

Individual employee grievances

Directive: 11/20

Effective date: 25/09/20

Supersedes: 02/17

1. Purpose

To provide principles and procedures for managing and resolving individual employee grievances.

2. Authorising provisions

This directive is made pursuant to sections 53 and 218A of the *Public Service Act 2008* (PS Act).

3. Application

- 3.1 This directive applies to public service employees as defined in the PS Act.
- 3.2 This directive applies to the following entities (each entity being an “agency” for this directive) and their employees:
 - (a) departments
 - (b) public service offices listed in Schedule 1 of the PS Act
 - (c) an entity declared to be a public service office under a regulation and where the regulation applies this directive to the entity (sections 22-23 PS Act).
- 3.3 This directive does not replace, modify or revoke any legislative requirements that apply to the management of particular types of complaints. For example corrupt conduct under the *Crime and Corruption Act 2001*, public interest disclosures under the *Public Interest Disclosure Act 2010*, or complaints under the *Human Rights Act 2019* (HR Act).
- 3.4 This directive is separate from and does not replace any grievance related provisions within the *Industrial Relations Act 2016* (IR Act) or any other relevant industrial instrument, such as a Queensland modern award.
- 3.5 Section 52 of the PS Act outlines the relationship between a directive and industrial instrument including how to deal with inconsistencies.

Directive

4. Principles

- 4.1 The Queensland Government is committed to creating positive and healthy workplace cultures, where employees, supervisors and managers:
- (a) make decisions and take actions that are fair and transparent, and take responsibility for the consequences of their decisions and actions
 - (b) question actions that are inconsistent with the [public service values](#) and [Code of Conduct for the Queensland public service](#)
 - (c) treat each other with respect independent of their status or disagreement
 - (d) listen to understand and show empathy for others
 - (e) work together to resolve issues early and as informally as possible.
- 4.2 The framework created by this directive recognises that effective grievance resolution systems form a useful mechanism through which employees and agencies can work together to create better workplaces that benefit all public service employees. The framework enables agencies to respond in a supportive way to resolve concerns raised by employees, including through the use of alternative dispute resolution (ADR) strategies.
- 4.3 Managers and supervisors are required to proactively identify workplace issues in accordance with the management principles set out in section 26(3) of the PS Act. Regardless of whether an individual employee grievance has been submitted by an employee under this directive, managers and supervisors should manage workplace issues effectively by creating a safe environment to conduct courageous and supportive conversations.
- 4.4 Under the HR Act, decision makers have an obligation to act and make decisions in a way that is compatible with human rights, and when making a decision under this directive, to give proper consideration to human rights.

5. Matters that can be the subject of an individual employee grievance

- 5.1 An individual employee grievance under this directive is a grievance submitted by a current public service employee who has an honest belief, based on reasonable grounds, that:
- (a) an administrative decision, which they are aggrieved by, is unfair and unreasonable
 - (b) the conduct or behaviour of an employee, agent or contractor is unfair and unreasonable
 - (c) the conduct or behaviour of an employee, agent or contractor constitutes bullying in the workplace, sexual harassment, racial vilification, religious vilification or vilification on the grounds of gender identity or sexuality
 - (d) the conduct or behaviour of an employee is a breach of the Code of Conduct
 - (e) an act or decision is not compatible with human rights or a decision failed to give proper consideration to a relevant human right under the HR Act.



6. Matters that cannot be the subject of an individual employee grievance

6.1 The following decisions, conduct or behaviour cannot be the subject of an individual employee grievance under this directive:

- (a) a decision by an agency under Chapter 5, Part 7 of the PS Act relating to mental and physical incapacity
- (b) a decision made under Chapter 6, Part 2 of the PS Act relating to discipline decisions
- (c) a decision relating to the recruitment or selection of a public service employee
- (d) a decision relating to a person's work performance, other than a decision about the person's work performance that is recorded in a formal way as part of a periodic performance review
- (e) a decision relating to the resolution of a grievance under an industrial instrument, other than a decision about the outcome of a grievance
- (f) a decision relating to the development or performance management of a chief executive or senior executive
- (g) a work performance matter that is the subject of an existing review of a procedural matter under section 881A of the PS Act
- (h) an investigation, suspension or discipline process that is the subject of a current internal or external review under the PS Act and relevant directive
- (i) conduct or behaviour of an employee, agent or contractor, or a decision by an agency that is already the subject of an application, or which becomes the subject of an application, by the same employee to the Queensland Industrial Relations Commission (QIRC) in relation to an alleged contravention of a workplace right under Chapter 8, Part 1 (General Protections) of the IR Act
- (j) conduct or behaviour of an employee, agent or contractor that is already the subject of a complaint, or which becomes the subject of a complaint, by the same employee to the QIRC in relation to alleged sexual harassment, racial vilification, religious vilification or vilification on the grounds of gender identity or sexuality under the Anti-Discrimination Act 1991
- (k) a decision by an agency that is the subject of an existing complaint by the same employee to the Queensland Ombudsman under the *Ombudsman Act 2001* where the Ombudsman investigates the complaint.

6.2 Under the PS Act, an employee seeking to lodge a fair treatment appeal is generally required to have used their agency individual employee grievance mechanism prior to lodging an appeal.

6.3 An employee may choose not to use their agency's complaints mechanism where they are seeking to appeal a finding by the chief executive under section 187 of the PS Act that a disciplinary ground exists for an employee. Section 195(3A)(b) of the PS Act allows the employee aggrieved by this decision to lodge a public service appeal in relation to the decision.

7. Requirement for an individual employee grievance resolution system

7.1 An agency must implement and maintain an individual employee grievance resolution system.



- 7.2 An agency's individual employee grievance resolution system must:
- (a) comply with the principles of individual employee grievance resolution in clause 4 and clause 8, and
 - (b) be supported by written policies and procedures that are readily available to employees.
- 7.3 Where an individual employee grievance is made to an agency, responsibility for managing the grievance rests with the agency, subject to any relevant legislative provisions or provisions of a directive.

8. Individual employee grievance resolution principles

- 8.1 Employees are required to ensure that individual employee grievances are submitted as soon as reasonably possible after the administrative decision, alleged conduct or alleged behaviour has occurred.
- 8.2 Individual employee grievances are to be managed and resolved using a three-step process:
- (a) local action (the first stage of the individual employee grievance process)
 - (b) internal review of a decision made following local action (the second stage of the individual employee grievance process), and
 - (c) where applicable, external review of a decision made at internal review (the third stage of the individual employee grievance process).
- 8.3 Agencies, including managers and supervisors, must manage individual employee grievances:
- (a) in accordance with principles of natural justice, including timely decisions and the provision of adequate reasons
 - (b) in a manner that protects the privacy of the employee who has submitted the grievance subject to any legal disclosure obligations, such as the requirement to provide natural justice to the subject of the grievance, and
 - (c) in accordance with the procedures in clause 9.
- 8.4 All parties to an individual employee grievance:
- (a) must engage in the individual employee grievance process in good faith, and
 - (b) be provided with regular and timely information by the decision maker in relation to the progress of the individual employee grievance.
- 8.5 To assist in the resolution of individual employee grievances an employee who submits an individual employee grievance may be:
- (a) supported by a person of their choosing, and
 - (b) represented by a union representative or member of a professional association.



9. Procedures for managing and resolving individual employee grievances

9.1 Stage 1—local action

- (a) An employee must submit their individual employee grievance in writing to the appropriate delegate in their agency. The grievance must:
 - (i) comply with the agency's individual employee grievance policy and procedures, unless the employee's grievance is made to the Commission Chief Executive (CCE) about the chief executive of an agency under clause 10, and
 - (ii) include sufficient information to enable the agency to take appropriate action, including outlining the action that the employee considers would resolve the grievance. If the individual employee grievance does not include this information, the agency can request that additional information be provided by the employee.
- (b) An individual employee grievance submitted by an employee must be resolved in accordance with the agency's individual employee grievance policy and procedures. This action may include, but is not limited to, one or more of the following:
 - (i) conducting preliminary enquiries to determine appropriate options for resolution of the individual employee grievance
 - (ii) ADR strategies, including, facilitated discussion, mediation, conciliation or negotiation
 - (iii) gathering information, including from witnesses, and/or
 - (iv) other reasonable action in the circumstances.
- (c) If the agency is reasonably satisfied that:
 - (i) an individual employee grievance is frivolous or vexatious, or
 - (ii) does not meet the relevant criteria of an individual employee grievance under clause 5, or
 - (iii) an employee has unreasonably refused to participate in local action, including ADR where appropriate, to resolve the individual employee grievance,the agency may decide to take no further action in relation to the individual employee grievance. The agency must give written reasons for its decision in accordance with clause 9.1(f).
- (d) A decision about an individual employee grievance should be made as soon as possible, but must be made within 28 calendar days of receipt of the individual employee grievance unless:
 - (i) the timeframe has been extended by mutual agreement between the parties. A party to the individual employee grievance is not to unreasonably withhold their agreement or
 - (ii) a grievance has been submitted to the CCE about a chief executive of an agency under clause 10.
- (e) Where an individual employee grievance is made about an administrative decision and the agency fails to make a decision within 28 calendar days or such longer time as has been agreed, the agency is taken to have confirmed the decision and this allows the employee to then immediately make a request for internal review.



- (f) After a decision has been made about an individual employee grievance— including a decision to take no action under clause 9.1(c)—the agency must provide a written decision to the employee who submitted the grievance. The decision must:
 - (i) outline the action taken to manage the individual employee grievance and the outcome of this action
 - (ii) provide the reasons for the decision, or the decision to take no action
 - (iii) outline any action that the agency proposes to take, or will take, as a result of the decision; and
 - (iv) inform the employee of their internal review rights outlined in Stage 2— internal review, including any relevant timeframes.

9.2 Stage 2—internal review

- (a) If an employee is dissatisfied with a decision made through local action, the employee may make a written request to the agency chief executive for an internal review.
- (b) A request for an internal review must:
 - (i) be received by the chief executive within 14 days of the employee receiving a copy of the decision made through local action or a decision is taken be made under clause 9.1(e)
 - (ii) clearly state the reasons for dissatisfaction with the decision made through local action, and not merely state a belief that the decision made through local action was unfair and unreasonable, and
 - (iii) state the action the employee believes would resolve the grievance.
- (c) Once an agency receives a request for an internal review, the agency must notify the employee in writing:
 - (i) that the request for an internal review has been received by the agency
 - (ii) of the name and contact information for a contact person for the internal review, and
 - (iii) of the 14 day timeframe for making a decision in clause 9.2(f).
- (d) An internal review is to be completed by the chief executive or their delegate. The chief executive or delegate is to determine whether the decision made through local action was fair and reasonable in the circumstances.
- (e) If the chief executive or delegate is satisfied that:
 - (i) the reasons for seeking an internal review are insufficient
 - (ii) the request for internal review is frivolous or vexatious, or
 - (iii) the employee has unreasonably refused to participate in local action to resolve the individual employee grievance

the agency may decide to take no further action in relation to the request for internal review. The agency must give written reasons for its decision in accordance with clause 9.2(h).
- (f) A decision about internal review of a decision made through local action must be made as soon as possible and within 14 days of receipt of a written request from an employee for internal review. The 14 day period commences from the date the



agency receives the request for internal review, in accordance with clause 9.2(b). This applies unless:

- (i) the timeframe has been extended by mutual agreement between the parties. A party to the individual employee grievance is not to unreasonably withhold their agreement or
 - (ii) where the chief executive or delegate can demonstrate that reasonable attempts have been made to progress the individual employee grievance.
- (g) If the chief executive or delegate fails to make a decision in relation to the request for internal review, the agency is taken to have confirmed the decision made through local action. Depending on the issues raised in the individual employee grievance, this may result in an avenue of external review being available to an employee once the 14 day period in clause 9.2(f) has expired.
- (h) At the completion of internal review, including a decision to take no further action under clause 9.2(e), the chief executive or delegate must provide a written decision to the employee. This decision must:
- (i) outline the action taken to review the decision made through local action
 - (ii) outline the reasons for the decision, or the decision to take no further action
 - (iii) outline any action that the chief executive or delegate proposes to take, or will take, as a result of the internal review, and
 - (iv) outline any avenues of external review that may be available to the employee, including any relevant timeframes.

9.3 Stage 3—external review

- (a) If the employee who made the original individual employee grievance is dissatisfied with a decision made following internal review, the employee may seek an external review. Depending on the issues raised in the grievance, the avenues for external review may include:¹
- (i) a public service appeal against a decision under a directive, a decision of the CCE under section 88IA to give a direction about the handling of a work performance matter, or a fair treatment decision, as provided for under sections 194(1)(a), 194(1)(ba) or 194(1)(eb) of the PS Act
 - (ii) notification to the QIRC of an industrial dispute under an industrial instrument
 - (iii) an application to the QIRC in relation to an alleged contravention of a workplace right under Chapter 8, Part 1 of the IR Act
 - (iv) an application to the QIRC for a stop bullying order under Chapter 7, Part 4 of the IR Act
 - (v) a complaint to the QIRC in relation to alleged sexual harassment, racial vilification or religious vilification under Chapter 7, Part 1 of the AD Act
 - (vi) a complaint to the Queensland Ombudsman under the *Ombudsman Act 2001*. Note that under section 23 of the *Ombudsman Act 2001*, the Ombudsman has a wide discretion to refuse to investigate a complaint, for example, if the

¹ Sections 425 and 449 of the IR Act preclude an employee from lodging more than one type of application to the QIRC in relation to the same decision, conduct or behaviour, except where the matter relates to bullying in the workplace.



complainant has a right of appeal or review they have not used or where the complainant has used and exhausted another type of review or appeal

- (vii) a complaint to the Queensland Human Rights Commission under section 65 of the HR Act, where the agency has not responded to an individual employee grievance about conduct affecting a relevant human right within 45 days, or where the employee considers the agency response inadequate.
- (b) However, the issues raised in an individual employee grievance may mean that the grievance is not eligible for external review under the above legislation.
- (c) Employees seeking more information about the procedures to be followed when making a public service appeal should refer to the QIRC [appeals guide](#).

10. Grievances submitted to the Commission Chief Executive about the chief executive of an agency

- 10.1 An employee may submit a grievance to the CCE about the chief executive of an agency. A grievance must be made in writing and must state the action the employee believes would resolve the individual employee grievance.
- 10.2 In making a decision about an individual employee grievance about a chief executive of an agency, the CCE is to take action in accordance with clause 9.1(b).
- 10.3 A decision about an individual employee grievance about a chief executive of an agency should be made as soon as possible, but must be made within 28 calendar days of receipt of the grievance unless:
 - (a) the timeframe has been extended by mutual agreement between the parties (a party to the individual employee grievance is not to unreasonably withhold their agreement), or
 - (b) where the CCE can demonstrate that reasonable attempts have been made to progress the grievance.
- 10.4 The CCE may decide to take no further action in relation to a grievance if the CCE is reasonably satisfied that the grievance is frivolous or vexatious, lacks substance, does not meet the relevant criteria of an individual employee grievance or an employee unreasonably refuses to participate in action to resolve the grievance.
- 10.5 After making a decision about the grievance, including a decision to take no further action, the CCE must provide a written decision to the employee who submitted the grievance. This decision must outline:
 - (a) the action taken to manage the individual employee grievance and the outcome of this action
 - (b) the reasons for the decision, or the decision to take no action
 - (c) any action that the CCE will take, or proposes to take, as a result of the decision, and
 - (d) any avenues of external review that may be available to the employee.

11. Transitional arrangements

- 11.1 Employee complaints received under superseded Directive 2/17: Managing employee complaints, are to be finalised in accordance with that directive.



12. Definitions

For the purposes of this directive:

Administrative decision means a decision made by the agency in relation to the administration of its affairs and includes the failure to make a decision within a specified timeframe where an agency is required to do so.

Agency—see application section.

Bullying in the workplace has the same meaning as defined in section 272 of the IR Act.

Employee has the same meaning as defined in section 9 of the PS Act.

Individual employee grievance is a specific grievance formally raised by an employee via an agency's individual employee grievance management system.

Individual employee grievance management system means the policy, procedures, personnel and technology used by an agency in receiving, recording, responding to and reporting on employee complaints, as defined in section 218A of the PS Act.

Fair treatment decision is a decision that an employee considers to be unfair and unreasonable, as defined in section 194(1)(eb) of the PS Act.

Gender identity has the same meaning as defined in the AD Act.

Parties to an individual employee grievance includes the person who submits the individual employee grievance and the respondent (either the agency or employee who is the subject of the individual employee grievance) to the individual employee complaint.

Personal information as defined in section 12 of the *Information Privacy Act 2009*.

Privacy means the management of personal information in accordance with the *Information Privacy Act 2009*.

Racial vilification has the same meaning as defined in the AD Act.

Religious vilification has the same meaning as defined in the AD Act.

Sexual harassment has the same meaning as defined in the AD Act.

13. Related resources and reference materials

This material does not form part of the directive but may assist in the interpretation and application of the directive and should be considered by decision makers.

- Sections 26, 46, 52, 194, 195 and 196 of the PS Act are relevant to individual employee grievances.
- Superseded version(s) of the directive: [02/17](#), 8/10
- [Find resources about managing employees](#) in the Queensland Government
- QIRC information about [public service appeals](#)
- [Role of a support person](#) in the Queensland Government

