

Conflict Resolution Policy and Procedure

1.	POLICY STATEMENT	2
1.1	Purpose	2
1.2	Scope	2
1.3	Overview	2
2.	DEFINITIONS.....	3
2.1	What is a complaint.....	4
3.	RESPONSIBILITIES	4
3.1	Responsibilities of BirdLife Australia Management	4
3.2	Responsibilities of BirdLife Australia Employees and Volunteers	4
4.	INFORMAL DISPUTE RESOLUTION	5
4.1	Speaking directly with the person	5
4.2	Mediation.....	5
5.	FORMAL DISPUTE RESOLUTION	6
5.1	Lodge a formal complaint	6
5.2	Investigation	6
5.3	Recommendation	7
5.4	Final Decision	8
5.5	Monitoring and Evaluation	8
5.6	Referral and Review	8
6.	GENERAL PROCEDURES.....	8
6.1	Criminal conduct	8
6.2	Victimisation	8
6.3	Confidentiality	8
6.4	Counter-claims	8
6.5	Equity-related complaints.....	9
6.6	Health and safety complaints	9
6.7	Workers Compensation Issues	9

1. POLICY STATEMENT

BirdLife Australia is committed to providing staff and volunteers with a supportive work environment. All persons have a right to be treated with dignity and respect.

This policy allows BirdLife to deal with complaints from staff and volunteers about the behaviour of other members of the BirdLife family, or matters that adversely affect their ability to work productively in a positive work environment. BirdLife has a legal responsibility to ensure that staff and volunteers are not subjected to unlawful discrimination, harassment, victimisation or bullying. The complaint resolution procedure aims to resolve complaints fairly, with an emphasis on resolving conflict at the local level and improving working relations.

The policy does not reduce the rights of an individual under State and Federal law to pursue a complaint through an external agency. However, once an external agency has been engaged the external agency's process will take precedence.

1.1 Purpose

The purpose of this policy is to clearly communicate to BirdLife staff and volunteers the process for resolving workplace disputes or complaints and to have them resolved quickly, effectively and fairly.

1.2 Scope

This policy applies to all BirdLife staff and volunteers with a complaint relating to:

- Decisions, processes or actions by staff or volunteers of BirdLife. This might include issues related to workload or allocation of tasks, breaches of other BirdLife policies,
- Interpersonal conflict between members of staff and/or volunteers, or;
- Unlawful discrimination, harassment, victimisation and bullying by a BirdLife staff member or volunteer.

Where possible, this policy will also be used to deal with a complaint against a person who is not a BirdLife staff member or volunteer but who is involved in a BirdLife activity in a formal capacity.

1.3 Overview

- 1) BirdLife is committed to maintaining a fair and productive work environment. All staff and volunteers are expected to behave in a professional manner that respects the rights of others and contribute to a workplace that is free from unlawful discrimination and harassment.
- 2) BirdLife supports the right of any employee or volunteer to make a legitimate complaint without suffering any victimisation, recrimination, or detriment as a result.
- 3) Supervisors have industrial and legal responsibilities to take all reasonable steps to identify and attempt to prevent and resolve conflicts in the workplace.
- 4) Complaints will be treated promptly, confidentially and according to the principles of natural justice to establish whether the individual may legitimately be considered to be aggrieved.
- 5) Wherever possible, complaints will be resolved locally, informally and with the fewest people possible involved, to protect the reputation of the individuals involved, minimise the possibility of defamation litigation and assist the return to a productive working relationship.
- 6) Complaint resolution aims to find an outcome that minimises detriment to ongoing relationships rather than making a finding or allocating blame.

- 7) Complaints will be resolved through discussion, raising awareness, facilitation, and mediation, wherever possible. A mediator agreed between the parties, will be engaged to assist with conflict resolution if necessary. The mediator may be a BirdLife staff member or from an external organisation.
- 8) Complainants and respondents may have a support person involved at every stage of the complaints resolution process, but may not have a representative make or pursue a complaint on their behalf.
- 9) Where the complainant is not satisfied with the outcome of a formal complaint, they may seek a review of the resolution. The request for the review must be lodged within 20 days of receipt of the notification of resolution. The outcome of the review will be final.
- 10) Ill-founded complaints that are misconceived, or lack substance, will not be pursued by BirdLife management and persons found to have intentionally misled may face disciplinary or legal action.
- 11) Unlawful discrimination, harassment, victimisation or bullying can lead to disciplinary action on the grounds of misconduct, or serious misconduct. Complaints that are malicious, or intended to intimidate or harass the respondent can lead to disciplinary action against the complainant on the grounds of misconduct, or serious misconduct.

2. DEFINITIONS

Bullying includes repeated threats, verbal abuse, sarcasm, coercion and ostracism that humiliates or intimidates individuals or groups of workers (refer to the Workplace Bullying Policy for more information).

Complainant is the aggrieved person who has made a complaint.

Grievance or **complaint** is the notice of an occurrence in connection with an official BirdLife activity that a staff member or volunteer believes adversely affects their work.

Harassment is unwelcome and offensive or intimidating behaviour or comments. Harassment can include being subjected to unwelcome and offensive images

Ill-founded complaints are those deemed to be mischievous, frivolous, malicious, misconceived, lacking in substance, or containing spurious information.

Mediation is a process in which a third party (the mediator), acts as an intermediary between the opposing parties and intercedes on behalf of the other party in order to assist all parties reach a resolution.

Natural justice or **procedural fairness** includes the right to be heard, the right to be treated without bias, the right to be informed of allegations being made and provided with an opportunity to respond to them.

Resolution means an outcome to which all parties are able to agree and the resources are available to implement.

Respondent means the person against whom the complaint has been made.

Staff member includes any employee or contractor of BirdLife

Supervisor staff or volunteers who have responsibility for the management of other staff or volunteers

birds are in our nature

Unlawful discrimination involves unfair and inequitable treatment on the basis of a person's gender, sexuality, marital status, pregnancy, race, national origin, ethnic origin, disability, age, religion, trade union activity or criminal record that is irrelevant to the nature of their work (refer to the Equal Opportunity Policy for more information)

Victimisation means treating someone unfairly because they have acted on the rights given them by law, or because they have supported someone else who acted on those rights

Vilification behaviour that incites hate or contempt for individuals or groups based upon their race, religion, sexuality or gender identity (refer to the Equal Opportunity Policy for more information)

Volunteer includes any person engaged in a formal BirdLife activity and recognised as such

Workplace includes all offices, reserves and observatories in which BirdLife operates; all locations where registered BirdLife activities take place; and any geographical location where persons act on behalf of BirdLife in an official capacity.

2.1 What is a complaint?

A complaint is an expression of concern, dissatisfaction or frustration with the quality or delivery of service, a policy or procedure, or the conduct of another person.

3. RESPONSIBILITIES

3.1 Responsibilities of BirdLife Australia Management

BirdLife management and supervisors are both responsible for and expected to:

- ensure all parties are aware of their rights and know how to access the conflict resolution process
- provide confidential and timely advice and information to everyone in need
- proactively identify and resolve, as far as practicable, causes of concern to staff or volunteers without waiting for a grievance to be raised
- treat all workplace grievances seriously, fairly, impartially and confidentiality. If circumstances prevent a person from remaining impartial, the grievance should be referred to the next manager in line or another appropriate person
- document the process undertaken to resolve a conflict or grievance
- ensure that all documentation in their possession remains appropriately confidential and is kept in a secure place
- ensure that each stage of the grievance is handled promptly and professionally
- ensure that whilst the grievance procedures are being followed, there should be as little disruption to work as possible
- protect staff and volunteers, as far as is practicable, from victimisation, harassment and discrimination.

3.2 Responsibilities of BirdLife Australia Employees and Volunteers

BirdLife staff and volunteers have a responsibility to:

- recognise their role in harmonious workplace relations

birds are in our nature

- take 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
- raise matters of concern at an early stage and actively participate in the conflict resolution process
- not make malicious, vexatious or frivolous complaints
- not release information relating to a conflict to any third party who have no legitimate involvement in the process
- accept that a resolution may not always satisfy their personal wants
- cooperate with any conflict resolution procedure

4. INFORMAL DISPUTE RESOLUTION

Staff and volunteers are encouraged to try to resolve a workplace concern or concerns informally unless they believe serious misconduct or a breach of the law has occurred.

The objective of an informal approach is to resolve the matter with a minimum of conflict or distress to individuals involved.

The benefits of resolving workplace conflict informally are:

- the process is generally quick and less adversarial and cumbersome
- it does not require extensive 'proof' for a resolution to be obtained
- the other persons engaged in the conflict or dispute may wish to resolve the issue to avoid a formal process
- the process may result in improved communication between the parties
- it is easier to maintain confidentiality and ongoing working relationships.

4.1 Speaking directly with the person

Any employee or volunteer with a workplace grievance with another may first and foremost choose to speak directly with the person/s involved. Directly dealing with the person/s responsible sometimes results in the behaviour ceasing. For this approach to be successful the information must be delivered to the respondent in a confidential, non-confrontational way with a view to resolving the issue in an informal low-key manner. A good technique to use is to focus on the behaviours being exhibited by the other party. The aim is to communicate exactly what behaviours are distressing. This lessens the likelihood that the other party will take the comments as a personal attack.

If the complaint is of a sensitive nature the complainant may choose to directly speak with the manager or supervisor involved in order to obtain a timely resolution.

4.2 Mediation

Resolving complaints informally through mediation is generally more effective, requires fewer resources and often prevents further escalation of the issue while in no way trivialising the issue or the effect it has on an individual.

Interpersonal conflicts are often effectively resolved through open discussion between parties. This should be encouraged as the first step in every complaint, unless otherwise requested by the complainant.

Mediators should:

- be competent, impartial, maintain confidentiality and be acceptable to all parties
- guide discussions between the parties
- encourage parties to identify the issues in dispute and explore options for agreement
- guide the parties to negotiate and implement options for agreement
- take account of real or perceived differences in power between the parties

If a party has a significant concern about an internal resolution process it may be necessary to arrange an external mediator. Where a complaint cannot be resolved by informal means, a formal process should be followed.

5. FORMAL DISPUTE RESOLUTION

5.1 Lodge a formal complaint

Any employee or volunteer seeking to lodge a formal complaint, should notify their supervisor/manager using the BirdLife Conflict Resolution/Complaint Form. Where that person is not available, or is the alleged offender, the complainant should direct the report to another management staff member or the CEO.

The immediate supervisor or person to whom the matter has been referred is to hold a meeting with the staff member/volunteer and, at their request, a support person. This meeting is to be held where practicable within 5 working days of receipt of the formal complaint about the concern. If an informal attempt to resolve the matter has not been made, such an approach may be suggested at this stage.

Complainants must ensure that complaints are made honestly and fairly. Making untrue allegations about someone else could lead to legal action for defamation.

5.2 Investigation

Following the clarification of the complaint, the person receiving the complaint may contact the CEO for advice on how to proceed.

The objective of an investigation is to resolve the conflict or dispute which prompted the complaint. An investigation will aim to establish the facts and circumstances of the situation, and usually lead to a formal report being prepared. The manager or supervisor will generally, with the agreement of the person who raised the concern and within 2 weeks, investigate the matter and make recommendations to those involved for its resolution.

An effective investigation procedure should be:

- Planned - to ensure the investigation process is appropriate.
- Transparent - the investigation process and timeframes be outlined for all parties.
- Objective/impartial - the investigator should be unbiased and non-judgemental.

In some instances this may mean they need to be someone from outside the workplace.

birds are in our nature

Any investigation should also be in line with the principles of natural justice, which are:

- the respondent is presumed to be innocent until allegations are proved to be true
- all complaints are investigated promptly
- the respondent is informed of all the allegations and given an opportunity to explain his or her version of events
- should the complaint be proven to be true, then remedial action must be taken

The Investigation will ordinarily involve:

- 1) providing a copy of the Complaint Form, or a summary of, to the person(s) who is(are) the subject of the workplace concern (if the concern is about a named person or persons);
- 2) requesting the person(s) to provide a formal written response;
- 3) formally interviewing or obtaining statements from people who can help to ascertain the facts;
- 4) obtaining documentation that is necessary; and
- 5) identifying options for the resolution of the matter and discussing these with those involved.

If the complaint concerns a policy or procedure, for example, the investigation may consist of the manager or supervisor writing to the officer responsible for the policy or procedure, setting out the concerns and seeking a response.

An employer should always consider the merit of engaging an external specialist mediator or investigator when conducting an investigation into workplace harassment.

5.3 Recommendation

The person investigating the concern will write to the parties involved to identify the findings of the investigation and make recommendations for resolution to all those involved in the workplace concern. The preferred options for resolution may be discussed with all those involved, including a support person.

The recommendations will be in keeping with the seriousness of the matter which was the basis of the complaint. Some of the possible outcomes of a workplace complaint include:

- through the resolution process the staff member or volunteer gains a better understanding of the situation so that his/her concerns are addressed;
- one or more of the parties are directed to take certain action that the manager views as appropriate for resolution of the concerns;
- the respondent is directed to apologise to the complainant and to avoid similar conduct in the future;
- if the matter is serious, and the manager is satisfied that the conduct complained about amounts to serious misconduct, the matter may be referred for disciplinary action and such other actions by BirdLife to address the complainant's concerns.

Unless the matter is referred for disciplinary action, the recommendations for resolution should be discussed with all those involved, and the people involved provided an opportunity to submit comments or objections to the findings and recommendations, normally within 5 working days. In general, this

should be in writing. Any comments and objections received by the due date will be noted and taken into account by the person examining the complaint in making a final decision on the matter.

5.4 Final Decision

After considering any comments or objections by those involved, the manager or supervisor will make a decision on the workplace concern, including any actions that may be taken by those involved in response to the workplace concern. The decision will be communicated in writing to those involved (including a statement about the right of each party to seek an internal review).

A decision by a manager or supervisor constitutes a management direction. A failure to follow a management direction may constitute misconduct.

5.5 Monitoring and Evaluation

If the recommendations are accepted by the parties involved as resolving the concerns, the parties will continue to monitor the environment under which the concern or dispute occurred until recommendations have been implemented and evaluated. Feedback on the process will be sought from the parties to identify where any improvements can be made.

5.6 Referral and Review

The complainant has the right to refer the issue or complaint to Fair Work Australia or the respective state workplace authority for advice. Employees are encouraged to refer the matter to their manager or CEO to enable the issue to be addressed internally in the first instance. However if the complainant is not satisfied with the result they may wish to seek further external advice.

6. GENERAL PROCEDURES

6.1 Criminal conduct

If a matter involves evidence of criminal conduct, BirdLife may refer the matter to the Police or an appropriate agency. Where BirdLife receives evidence of matters that must be reported under child protection laws, the manager or supervisor receiving the complaint will immediately report such matters in accordance with BirdLife's legislative obligations. Staff should consult with the CEO on allegations of this type.

6.2 Victimisation

Any person handling a complaint should be aware of the possibility of subsequent victimisation of any of the parties. Fear of victimisation prevents many people from lodging a complaint in the first instance. All efforts should be taken by BirdLife management to ensure that victimisation does not occur.

6.3 Confidentiality

Employees and volunteers have the right to expect that their complaint will be treated confidentially. Only people directly involved in a complaint, or in resolving it, will have access to information about it.

No employee involved in an allegation or investigation will disclose the details of the issue, the investigation or the outcome to anyone who does not have a 'need to know' for purposes of resolving the complaint. If any person is found to have breached confidentiality, appropriate disciplinary action may be taken against them.

6.4 Counter-claims

A complaint may lead to counter allegations from the responding party. It is important that the initial complaint should be considered and resolution sought on the matter in its own right. This does not

preclude both the original complaint and the subsequent complaint from the respondent(s) being considered together.

6.5 Equity-related complaints

An equity-related complaint is when a staff member or volunteer believes they are being discriminated against or harassed at work because of a trait that is subject to applicable antidiscrimination legislation. Applicable legislation varies across different jurisdictions, this may include their gender (including pregnancy), sexual orientation, transgender status, race, colour, ethnic or ethno-religious background, descent or national identity, marital status, family responsibilities, disability, age, political conviction or religious belief. Because of the complex issues sometimes involved in identifying some forms of indirect discrimination and harassment, managers handling equity-related complaints or complaints with a significant equity dimension are strongly advised to consult the CEO and to request advice and assistance on legislation and policy requirements. In general, managers will continue to handle the complaint with advice and assistance from the CEO. Because of the sensitive nature of some equity-related complaints, managers should be aware that some complaint resolution options may not be appropriate, e.g. mediation of discrimination / harassment complaints.

6.6 Health and safety complaints

Health and safety concerns should be raised directly with the manager of the area concerned in the first instance. All hazards, accidents and incidents must be formally reported to the OHS Coordinator using the forms provided under BirdLife's occupational health and safety policies. A complaint may be lodged under this Policy, where the person believes that BirdLife has not adequately or appropriately addressed an occupational health and safety issue in accordance with BirdLife legislative obligations or policies. A matter that is required to be reported as a hazard, accident or incident will not be treated as a complaint under the Complaints Policy, and will be referred to the OHS Coordinator immediately.

6.7 Workers Compensation Issues

Issues about Workers Compensation and/or injury management that concern BirdLife's participation and management of an injury or illness (either compensable or non-compensable) should, in the first instance, be raised directly with the OHS Coordinator. Where the person believes that BirdLife has not adequately or appropriately addressed a concern about BirdLife's participation in and management of an illness or injury then a complaint may be raised under the Complaints Policy and this procedure. An issue that is required to be addressed by BirdLife's workers compensation insurer or the Workers Compensation Commission will not be treated as a complaint under the Complaints Policy.

MORE INFORMATION

Federal Human Rights Commission 1300 656 419

http://www.humanrights.gov.au/complaints_information/

Victoria Equal Opportunity and Human Rights Commission 1300 292 153

http://www.humanrightscommission.vic.gov.au/index.php?option=com_k2&view=item&layout=item&id=1042&Itemid=507

Fairwork Australia 13 13 94

<http://www.fairwork.gov.au/complaints/pages/default.aspx>

birds are in our nature