

Just A Farmer - INVESTIGATION POLICY

INTRODUCTION

The purpose of this policy is to outline a procedure on how investigations into bullying, discrimination, harassment, vilification and victimisation will generally be conducted once a complaint is received.

RELATED POLICIES

Discrimination and Harassment Policy
Workplace Bullying Policy

APPLICATION OF THIS POLICY

This policy applies to complaints made by workers of the Company with respect to bullying, discrimination, harassment, vilification and victimisation within Australia. Every worker must comply with this policy as amended from time to time.

This policy extends to every associated entity of the Company with the meaning of section 50AAA of the Corporations Act 2001 (Cth).

Worker and work have the same meaning as set out in the Workplace Bullying Policy and the Discrimination and Harassment Policy.

This policy does not form part of and is not incorporated into any worker's contract of employment or contract for service with the Company.

INFORMAL COMPLAINT PROCEDURE

The informal complaint procedure emphasises resolution rather than factual proof or substantiation of a complaint. It will not always be appropriate for the worker to determine whether to utilise the informal or formal complaint procedure.

In some cases, despite the worker preferring to utilise the informal complaint procedure, the Company may determine that a complaint is serious enough to warrant formal investigation. Formal investigation may be warranted where the conduct that is the subject of the complaint is of a serious enough nature that, if substantiated, would warrant disciplinary action including the dismissal of the worker.

Informal ways of dealing with complaints can include the following action:

- the individual who has been subjected to bullying, discrimination, harassment, vilification or victimisation wants to deal with the situation themselves but may seek advice on possible strategies from **Ahalya Maharaj**.
- the individual who has been subjected to bullying, discrimination, harassment, vilification or victimisation asks **Ahalya Maharaj** to speak to the alleged perpetrator/s on their behalf – **Ahalya Maharaj**, privately conveys the individuals concerns and reiterates the Company's policy to the alleged perpetrator without assessing the merits of the case;
- a complaint is made, the perpetrator admits the behaviour, investigation is not required and the complaint can be resolved through conciliation or counselling; or
- a supervisor or manager observes unacceptable conduct occurring and takes independent action even though no complaint has been made.

FORMAL COMPLAINT PROCEDURE

The worker that has been the subject of bullying, discrimination, harassment, vilification or victimisation may request, or the Company may determine, even if not requested by the worker, that a worker's complaint needs to be investigated in a formal manner. The formal complaint procedure will usually involve:

- the appointment of **Ahalya Maharaj** to investigate the allegation/s;
- application of the principles of procedural fairness - these include confidentiality (needs to know basis only), timeliness, the right to respond to allegation/s and objectivity;

- making a finding as to whether the alleged occurred, or whether it is likely it occurred on the balance of probabilities - this may not always be possible if there is insufficient evidence to substantiate the complaint;
- **Ahalya Maharaj** submitting a report with a recommended course of action to the appropriate decision-maker (senior management); and
- implementation of an appropriate outcome.

Formal procedures are usually appropriate in one or more of the following circumstances where:

- informal attempts at resolution have failed;
- the complainant alleges vilification or victimisation;
- the complaint involves serious allegations of misconduct arising from contraventions of the Discrimination and Harassment Policy or Workplace Bullying Policy and informal resolution could compromise the rights of the parties;
- the allegations are denied and the person who claims to have been the subject of bullying, discrimination, harassment, vilification or victimisation wishes to proceed and investigation is required to substantiate the complaint; or
- the person alleging they have been the subject of bullying, discrimination, harassment, vilification or victimisation wishes to make a formal complaint from the outset.

The steps involved in a formal complaint

To ensure consistency and fairness, a formal investigation into a complaint will usually involve the following steps:

1. The complainant is interviewed and the allegations are particularised in writing - this may require **Ahalya Maharaj** meeting with the complainant to go through their complaint form and obtain additional information. The complainant is welcome to have a support person present. This will normally occur within a week of receipt of the complaint form from the complainant.
2. The allegations are conveyed to the alleged perpetrator in full in writing. The alleged perpetrator may be stood down without loss of pay or transferred to another division to allow the investigation to occur. This will normally occur within a week of receipt of all necessary particulars from the complainant.
3. The alleged perpetrator is given the opportunity to respond to the allegations at a meeting in the presence of a support person. This will normally occur within 3 days of notice of the allegations being provided to the alleged perpetrator.
4. If the alleged perpetrator disputes any of the facts alleged, a further meeting with the complainant may occur and/or statements from any witnesses and other relevant evidence may be gathered.
5. Once any additional information is gathered, further meetings with the complainant and the alleged perpetrator may occur to clarify any outstanding matters not already put to them for response.
6. A finding is made, on the balance of probabilities, as to whether the allegations complaint has substance. It may not always be possible to substantiate a complaint. This will normally occur within a week of conclusion of the investigation.
7. A report documenting the investigation process, the evidence, the finding and recommended outcome(s) is submitted to the appropriate decision-maker (senior management). This will normally occur within a week of conclusion of the investigation.
8. The decision-maker implements the recommended outcome/s or decides on an alternative course of action. This will include notifying the complainant and the alleged perpetrator of the outcome of the complaint in writing. This will normally occur within a week of receipt of the investigation report.

The complainant, the alleged perpetrator and witnesses are all entitled to have a support person of their choice present for meetings throughout the process. The role of the support person is to offer support but not to act as the person's advocate.

Notes will be taken by the investigator at meetings at either at the end of the meeting or shortly thereafter, the person that was met with will be asked to review and confirm the accuracy of the notes taken.

All parties involved in the investigation process, including support persons, are required to keep all matters pertaining to the complaint including the fact of the investigation confidential which means that disclosure should be on a needs to know basis only. If you are unsure of who you can discuss a complaint or investigation with please contact **Ahalya Maharaj** .

There may be occasions, when having regard to the complexity of the facts and the seriousness of the allegations, the process takes longer or there is a departure from the process.

If the timeframes for the investigation are likely to differ greatly from those outlined above, the complainant and the alleged perpetrator will be informed of this during the course of the investigation. However, the Company will take all practicable steps to undertake and conclude investigations in a timely way and ideally, within about a fortnight and less than a month.

Outcomes

Outcomes of a formal investigation can include any combination of the following:

- counselling, coaching or mentoring;
- formal written warning;
- termination of employment (including without notice or pay in lieu of notice);
- the Company facilitating a meeting between the complainant and the alleged perpetrator to attempt to resolve the matter by direct discussion;
- developing a process for 'moving forward';
- regular monitoring of behaviour;
- further training and education;
- a commitment to changing behaviour or conduct;
- a change in working arrangements; or
- an apology.

Which outcome is most appropriate in a particular case may depend upon factors such as:

- the severity and frequency of the inappropriate conduct;
- the weight of the evidence against the alleged perpetrator;
- the wishes of the complainant (however this will not be determinative of the matter);
- if the alleged perpetrator has been given any prior warnings for the same or similar behaviour or conduct;
- training provided to the alleged perpetrator in relation to matters the subject of the Complaint.

Work arrangements

When a complaint is lodged, workers are required to continue work as normal, unless notified otherwise by the Company. For example, either the complainant or the alleged perpetrator may be stood down without loss of pay or transferred to another part of the business or a different location in order to allow the investigation to proceed fairly.

Workers have a responsibility to:

- participate in the investigation process and the implementation of this policy in good faith;
- co-operate fully in the investigation process and the implementation of this policy;
- not to make vexatious or malicious complaints; and
- maintain confidentiality as described above.

FRIVOLOUS OR VEXATIOUS COMPLAINTS

The Company encourages the reporting of behaviours that a worker genuinely believes to be bullying, discrimination, sexual harassment or harassment. Further any such worker will not be disadvantaged or treated unfairly for making a complaint.

However, if a complaint is found to be frivolous, vexatious or malicious, then disciplinary action up to dismissal may be evoked against the complainant. Examples of frivolous or vexatious complaints include but are not limited to:

fabricating a complaint;

- making a complaint for the purposes of revenge or to hurt someone;

- making trivial or petty complaints;
- seeking to re-agitate issues that have already been addressed or determined; or
- making a complaint that the complainant does not genuinely believe to be true.