review of the management of a grievance if the review process is activated
- Provide access to relevant information if the same grievance is lodged again at a future time, or the grievance worsens despite all efforts to resolve it
- Provide information to support the organisations' actions, should the grievance end up in an external forum.

5.13 Reporting on Workplace Grievances

There needs to be a mechanism in place for employers to determine if the system is operating effectively and in a timely manner. This information should be de-identified, aggregated, high level information for its use when evaluating the effectiveness of the local system.

Reporting should be high level and de-identified.

The sort of information that should be provided includes:

- Date the grievance was first raised
- Employment groups of those involved eg cleaner, manager etc
- Number of times the grievance has been raised (is this the first time, or has the same matter come up a number of times)
- Work location (may need to go up a level if the particular work unit is small and identifying it may lead to the identity of those involved in the grievance)
- Nature of grievance (interpersonal, perceived unfair practices etc)
- Options utilised by the manager to resolve the grievance (self-resolution, mediation, facilitation, administrative changes etc)
- Timeframes
- Whether the review process was activated.

This information can be collected via a simple reporting form, and forwarded to an identified central location. A sample reporting pro forma is at Appendix 6.3.

5.14 Evaluation, Review and Continuous Improvement

As the above suggests, the grievance management system should be regularly reviewed and evaluated, usually under the auspices of the person with overall responsibility for the local grievance management system. The objective of the review is to identify any areas that need updating or improving, and to ensure that the appropriate improvements are then made to the system.

6.0 APPENDICES

6.1 Rights and Responsibilities in Grievance Management

Rights and responsibilities of all staff include:

- The right to a safe and healthy working environment
- The right to seek appropriate external support and assistance in dealing with their work related concerns, including the advice and support of their union
- Taking prompt action on work related grievances in accordance with public health organisation policy and procedures
- Not taking part in, or condoning victimisation and other inappropriate behaviour
- Taking responsibility for their own actions in the workplace, and where the actions of others are disagreeable to them, to attempt to settle matters, where appropriate, with that other person/s in the first instance
- Taking responsibility for assisting in the resolution of the grievance
- Accepting that a resolution may not always satisfy their personal wants
- Not making frivolous, malicious or vexatious complaints
- Cooperating with any grievance procedure.

Rights and responsibilities of those raising issues of concern include:

- To be provided with information regarding their rights and responsibilities
- To seek management counselling without making a formal complaint/grievance
- To withdraw from the grievance at any stage, although the complainant may be advised that management will continue to pursue the complaint if the matter is considered serious or impacts on the organisation's duty of care
- To identify desired outcomes
- To have the issues treated in a fair and impartial manner
- To be informed of all decisions and progress made which may affect them, with consideration given to the privacy of other parties
- To be given protection against any victimisation or harassment because they have raised a grievance
- To raise their grievances at an early stage and providing as much information as possible to assist in the effective resolution of the grievance
- To have a support person present at any meetings they attend relating to the grievance;
- To place comment on the file that contains the record of their involvement
- To not to make malicious, vexatious or frivolous complaints
- To have access to records of meetings which they attended to enable them to confirm that they are an accurate and true record.

Rights and responsibilities of those responding to the issues raised include:

- To be provided with information regarding their rights and responsibilities
- To be provided with protection against any vexatious or malicious complaints
- To be informed promptly of the substance of the grievance
- To be provided with sufficiently detailed information to allow them to respond to the grievance
- To have an opportunity and sufficient time to respond to the grievance
- To seek advice and management counselling
- To have the issues treated in a fair and impartial manner
- To be informed of all decisions and progress made which may affect them, including any evidence found against them, with consideration given to the privacy of other parties
- To provide as much information as possible to assist in the effective resolution of the grievance

Rights and responsibilities of those responding to the issues raised include: (continued)

- To have a support person present at any meetings they attend relating to the grievance
- To have access to records of meetings which they attended to enable them to agree that they are an accurate and true record
- To place comment on the file that contains the record of their involvement.

Supervisor/Manager rights and responsibilities include:

- To be trained in effective grievance management
- To ensure all staff are aware of their rights and know how to access the grievance resolution process
- To proactively identify and resolve, as far as practicable, causes of concern to staff members without waiting for a grievance to be raised
- To treat all workplace grievances seriously, fairly and impartially. If circumstances prevent a person from remaining impartial, the grievance should be referred to the next manager in line or another appropriate person
- To document the process undertaken to resolve a grievance
- To ensure that all documentation in their possession remains confidential and is kept in a secure place
- To ensure that each stage of the grievance is handled as expeditiously as possible
- To ensure that whilst the grievance procedures are being followed, there should be as little disruption to work as possible
- To ensure that professional interpreters are made available to people who do not speak English as their first language or who use sign language
- To make reasonable instructions in relation to work
- To protect staff members from victimisation, harassment and discrimination.

Support Person rights and responsibilities include:

- To provide support to the person they are attending the meeting with, not advocate on their behalf
- To be provided with a copy of the grievance policy and procedure
- To be a witness to the procedure undertaken
- To attend meetings with the party they are supporting, related to the grievance, unless the party no longer requires their involvement.

6.2: A Tool to Assist with Initial Assessment of Complaints Made by Staff

Staff must refer to local policies/procedures reflective of the relevant NSW Health documents. Depending on the nature and complexity of the matters raised, more than one policy may be relevant to the management of the issue, and different pathways may be followed for different aspects of the matters raised.

Nature of Complaint	Guiding NSW Health Policy Directives
Does the complaint primarily consist of a workplace matter raised by an employee that is causing them concern or distress eg interpersonal conflict, the way work is allocated or managed, a perceived unfairness in the workplace?	See NSW Health PD2005_584 Effective Workplace Grievance Resolution: Policy and Better Practice for the Department of Health and Public Health Organisations.
Does the complaint primarily relate to bullying, harassment, threatening or discriminatory behaviour?	See NSW Health PD2005_223 (Cir 2001/109) Joint Management and Employee Association Statement on Bullying, Harassment and Discrimination.
Does the complaint primarily relate to behaviour or activity that, if sustained, is likely to result in disciplinary procedures?	See NSW Health PD 2005_225 (Cir 2001/112) A Framework for Managing the Disciplinary Process in NSW Health.
Does the complaint primarily relate to a work performance issue?	See NSW Health PD2005_180 (Cir 2000/68) Managing for Performance – A Better Practice Approach.
Does the complaint primarily relate to the clinical behaviour or performance of a clinician or public health organisation?	See NSW Health publications: Guideline on the Management of a Complaint or Concern about a Clinician Model Policy on the Management of a Complaint or Concern About a Clinician. <i>Better Practice Guidelines for Frontline Complaints Handling February 1998</i>
Does the complaint primarily relate to matters that may be criminal, or may constitute corrupt conduct, maladministration or substantial waste?	See NSW Health policy directives: PD2005_ (Cir 2000/41) Reporting Possible Corrupt Conduct to the Independent Commission Against Corruption; PD2005_109 (Cir 97/80) Procedures for Recruitment and Employment of Staff and Other Persons – Vetting and Management of Allegations of Improper Conduct; PD2005_315 (Cir 2003/48) Zero Tolerance Response to Violence; PD2005_135 (Cir 98/101) Policy and Guidelines for the Development of Protected Disclosures Procedures in Health Services.
Has the complaint been lodged as a protected disclosure, as defined in the Protected Disclosures Act 1994?	See NSW Health PD2005_135 (Cir 98/101) as above.
Does the complaint primarily relate to allegations of sexual, physical or emotional abuse of a patient or client by an employee?	See NSW Health policy directives: PD2005_109 (Cir 97/80) as above. PD2005_299 (Cir2003/16) Protecting Children and Young People.
Does the complaint primarily relate to allegations of sexual, physical or emotional abuse of a child by an employee, or others?	See NSW Health PD2005_109 (Cir 97/80) as above.
Does the complaint primarily relate to a serious breach of the Code of Conduct?	See NSW Health PD2005_130 (Cir 98/79) Principals and Minimum Standards for the Development of Health Service Codes of Conduct (under review).

6.3 Sample Workplace Grievance Reporting Pro forma

1. **Date Grievance Lodged**.....
2. **Is this the first time this grievance has been lodged by either party? (please circle)**
Yes No
3. **Work Location**.....
4. **Work Category /Type**
Complainant.....
Respondent.....
5. **General Nature of the Grievance**
.....
(eg interpersonal, unfair treatment, work systems or procedures etc)
6. **Option/s Utilised to Resolve Grievance**.....
.....
(eg self resolution, administrative actions, mediation etc)
7. **Date Grievance Finalised**.....
8. **Was the complainant satisfied with the:**
 - a) **Process followed to resolve the grievance (please circle)**
Yes No
 - b) **Outcome of the grievance (please circle)**
Yes No
9. **Was the respondent satisfied with the:**
 - a) **Process followed to resolve the grievance (please circle)**
Yes No
 - b) **Outcome of the grievance (please circle)**
Yes No
10. **Was there a request for a review? (please circle)**
Yes No

Contact Person for the Grievance _____

GPSC2: AMBULANCE SERVICE INQUIRY
Question on Notice (19)

The Hon. CHRISTINE ROBERTSON to ask:

Is there psychological testing for initial recruitment? Also, what the service may think about the pros and cons of such a process.

ANSWER

The Ambulance Service of NSW uses psychometric testing for trainee paramedic mass recruitment.

These tests are conducted to assess the language, mathematical and learning ability of each applicant. The tests are able to determine the capacity of an applicant to learn new skills, adapt to new situations, demonstrate a capacity to solve problems and assess their suitability for the position.

Since 2004, the Ambulance Service has engaged the Australian Institute of Forensic Psychology (AIFP) to conduct the psychometric testing.

The benefits of psychometric testing are:

- It provides a tool which helps to evaluate applicants against the required competencies of the position;
- It looks at how a person solves problem and relates to others;
- It identifies job relevant personality traits which are critical for public safety roles such as an applicant's pattern of coping with stress, interests in carrying out various work tasks, maturity, interpersonal skills, overall judgement, intelligence and level of psychological disturbance;
- It has been reviewed by equal employment opportunity authorities in three States and was found to be fair and non-discriminatory; and
- It offers greater objectivity, reliability, and validity than interviews alone – although they should be used in conjunction with, and do not replace, interviews.

Psychometric testing is only one part of the recruitment process and results must be considered alongside responses to selection criteria, performance at interview and reference checks. Test results are not to be used as the sole determinant for a recommendation to appoint.

The objective of psychological testing is to get an accurate profile of the applicant's suitability to a particular occupation. The major disadvantage of psychometric testing is that an applicant can only sit the AIFP psychometric test once in a twelve month period – otherwise applicants 'learn' the tests and obtain an advantage over other applicants.

The Tasmanian Ambulance Service currently uses the same AIFP psychometric testing. The Queensland Ambulance Service also uses psychometric tests.

While under the current system the greater majority of paramedics selected go on to successfully complete their training, the Ambulance Service of NSW will be reviewing the effectiveness of this approach for future recruitment purposes.

GPSC2: AMBULANCE SERVICE INQUIRY
Question on Notice (20)

The Hon. MARIE FICARRA to ask:

- (1) Looking at the end of the financial year to 30 June 2008 how do ambulance officer numbers compare with those in 2007, 2006 and 2005?
- (2) I would like to know also the number of officers who have quit in the past financial year? Could you provide us with a trend over that similar period of time from 2005 to the current year ended 30 June 2008?
- (3) So, what I am asking you to provide is the number of ambulance officers, the number who have quit and the proportion?

ANSWER

(1), (2) and (3)

Data at 30 June	2005	2006	2007	2008*
Operational staff	3072	3212	3347	3417
Attrition	122	143	130	192
Attrition rate %	4.0	4.5	3.9	5.6

Average Attrition rate 4.5%

* 2008 operational staff figure is an unaudited figure.

GPSC2: AMBULANCE SERVICE INQUIRY
Question on Notice (21)

The Hon. CHRISTINE ROBERTSON to ask:

Several submissions, including the submission from the Health Services Union, have registered difficulty with the Ambulance Service being an integral component of Health. Will you please list the advantages and disadvantages of that arrangement?

ANSWER

The Ambulance Service of NSW is an integral part of the NSW health system. The Service provides pre hospital care and patients want trained clinicians providing that care.

Paramedics provide essential clinical services for the community and appropriately have medical training to do.

This approach has been supported through the recent Performance Review Ambulance Service of NSW, June 2008 where it was found that the increasing clinical focus of ambulance work and the interface with the hospital and wider health system mean that the Ambulance Service is appropriately situated within NSW Health.

The 2008 Review found that:

- ambulance services are increasingly recognised as a key component of the wider health system (page 69) and many Australian ambulance services have been moved from emergency services portfolios to health portfolios (page 90);
- greater harmonisation between the Ambulance Service and the health sector had the potential to deliver better, more cost effective patient outcomes (page 60);
- having the Chief Executive as a member of the NSW Health Executive provided opportunities for strategic and corporate input at a senior level (p 69);
- if control of the Ambulance Service is shifted from NSW Health there is much less scope to exert influence to divert non-acute patients away from the emergency department and to improve bed management in hospitals - where the provision of services is more expensive and, in many cases, to the detriment of the patient.

The Review also noted that a number of staff expressed the view that the Ambulance Service should be a separate agency with a uniformed Commissioner replacing the present position of Chief Executive. The primary advantages of this arrangement were considered by those staff to be improved budgetary autonomy and to be largely symbolic – with a uniformed Commissioner as the Chief Executive, it was considered that paramedics would aspire to more senior management and leadership roles.

The portfolio in which the Ambulance Service is located is a policy decision for Government. The Government has endorsed the 2008 Review that supports the current arrangements and recommends closer alignment between the Service and NSW Health.



GPSC2: AMBULANCE SERVICE INQUIRY

Question on Notice (22)

The Hon. ROBYN PARKER to ask:

With regard to the drugs that go out with ambulance officers that they have access to—such as morphine, et cetera, some of the necessary but quite dangerous drugs—could you provide us with details about:

- (a) protocols concerning how the drugs are recorded;
- (b) information on the distribution of the drugs;
- (c) where there have been instances of the drugs going missing, information about that and about what action has been taken;
- (d) how often that has occurred; and
- (e) whether ambulance officers have needed to be disciplined or provided with rehabilitation as a result of drug taking, and whether they return to work afterwards.

ANSWERS

While a very serious matter, drug theft, use and/or dependency is fortunately a relatively rare occurrence among the 3,700 staff (0.37% since 2003) employed by the Ambulance Service of NSW.

The Ambulance Service of NSW has Standard Operating Procedures, *Drug Management* (May 2008), for the management of Restricted and Non-Restricted drugs, which complies with the *NSW Poisons and Therapeutic Goods Regulation 2002*. The Ambulance Service is licensed by the Pharmaceutical Services Branch of NSW (PSB) under the provisions of the *Poisons and Therapeutic Goods Act* to supply by wholesale Schedule 4 and Schedule 8 drugs from the Service's store. This licensing is to ensure that the distribution of drugs to Ambulance Stations complies with the Poisons and Therapeutic Goods legislation and the TGA's Code of Good Wholesaling Practice.

A register of restricted drugs is maintained at each Ambulance Station and officers are required to account for these drugs. Entries in the register are countersigned. If an entry cannot be countersigned at the time of entry (i.e. on a small rural station where an officer is responding on-call) it must be co-signed by a second officer next time that a second officer is on duty and the stock verified against the Patient Health Care Records for that period. The administration of any drug to a patient must be recorded on the Patient Health Care Record. During a shift, officers are required to keep the drugs secure.

Any lost or stolen prescribed restricted substances (Schedule 4, Appendix-D) and drugs of addiction (Schedule 8) are processed by the Department. This includes losses of midazolam, morphine and fentanyl.

These may precipitate an investigation by the Department but the matter may also be referred to police if necessary, by either the Department or the Ambulance Service. Whether as a result of a Department investigation or whether by referral to the Department by the Ambulance Service, the drug authority of ambulance officers may be withdrawn under the provisions of the *Poisons and Therapeutic Goods Act* by the local ambulance authority or the Department. This occurs where there is evidence of misappropriation and self-administration of Schedule 8 drugs or Schedule 4, Appendix-D drugs and it imposes legal constraints on the officers concerned.

The Standard Operating Procedure requires that drug registers are checked and audited. Station Managers must conduct a weekly audit of drug stock and an audit whenever new

stock arrives. Assistant Operations Managers are required to conduct random drug stock checks and a monthly audit of Schedule 8 drugs and Schedule 4, Appendix-D drugs at each station for which they have responsibility.

Since 2003, complaints or notifications of staff experiencing drug and alcohol problems have been managed under the Ambulance Service of NSW *Policy and Procedures for Dealing with Drug and Alcohol Use by Staff*.

Since 2003, 14 staff have been managed under the *Policy and Procedures for Dealing with Drug and Alcohol Use by Staff*:

- five cases related to issues arising from restricted drugs (these personnel have possession rights withdrawn pending the successful completion of rehabilitation); and
- nine cases related to alcohol, illegal drugs or other drugs.

Under the Ambulance Service of NSW *Policy and Procedures for Dealing with Drug and Alcohol Use by Staff*, staff are encouraged to self-report drug and alcohol problems. All paramedics receive information about the policy and managing drug and alcohol issues during their first year of training. Managers are also familiar with the policy and will suggest someone self reports or make a referral to the Professional Standards and Conduct Unit.

The Service aims to support staff experiencing problems related to drug and alcohol, and the focus of the policy is on treatment and rehabilitation. Rehabilitation programs can include a combination of random urine drug screening, formal counselling as to behaviour and conduct, remedial action, disciplinary action and/or other personal professional support services.

In all cases, where there are concerns or questions about a paramedics' capacity to undertake their duties they are withdrawn from providing frontline or patient care services. Officers are returned to work following successful completion of the rehabilitation program, providing they are not being dealt with for misconduct on any other matter and there are no criminal charges pending.