



# Grievance Handling and Dispute Resolution Policy

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<b>Policy Number:</b>	ML 1.3	<b>Date:</b>	23 <sup>rd</sup> October 2018
		<b>Approved by:</b>	Chief Executive Officer
<b>Version:</b>	1/2018	<b>Scheduled review date:</b>	1 <sup>st</sup> November 2019

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## 1. Statement of Context and Purpose

- 1.1 Melbourne Legacy encourages its employees and volunteers to resolve any issues or concerns that they may have at the earliest opportunity with each other, or, failing that, their immediate manager.
- 1.2 The purpose of this policy is to provide an avenue through which employees and volunteers, and their managers, can resolve work-related complaints as they arise.

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## 2. Scope

- 2.1 This policy applies to all employees, volunteers, contractors and other authorised personnel required to perform functions on behalf of Melbourne Legacy or on its premises.
- 2.2 This policy is not intended to override or form part of the terms of any award, enterprise agreement or contract that applies to an employee, but should be considered a reasonable direction to staff. As such all employees, volunteers, contractors and other authorised personnel are expected to abide by this policy and report any suspected or known breaches of this policy.

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## 3. Related Documents

- 3.1 External Documents
  - a) Fair Work Act 2009 (Cth)
  - b) Melbourne Legacy Collective Agreement 2014
- 3.2 Internal Documents

Policies and Procedures:

  - a) Workplace Behaviours Policy
  - b) Managing Unsatisfactory Performance Policy
  - c) Performance Review and Appraisal Policy

#### 4. Definitions

- 4.1 **Enterprise Agreement** means the Melbourne Legacy Collective Agreement 2014.
- 4.2 **Grievance** arises out of treatment or decisions which aggrieve an employee, volunteer, contractor or other authorised personnel in their capacity as an individual performing work on behalf of Melbourne Legacy.
- 4.3 **Manager** means the person who is responsible for the supervision of employee(s) and in most cases this will be the immediate line manager.
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#### 5. What is a Grievance?

- 5.1 A workplace grievance means a problem, concern, issue or incident raised by an employee, volunteer, contractor or other authorised personnel, who believes he or she is the subject of unreasonable treatment from the organisation or another person(s) in the workplace.
- 5.2 Examples may include, but are not limited to, interpersonal conflict between colleagues, the way work is allocated or managed, the physical workplace environment, application of management policies or perceived unfairness in the workplace.
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#### 6. Responsibilities

- 6.1 Managers and Supervisors are responsible for:
- (a) Ensuring all direct reports are aware of and understand this policy and their responsibilities;
  - (b) Dealing with all grievances, complaints or queries effectively;
  - (c) Ensuring direct reports are aware of the complaint procedures;
  - (d) Ensuring that as far as is reasonably practicable, that privacy is maintained;
  - (e) Following the procedures as set out in this policy;
  - (f) Obtaining information about the grievance and referring the grievance to the Deputy Chief Executive Officer so that it may be recorded on the 'Grievance Record'; and
  - (g) Decide how the grievance should be resolved and advise the participants involved of the steps to be taken towards resolving the grievance.
- 6.2 All employees, volunteers, contractors and other authorised personnel must:
- (a) Comply with ML's policies and the grievance handling process.
  - (b) Use common sense and philosophy of general respect for others as a general premise complying everyday with this policy;
  - (c) Only make complaints in good faith, and with a reasonable belief that there are grounds for the complaint;
  - (d) Not make complaints that are frivolous or vexatious;
  - (e) Cooperate with any investigation into a grievance, and with any attempt by management to resolve the complaint (for example, by participating in mediation);
  - (f) Be truthful at all times; and
  - (g) Not victimise (treat badly) anyone for making a complaint or participating in an investigation.
- 6.3 The Deputy Chief Executive Officer is responsible for:
- (a) Obtaining information about the grievance and completing the 'Grievance Record';
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- (b) Providing advice and guidance to the relevant manager in relation to the implementation of this policy;
  - (c) Assisting the manager to resolve the grievance; and
  - (d) If a breach of policy has occurred, determining the appropriate process or outcome relevant to ML's Managing Unsatisfactory Performance Policy.
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## **7. Resolving Workplace Grievances**

- 7.1 All employees, volunteers, contractors or other authorised personnel have an important role in contributing to a positive culture by working in a professional and productive manner.
- 7.2 Managers have a responsibility to create a positive culture within their teams, identify, respond to and promptly address issues when they arise.
- 7.3 Managers may deal with a range of workplace issues which are not raised as a grievance but have some of the same features. The manager may choose to use some of all of the techniques suggested for workplace grievances to resolve those issues.
- 7.4 However, when a matter is raised with the manager as a workplace grievance, and the staff member seeks for it to be dealt with under this policy, then the manager must follow the steps set out in this policy, noting that the initial assessment may identify that the matter should be dealt with under another policy, such as the Managing Unsatisfactory Performance Policy.
- 7.5 In instances of a grievance, formal and informal procedures exist to effectively and equitably resolve the complaint. The use of one over the other depends on how the employee wants to deal with the complaint, the gravity of the problem and whether the grievance involves potential legal liability.
- 7.6 Grievance Resolution Steps:
  - 7.6.1 Self-Resolution
    - (a) Grievances can generally be resolved quickly, locally and directly by the staff member who experiences or observed the issue.
    - (b) Employees, volunteers, contractors and other authorised personnel should, in the first instance, address and resolve such matters early and directly with the person they are experiencing the issue with, rather than ignore the concern. This provides the best opportunity for a positive resolution, as it focuses on maintaining and/or improving working relationships, minimises the likelihood that a minor issue will escalate into a serious one, and lessens the impact of the grievance on the operation of the team and its work.
    - (c) Where the employee, volunteer, contractor or other authorised personnel does not feel comfortable or able to resolve the matter personally, they should seek assistance from their manager. Where the grievance relates to their manager, they should discuss the matter with a more senior manager who is in a position to provide advice to them, including determining the best way of resolving the grievance themselves informally.
    - (d) An employee, volunteer, contractor or other authorised personnel considering self-resolution, may consider:

- i. Seeking support and advice from someone they feel comfortable with;
  - ii. Seeking support from the Employee Assistance Program;
  - iii. Seeking personal development (For example, training in resilience or having difficult conversations);
  - iv. Having a direct conversation with the individual with whom they are experiencing the issue of concern; or
  - v. Having a discussion with their manager about the matter (or if the grievance involves a direct manager, or more senior manager).
- (e) There are many ways an employee can try to resolve a grievance informally. They include:
- i. Talking to the person(s) involved;
  - ii. Asking a manager or supervisor for clarification of relevant policies, procedures and/or ML expectations;
  - iii. Telling the person who is offending you, and asking them to stop; and/or
  - iv. Seek support from a colleague
- (f) The desired outcome is for the grievance to be successfully resolved by the employee, volunteer, contractor or other authorised personnel in a constructive manner.
- (g) Grievances should be resolved as quickly as possible. If the issue cannot be resolved at this step, then assisted resolution may need to be considered.

#### 7.6.2 Assisted-Resolution

- (a) Where a grievance cannot be resolved at a local level between the relevant individuals, the grievance may require the involvement of a manager who can assist in resolving the matter.
- (b) An employee, volunteer, contractor or other authorised personnel should meet with their manager and advise him or her that their assistance is required to resolve a grievance. Where the immediate manager is the subject of the grievance, they should notify a more senior manager.
- (c) The relevant manager should be notified as close as possible to the issue having occurred, or within a reasonable timeframe following failure to resolve the grievance at self-resolution.
- (d) The employee should provide information relating to the grievance, including:
- i. The nature of the issue, concentrating on the facts of the situation;
  - ii. Any evidence or names of witnesses where relevant;
  - iii. Any attempts to resolve the grievance at self-resolution and the outcomes of those attempts; and
  - iv. The outcome or resolution the staff member is seeking.
- (e) All communications and steps taken towards resolving a grievance at this level must be documented in writing by either the person raising the grievance or the manager responsible for resolving it. The purpose of this documentation is to clearly describe the circumstances and severity of the grievance, and to describe the rationale for actions taken, or not taken in the circumstances.

#### 7.6.3 Resolving the Grievance

- (a) The focus of resolution should be to repair any negative impact caused by the issue or behaviour through communication, openness to others' views, cooperation and reasonableness.
  - (b) The aim is to repair the professional working relationship. Techniques used may include:
    - i. Facilitated discussion;
    - ii. Mediation;
    - iii. Observation and feedback;
    - iv. Team communication and development;
    - v. Coaching;
    - vi. Mentoring;
    - vii. Training;
    - viii. Team values or charters; and/or
    - ix. Other appropriate management action.
  - (c) The manager must confirm with the staff member (and other party to the issue) the decision in relation to resolution of the grievance. This confirmation shall be in writing.
  - (d) The desired outcome is that the grievance is successfully resolved with no further action required or resolved with ongoing monitoring to ensure the resolution is effective and sustainable.
  - (e) Where there is no resolution, the issue should be re-assessed to determine if other management responses are more appropriate in the circumstances.
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## **8. Assessing the Grievance**

- 8.1 When a manager receives notification of a grievance, they must assess and determine the nature and severity of the concerns raised within the grievance and whether the issue should be managed according to this policy or others.
- 8.2 The manager should consider:
  - (a) What is the nature and severity of the grievance?
  - (b) How often has the behaviour or issue occurred?
  - (c) How long has the behaviour or issue been going on?
  - (d) How long has it been since the alleged incident(s) took place?
  - (e) How many people are involved?
  - (f) What are the roles, responsibilities and relationships of those involved?
  - (g) How is the behaviour or issue impacting on those involved?
  - (h) Has the same matter been raised before?
  - (i) What action, if any, have already been taken?
  - (j) What resolution is the aggrieved party seeking?
- 8.3 Managers should also carefully consider whether they are the appropriate person to manage the grievance. For example, if they are unable to be objective or impartial, or may be perceived as such. If they are unable to manage this grievance, they should seek guidance from the Deputy Chief Executive Officer.
- 8.4 If the employee has not considered self-resolution, the manager should advise the employee accordingly, and encourage them to explore self-resolution options to resolve their grievance.

- 8.5 Where it is determined that the matter is to be managed by other processes, the manager must advise the employee, volunteer, contractor or other authorised personnel, in writing of the alternative procedures that will be followed and advising that no further action will be taken under this policy.
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## **9. Appealing the Grievance Outcome**

- 9.1 The parties directly involved in a grievance will be informed as to what actions are being taken, or not taken, when the matter is regarded as being resolved.
- 9.2 A review of an outcome can only be requested where there are grounds to do so. For example, where new information has become available that may change the outcome, or where there is an explicit deficiency in the process.
- 9.3 Where a review is appropriate, it will be undertaken by a senior manager or an external party who was not involved in the original decision. This person will consider the issues raised, along with all relevant records regarding the matter. The parties directly involved in the grievance will be advised in writing when the review is to occur and of the review outcome.
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## **10. Restoring Productive Workplace Relations**

- 10.1 Following the resolution of a grievance, the work environment, productivity and relationships may still be negatively affected. This can impact the parties involved and may also affect others in the team. It is therefore essential that action is taken to restore relationships and to promote a positive work environment.
- 10.2 Therefore, the manager is encouraged to:
- (a) Follow up with the parties involved and encourage respectful and professional interaction;
  - (b) Set and model expected standards of workplace behaviour, in accordance with ML's values and Workplace Behaviour Policy;
  - (c) Monitor the work environment, and identify and address potential issues;
  - (d) Remain open to comments and feedback from others on ways the workplace can be improved;
  - (e) Actively contribute to positive problem solving and conflict resolution.
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## **11. Dispute Settlement**

- 11.1 Where any dispute arises regarding the application of Melbourne Legacy's Enterprise Agreement, or in relation to the National Employment Standards (other than a dispute about whether an employer had reasonable business grounds under subsection 65(5) of the *Fair Work Act 2009*) or where the Enterprise Agreement expressly and additionally provides that a dispute may be referred, this policy will apply.
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## **12. Consequences of a Breach of this Policy**

- 12.1 ML emphasises the need to comply with the requirements of this policy. Breaches of this policy and its procedures may result in suspension of access to ML's information resources.
- 12.2 Any employee found to be in breach of the requirements of this policy may be subject to disciplinary action, up to and including termination of employment. Employees should refer to the Performance Management, Misconduct and Disciplinary Action Policy and Procedure.
- 12.3 Similarly, a Legatee or volunteer found to be in breach of the requirements of this policy may be subject to disciplinary action in accordance with ML's Legatee Code of Conduct.
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## **13. Policy Review**

- 13.1 ML may make changes to this Policy at any time and will inform Legatees, volunteers and staff accordingly.
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## **14. Authorisation**

Approved by Melbourne Legacy Chief Executive Officer:

**Justin Elwin**

Date: 23 / 10 / 2018

Ratified by:

**Melbourne Legacy Board of Management**

Date: 23 / 10 / 2018

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