

Ministerial Staff

Complaint Resolution Policy and Procedure

July 2022



Office of
the Premier

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1. Introduction

- 1.1. This complaint and dispute resolution procedure should be used where there is a concern about the behaviour or conduct of another person or persons in connection with the workplace or a general complaint relating to employment within a Ministerial Office.
- 1.2. This Policy provides managers and employees with a framework for the flexible and positive resolution of workplace issues and disputes. There are informal and formal avenues available for the effective resolution of complaints. The Premier's Office is committed to providing Ministerial Staff with a safe and confidential avenue to address any workplace related issues and complaints.

2. Purpose and application of this policy

- 2.1. This policy applies to all Ministerial Staff (**Ministerial Staff**).
- 2.2. The purpose of this policy is to outline the processes for the resolution of workplace issues and complaints raised regarding matters of discrimination, harassment, sexual harassment, bullying, occupational violence or victimisation, or any workplace related complaint. In particular, this policy deals with complaints about workplace behaviour arising under:
 - (a) the Ministerial Staff Workplace Bullying and Occupational Violence Prevention Policy;
 - (b) the Ministerial Staff Equal Opportunity, Diversity and Anti-Discrimination Policy;
 - (c) Ministerial Staff Prevention of Sexual Harassment in the Workplace Policy;
 - (d) the Ministerial Staff Code of Conduct; and/or
 - (e) any other policies, or directions given, related to conduct and behaviour by Ministerial Staff.
- 2.3. If a Ministerial Staff member has a complaint about a matter that is not related to workplace behaviour, that complaint will not be dealt with under this policy. Some complaints may be raised as a dispute in accordance with clause 33 Dispute Resolution in the Ministerial Staff Collective Agreement (Vic) 2019.

3. Complaint-handling principles

- 3.1. This policy sets out the informal complaint resolution process. A formal complaint resolution process is set out in the Ministerial Staff Misconduct Policy and Procedure.
- 3.2. In undertaking or facilitating any complaint-handling procedures under this policy:
 - (a) the principles of natural justice apply
 - (b) complaints will be handled promptly, impartially, confidentially and with appropriate sensitivity
 - (c) each complaint will be handled with appropriate flexibility so as to best resolve the complaint
 - (d) Ministerial Staff and any other party involved will be treated with respect.

4. Informal complaint resolution procedure

Modes of informal complaint resolution procedure

4.1. Informal ways of dealing with complaints of discrimination, harassment, sexual harassment, bullying, occupational violence or victimisation can include the following:

- (a) The Ministerial Staff member with a complaint deals with the situation themselves by telling the other person or persons to stop the behaviour or conduct that is unwelcome.
- (b) The Ministerial Staff member with a complaint may speak to their manager, Chief of Staff, or the General Counsel to seek guidance on resolving the matter or to request that they speak to the person that is the subject of the complaint on their behalf. The manager privately conveys the Ministerial Staff member's concerns and reiterates the policy to the other party.
- (c) The Ministerial Staff member may contact the General Counsel to discuss alternative options to resolve the matter, such as facilitated discussion, agreeing to standards of conduct and interaction, or exploring operational adjustments in the workplace.

Note: There may be circumstances where a manager or the General Counsel determines that local management and/or informal resolution is not appropriate and more formal action is required, for example, if the reported concern is sufficiently serious or presents an immediate risk to health and safety a Ministerial Office.

When is an informal complaint resolution procedure appropriate?

4.2. An informal complaint resolution procedure is usually appropriate where:

- (a) the allegations are less serious but the Ministerial Staff member subjected to the alleged conduct wants it to cease nonetheless; or
- (b) the Ministerial Staff member subjected to the alleged conduct wishes to pursue an informal resolution; or
- (c) the parties are likely to have ongoing contact with one another and the Ministerial Staff member subjected to the alleged conduct wishes to pursue an informal resolution to restore the working relationship.

4.3. An informal procedure will not be appropriate where the behaviour is, or may be, threatening or unpredictable, such as occupational violence. In these circumstances, the matter should be addressed using formal processes.

4.4. A Ministerial Staff member who witnesses or is impacted by conduct that may constitute discrimination, harassment, sexual harassment, bullying, occupational violence or victimisation may utilise the informal complaint resolution procedure under this policy.

5. Formal complaint resolution procedure

5.1. A Ministerial Staff member who feels they have been discriminated against, harassed, sexually harassed, bullied, subjected to occupational violence or victimised has the right to

formalise their complaint at any stage by making a formal complaint to their manager, Chief of Staff, the Premier's Chief of Staff or the General Counsel.

When is a formal complaint resolution procedure appropriate?

- 5.2. A formal complaint resolution procedure is usually appropriate where:
- (a) informal attempts at resolution have failed
 - (b) the Ministerial Staff member alleging discrimination, harassment, sexual harassment, bullying or occupational violence has been victimised for making a complaint or intending to make a complaint
 - (c) the complaint involves serious allegations of misconduct and informal resolution could compromise the rights of the parties
 - (d) the complaint is against a more senior Ministerial Staff member, in which case formal procedures may help to ensure that the Ministerial Staff member who feels they have been discriminated against, harassed, sexually harassed, bullied or subjected to occupational violence is not victimised, further victimised or disadvantaged
 - (e) the Ministerial Staff member alleging discrimination, harassment, sexual harassment, bullying, occupational violence or victimisation wishes to make a formal complaint from the outset
 - (f) the allegations are denied and the Ministerial Staff member who claims to have been discriminated against, harassed, sexually harassed, bullied, subjected to occupational violence or victimised wishes to proceed and investigation is required to substantiate the complaint.
- 5.3. If a formal complaint resolution procedure is appropriate, then the procedure and steps outlined in the Misconduct Policy and Procedure must be followed.

6. Unsubstantiated complaints

- 6.1. If a complaint is found to be unsubstantiated, no further action will be taken unless it is found that the complaint was made vexatiously or was knowingly false, in which case disciplinary action may be taken against the complainant.

7. Confidentiality

- 7.1. Any complaint made pursuant to this policy will be treated confidentially. To the extent possible, confidentiality will be maintained throughout the course of any complaint resolution procedure with details disclosed only to relevant parties and only to the extent necessary.

8. Protection from victimisation

- 8.1. A Ministerial Staff member who makes a complaint, or intends to make a complaint about discrimination, harassment, sexual harassment, bullying or occupational violence must not be victimised.
- 8.2. This protection extends to any Ministerial Staff member who gives evidence or information in connection with such complaint and to a Ministerial Staff member who makes an allegation of discrimination, harassment, sexual harassment, bullying or occupational violence even if no formal complaint is made.
- 8.3. If a Ministerial Staff member feels they have been victimised for bringing a complaint under this policy, they can pursue a victimisation complaint under this policy and it will be dealt with in the same manner as a complaint for harassment, sexual harassment, discrimination, bullying or occupational violence.
- 8.4. Victimisation is unlawful under Victorian and Commonwealth laws and will not be tolerated.

9. Support for Ministerial Staff

Employee Assistance Program (EAP)

- 9.1. All Ministerial Staff (and their immediate family) have access to the EAP, which provides for a limited number of counselling sessions at no cost to the employee and can be provided over the phone or face-to-face.
- 9.2. Managers and supervisors can access Manager Assist through the EAP, to help with workplace issues.
- 9.3. The EAP provider is Converge International and can be contacted on 1300 687 327.

External support

- 9.4. Complaints of discrimination and harassment can also be lodged with the Victorian Equal Opportunity and Human Rights Commission, the Victorian Civil and Administrative Tribunal and in some circumstances, WorkSafe Victoria, the Fair Work Commission, or the Australian Human Rights Commission.
- 9.5. If the complaint appears to be a criminal offence, the complainant and/or the Premier's Office may report the matter to Victoria Police.
- 9.6. Ministerial Staff may also wish to access other support services, such as The Centres Against Sexual Assault.
- 9.7. Ministerial Staff may also wish to contact their union for representation and support.

10. Further information

Related legislative and regulatory instruments

- Equal Opportunity Act 2010 (Vic)
- Ministerial Staff Collective Agreement (Vic) 2019
- Ministerial Staff Code of Conduct
- Occupational Health & Safety Act 2004 (Vic)
- Ministerial Staff Workplace Bullying and Occupational Violence Prevention Policy
- Ministerial Staff Equal Opportunity and Diversity Policy
- Ministerial Staff Occupational Health and Safety Policy

Information can also be obtained from:

Victorian Equal Opportunity and Human Rights Commission

204 Lygon Street

Carlton VIC 3053

Telephone: 1300 891 848

| Website: www.humanrightscommission.vic.gov.au

11. Policy management details

Title and version number	Ministerial Staff Complaint Resolution Policy and Procedure
Date of approval	6 July 2022
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For further information, or if you have any queries, please contact your Minister's Chief of Staff or the General Counsel.

Ministerial Staff are required to comply with the policies and procedures applicable to Ministerial Staff. Failure to do so may result in disciplinary action including termination.