☐ BSB50215 – DIPLOMA OF BUSINESS
☐ BSB50618 – DIPLOMA OF HUMAN RESOURCES MANAGEMENT
☐ BSB51918 – DIPLOMA OF LEADERSHIP AND MANAGEMENT

Study Support materials for

BSBWRK520 - Manage Employee Relations

STUDENT HANDOUT

BSBWRK520 Manage employee relations

ELEMENT	PERFORMANCE CRITERIA
Elements describe the essential outcomes.	*Performance criteria describe the performance needed to demonstrate achievement of the element.*
1. Develop employee and industrial relations policies and plans	1.1 Analyse strategic plans and operational plans to determine long term employee relations
	1.2 Analyse existing employee relations performance in relation to workforce objectives
	1.3 Evaluate options in terms of cost-benefit, risk-analysis and current legislative requirements
	1.4 Work with the management team to develop industrial relations policies and plans
	1.5 Identify the skills and knowledge needed by management and the workforce to effectively implement these strategies and policies
2. Implement employee relations policies and plans	2.1 Develop an implementation plan and a contingency plan for the employee relations policies and strategies
	2.2 Make arrangements for training and development for identified needs to support the employee relations plan
	2.3 Undertake associated employee relations activities to reach agreement on changes required by the organisational policies or implementation plan
	2.4 Ensure procedures for addressing grievances and conflict are properly documented
	2.5 Communicate key issues about procedures for addressing grievances and conflict to stakeholders
	2.6 Review employee relations policies and plans to establish whether they are meeting their intended outcomes

The area of employee relations covers a broad range of topics centred on the behaviour and interaction of people in the workplace. It is particularly concerned with the relationship between you, the employer, and your employees. As an employer, you are responsible for managing employee relations within your business.

Employee relations can extend to include situations where there has been a breakdown in interactions between employees, causing disputes and complaints to emerge. It is your role as an employer to have a process in place to deal with these disputes as they arise.

An initial way of being able to manage employee relations is by being approachable to employees. If employees feel comfortable in coming to you for assistance, then problems are more likely to be identified and brought to your attention earlier. The earlier that you are made aware of these issues, the easier they are to solve in most cases. You can find additional information on employee relations at the Australian Human Rights Commission website.

Maintaining good employee relations has a number of benefits for your business. It can improve communication between employees and therefore increase your productivity and efficiency. When people feel that there are good employee relations within the workplace, they are generally more likely to want to remain with the business, therefore improving staff retention.

Another important part of managing employee relations involves training and development. Staff should be made aware of their roles and responsibilities as employees. They should also be made aware of policies

regarding discrimination and harassment in the workplace. Workplace training and development is a proactive measure to prevent future disputes and therefore helps to maintain employee relations.

Workplace Policies and Procedures

The need for effective workplace policies and procedures has never been more important in today's changing workplace. This is driven by changes to legislation, regulation and codes of practice. For example the recent changes to industrial relations legislation and the move to a national system have resulted in the emergence of workplace issues of discrimination, workplace rights and unfair dismissals that should be covered by effective policies.

The Fair Work Legislation also has issues surrounding various forms of leave entitlements.

All organisations should have policies based on best employment practices and ensure they comply with the new industrial relations system and meet minimum obligations.

What is a workplace policy?

Workplace policies are statements of principles and practices dealing with the ongoing management and administration of the organisation.

Policies act as a guiding frame of reference for how the organisation deals with everything from its day-to-day operational problems or how to respond to requirements to comply with legislation, regulation and codes of practice.

It is important that policies are reasonable, that employees are aware and clearly understand what the policy is trying to achieve.

Policies are a statement of purpose, which highlight broad guidelines on action to be taken to achieve that purpose. The statement of purpose should not be more than one page in length, but this will vary depending on the policy.

Procedures explain how to perform tasks and duties. A procedure may specify who in the organisation is responsible for particular tasks and activities, or how they should carry out their duties.

Benefits of workplace policies

Well-written workplace policies:
- are consistent with the values of the organisation and employment legislation
- demonstrate that the organisation is being operated in an efficient and businesslike manner
- ensure uniformity and consistency in decision-making and operational procedures
- save time when a new problem can be handled quickly and effectively through an existing policy
- Foster stability and continuity
- maintain the direction of the organisation even during periods of change
- provide the framework for business planning
- assist in assessing performance and establishing accountability
- clarify functions and responsibilities

What policies should I have in my workplace?

The answer depends on the type of work and the business, but there are quite a few policies that every workplace should have. A Code of Conduct sets standards of ethical conduct and workplace behaviour that must be adhered to and can be added to or amended as needed. It can include issues such as personal and professional responsibilities and accountabilities in dealing with staff, colleagues and customers. It can also set standards for dress, grooming and appearance and the use of organisation's facilities and resources. Workplace policies should make reference to the possible consequences for breaches of the policy. Consequences may include an informal warning, a formal warning kept on the employee's file, or termination of employment. A disciplinary policy is essential in outlining the process the employer will follow in issuing a

warning, or in terminating employment. The disciplinary policy should clearly identify what behaviours may lead to the employee being dismissed without warning. See the Ending Employment card for more details of termination issues.

Under the Fair Work Legislation, if an employee is sick while on a period of annual leave and they take paid sick leave, that leave will be deducted from their personal/carer's leave rather than their annual leave accrual. Best employment practice dictates that these situations should be covered by an appropriate leave policy. The leave policy identifies the types of leave available and the process that must be followed to access the leave. It will also outline the evidence that is required as proof of illness or injury when claiming personal/carers leave and the circumstances that would require the evidence, for example a medical certificate as proof of personal illness or injury during a period of annual leave.

Workplace discrimination, bullying and harassment is an emerging workplace issue.

The Fair Work Legislation has provision for complaints to the Fair Work Ombudsman. Complaints are able to be investigated and in addition there is protection under state anti-discrimination legislation and human rights legislation. A good policy defines what constitutes workplace discrimination, bullying and harassment, highlights the impact that this has on the individual, the organisation and society. A good discrimination, bullying and harassment policy has defined reporting mechanisms, and is underpinned by a commitment to a safe and healthy workplace free from discrimination, bullying and harassment.

Developing policies

It is crucial to have senior management support, especially where policies relate to employee behaviour. The endorsement and modelling of the behaviour by the CEO, senior managers and supervisors will encourage staff to take the policies seriously. The following steps help to ensure that your workplace policies are successfully introduced and implemented in the workplace:

Step 1 - Planning and consultation
Involve staff in developing and implementing workplace policies to promote awareness, understanding, ownership and compliance. Staff involvement also helps to determine how and when the policies might apply, including possible scenarios.

Step 2 - Research and define policy terms
Research what a good policy looks like, see what other organisations are doing and use a variety of sources that acknowledge contemporary workplace issues.

Be explicit. Define key terms used in the policy so that employees understand what is meant. The policy should explain what acceptable and unacceptable behaviour in the workplace is. You may wish to include specific examples to illustrate problem areas or unacceptable types of behaviours. Be clear about who the policy applies to. For example, does it only apply to employees of the company or to contractors and sub-contractors engaged to perform work on business premises?

The policy may also need to contain information about what to do if it is not possible to follow the policy. For example, if you have a policy relating to punctuality, you may need to include a procedure outlining what to do if the employee is going to be late.

Example A: Occupational health and safety
No employee is to commence work, or return to work while under the influence of alcohol or drugs. A breach of this policy is grounds for disciplinary action, up to and including termination of employment

Example B: Email policy
Using the organisation's computer resources to seek out, access or send any material of offensive, obscene or defamatory nature is prohibited and may result in disciplinary action up to and including termination of employment

Step 3 - Draft policy
Policies should be written in plain English and easily understood by all employees. Consider translating the policies into appropriate languages for employees whose first language is not English. Ensure all employees understand what the policies mean. Explain how to comply with the policies and the implications of not complying. Agree on a format to be used and seek comments and feedback. Review, revise and recirculate the policy on a regular basis

<u>Step 4 - Implementation</u>
To be effective, policies need to be publicised and provided to all existing and new employees.
The policies may be explained to employees through information and training sessions, at employees meetings and during induction. Policies should also be reiterated and discussed regularly to ensure they remain relevant.

Copies of policies should be easily accessible.

Copies may be kept in folders, policy manuals and available on the organisation's intranet system.

<u>Step 5 - Compliance</u>
It is important that policies apply consistently throughout the organisation. A breach of policy should be dealt with promptly and according to the procedures set out in the policy.
The consequence of the breach should also suit the severity of the breach – whether it be a warning, disciplinary action or summary dismissal.

A termination/disciplinary policy should set out what the organisation considers to be serious, wilful or gross misconduct, for example a breach of a confidentiality policy.

Review policies regularly to ensure they are current and in line with changes within the organisation. Where policies are significantly changed they should be re-issued to staff and the changes explained to ensure staff understand the organisation's new directions. These changes should also be widely publicised.

Employee and Industrial Relations Plan

This template has been developed as a guide for developing an employee and industrial relations plan. Further assistance can be provided by the Special Purpose Vehicle Unit, within the Department of Infrastructure and Planning.

(Insert company name)

<u>Table of contents</u>
Purpose
1.1 Scope
1.2 Objectives
2 Obligations
2.1 Obligations
3 Policies
3.1 Employment conditions
3.2 Enterprise bargaining
3.3 Employee flexibility
3.4 Type of employment
3.5 Use of apprentices and trainees
3.6 Occupational health and safety
3.7 Equal employment opportunity and anti-discrimination
3.8 Joint venture/alliance projects
3.9 Management of the relationship between the SPV (and joint venture/alliances) and unions
3.10 Redundancy provisions
3.11 Job security
3.12 Contracting out
3.13 Superannuation
4 Duties and responsibilities
5 Communication resources
6 Reporting

1 Purpose
Outline the purpose of the employee and industrial relations (E&IR) plan. This should include information on E&IR principles, objectives and practices in all business endeavours.
1.1 Scope

Outline the scope of the E&IR plan. This may include: E&IR frameworks; workplace environment; roles and responsibilities in the management of E&IR; and E&IR processes (i.e. from identification of issues to treatment and reporting).

1.2 Objectives

Develop a set of objectives. Objectives may include, but are not limited to: providing equitable rights and responsibilities for all employees; preventing and eliminating discrimination in employment providing for effective, responsive and accessible support for negotiations; and resolution of industrial disputes.

2 Obligations

2.1 Obligations

Define the statutory and contractual obligations to which the Special Purpose Vehicle (SPV) must adhere.

3 Policies

Outline the E&IR policies including any performance indicators or targets.

3.1 Employment conditions

Determine significant conditions of employment, particularly those that differ from legislated standards and awards. This should also include collective/enterprise agreements. For agreements, list by title, certified agreement reference number and expiry dates.

3.2 Enterprise bargaining

Provide details of any enterprise bargaining initiatives. This information should include, but not be limited to, summary outcomes of any current collective or enterprise bargaining agreements, and how they have operated or are operating.

3.3 Employee flexibility

Detail expected work patterns and practices e.g. hours of work.

3.4 Type of employment

Outline employment figures by type i.e. number of full-time, part-time and casual employees covered by an award or industrial agreement and the number of employees employed under an employment contract.

3.5 Use of apprentices and trainees

Outline the use of apprentices and trainees.

3.6 Occupational health and safety

Outline the SPV's occupational health and safety (OH&S) policy. Guiding principles for OH&S are provided in 3.7 Occupational Health and Safety. A template for an OH&S plan is provided in 4_4_T Occupational Health and Safety Plan.

3.8 Equal employment opportunity and anti-discrimination

Provide a summary of the SPV's equal employment opportunity and anti-discrimination strategies.

3.8 Joint venture/alliance projects

Provide information on the employment relationship of staff involved in the operation of any joint venture/alliance assets.

3.9 Management of the relationship between the SPV (and joint venture/alliances) and unions

Provide a summary of the policy and practices regarding the SPV's relationship with unions e.g. details of standing or other consultative bodies or practices. This should include union relationships with alliance or joint ventures.

3.10 Redundancy provisions

Provide details of redundancy policies including: summary details of notice; severance payment; leave pay-out (e.g. pro-rata long service leave, sick leave); and outplacement/transition allowances.

3.11 Job security

Provide a summary of the SPV's position in relation to job security for employees.

3.12 Contracting out

Provide a summary of the basis for the use of contractors. Guiding principles for the engagement of contractors is provided in Engaging Contractors.

3.13 Superannuation

Provide a summary of the superannuation arrangements that apply to staff.

4 Duties and responsibilities

Provide details of the roles and responsibilities for the management of E&IR issues.

5 Communication resources

Outline how information regarding E&IR issues will be communicated. This may include: staff meetings; inductions; and training.

6 Reporting

Outline how, and to whom, E&IR issues and incidents will be reported.

The purpose of this Employee Relations Strategy is to inform managers and employees of the requirements, responsibilities and processes required for a positive employee relations environment and the achievement of sustainable business outcomes.

AN EXAMPLE OF A GRIEVANCE AND COMPLAINTS MANAGEMENT POLICY

Grievances and Complaints Management Policy

Important Note: The grievances and complaints management policy supports and guides the actions of each stakeholder that accesses the service; this not only includes children and families but also staff/carers, management and the wider community.

NCAC suggests that services seek information regarding the legislative and/or licensing obligations required when considering the development or review of the policy.

Policy Number   <number>

Link to CCQA Principles   Family Day Care Quality Assurance (FDCQA)
Quality Practices Guide (2004) – Principle 6.4 /
Outside School Hours Care Quality Assurance (OSHCQA)
Quality Practices Guide (2003) – Principle 8.2 /   Quality
Improvement and Accreditation System (QIAS)   Quality Practices Guide (2005) –
Principle 7.1

Policy statement

- The service's Grievances and Complaints Management Policy values:
    - procedural fairness and natural justice;
    - a code of ethics and conduct;
    - a service culture free from discrimination and harassment;
    - transparent policies and procedures; and
    - avenues for recourse and further investigation

- The Grievances and Complaints Management Policy ensures that all persons[1] are presented with procedures that:
    - value the opportunity to be heard;
    - promote conflict resolution;
    - encourage the development of harmonious partnerships;
    - ensure that conflicts and grievances are mediated fairly; and
    - are transparent and equitable

- <Service name> has a duty of care to ensure that all persons are provided with a high level of equity and fairness in relation to grievances and complaints management and procedures.

- In meeting the service's duty of care, management/coordination unit staff and staff/carers agree to implement and endorse the service's Grievances and Complaints Management Policy.

- The *Occupational Health and Safety Act*[2] states that employers have a duty of care to their employees to ensure that the working environment supports emotional and mental wellbeing.

- The service's Code of Ethics and Code of Conduct guides the Grievances and Complaints Management Policy and procedures.

Rationale

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[1] For the purpose of this policy, 'persons' include <children, families, staff, carers, carers' family, management, coordination unit staff, ancillary staff (administrative staff, kitchen staff, cleaners, maintenance personnel), students, volunteers, visitors, local community, school community, licensee, sponsor and/or service owner>.

[2] There are legislative Acts and regulations for each state and territory that address the issue of Occupational Health and Safety. Services are advised to seek information that is relevant to their state or territory.

The rationale represents a statement of reasons that detail why the policy and/or procedures have been developed and are important to the service.

For example, the service can identify the concepts of procedural fairness and natural justice that govern the strategies and practices adopted by the service.

Procedural fairness and natural justice
- The three core principles of natural justice or procedural fairness are:
    - the right to be heard fairly;
    - the right to an unbiased decision made by an objective decision maker; and
    - the right to have the decision based on relevant evidence
- In addition, the service can state its code of ethics or refer to its Philosophy Statement, which supports procedural fairness and natural justice concepts.

Strategies to resolve grievances and complaints

These are examples. Services are encouraged to develop and adapt the following strategies as required to meet their individual circumstances and daily best practices.

Privacy and confidentiality
- The service may decide to state its commitment to privacy and confidentiality in this section.
- The service may have a policy on privacy and confidentiality that can be linked to the Grievances and Complaints Management Policy.
- Note: there may be a requirement to disclose information to a third party when directed by legislative regulations. For example, if the complaint involves a staff member or carer, or if the nature of the complaint is about child protection issues, a government agency may need to be informed. In other circumstances, the complaint may be held in confidence with those individuals directly involved.
- This subheading may be linked to the service's Records Management Policy and procedures.

Conflict of interest
- It is important for services to understand that conflicts of interest may arise during a grievances or complaints management procedure and that a set of guidelines should be included in the policy.

- Services should outline the process involved when a conflict of interest arises, especially when it involves the individual who normally mediates grievances and complaints in the service.
- For example, if a parent voices a complaint against the manager of the service, and the manager is the individual who mediates all grievances and complaints, how does the complainant feel confident in:
    - being heard fairly; and
    - an unbiased decision making process

- In this scenario, there is a conflict of interest between the parent and the manager, which may result in an unfair mediation process. Due to the conflict of interest, it would be appropriate for an alternative mediator be nominated in this scenario.

Grievances and complaints management procedure
The following procedure is a step by step example of how grievances and complaints procedures can be facilitated by services and management.

Notification
- Document the grievance or complaint.
  Develop a set of guidelines that outline how documents are written. For example, the use of clear, precise, objective and transparent documentation and wording minimises confusion and misinterpretation.
- Consider any legal requirements in relation to the complaint.
  For example, if the complaint is related to a child protection issue, how will legislative requirements affect the service's procedures?
- Notify regulatory or licensing bodies if required.
  For example, in some states or territories the licensing authority needs to be contacted if the complaint is of a child protection nature.
- Lines of communication.

Who knows of the complaint and why? How will this affect the fairness of procedures? For example, staff may be directed not to disclose information about the complaint to other stakeholders who are not directly involved. This supports an individual's right to be heard fairly without bias and prevents other staff from forming an opinion before hearing all the facts.

- Timeframes.
  Identify the proposed timeframe from notification to resolution.

Investigation
- This section may outline how the service will investigate grievances and complaints. It can include key concepts and strategies such as:
- What are the core principles to the investigation? Is it equitable, transparent and fair?
- How will the investigation take place? For example, observations, scheduled meetings or use of an external investigator.
- How will observations be recorded?
- How will meetings be mediated and with who? For example, will the mediator be known to the individuals? Who chooses the mediator? Are there conflicts of interest between the mediator and other persons taking part in the mediation process?
- Do any external agencies need to be involved during the course of the investigation? How is this process implemented? For example, how does the service accommodate a staff member requesting a union representative after the mediation process has begun? Are there counselling opportunities for individuals involved in the mediation process?

Resolution
- How does the investigation reach a resolution?
- Is there a period of time after the mediation process and before the resolution for an individual's right of reply?
- If there are issues surrounding an individual's employment status, for example, a staff member taking leave without pay, how is this communicated to other staff and the consequence to children and families?
- Does the service develop a grievances and complaints action plan that details the resolution process?
- Is there a timeframe to readdress the resolution decision in the future with the parties involved?

Evaluation
- Does the service analyse the occurrence, frequency and nature of grievances and complaints?
- Are the outcomes consistent?
- If support agencies were involved, how effective were they? Does the service need to network with other agencies?

Applying strategies to different stakeholders

Many of the concepts and procedures under this heading may have already been addressed in the policy. However, there may be specific issues relating to grievances and complaints that the service may decide to detail.

For example, the procedure for dealing with a complaint made by a child against another child will be different to the complaint procedures between staff members. While the concepts will be similar, there may be specific procedures that accommodate a resolution specific to the relationship between stakeholders. In the example given, if the investigation is between two children, then parental consent may be sought before the mediation process can begin.

Children
What will the service do when a child makes a complaint about? :
- another child;
- staff/carers; or
- a family member or other adult
- The service may decide to address this subheading through a Guiding Children's Behaviour Policy or Child Protection Policy.

Families
What will the service do when a family member makes a complaint against? :
- a child;

- staff/carers; or
- Management/coordination unit staff.

Staff/Carers

What will the service do when a staff member or carer makes a complaint against? :
- a child;
- a family member or other adult;
- other staff/carers – services may include procedures that assist in resolving grievances between staff/carers, especially if it affects work performance or the quality of care being provided to children; or
- management/coordination unit staff

Management/Coordination unit staff

What will the service do when management makes a complaint against? :
- a family member or other adult;
- staff/carers;
- an individual involved in the management of the service, such as a committee member; or
- a member of the community.

Community

What will the service do when a community member makes a complaint against the service:
- This may include the procedures that assist in resolving grievances and complaints with members of the immediate local community. For example, services located in residential areas may need to resolve issues with neighbours concerning traffic frequency, vehicle parking and noise levels.

Dealing with the media

This section may include how the service communicates with the media when a grievance or complaint has been communicated to a media organisation and possibly exposed to the general population.

- The service may already have a policy and procedure for dealing with the media through its other policies. For example: Occupational Health and Safety, Records Management or Child Protection.

Role models

Staff/carers, students and volunteers as role models
- Children learn through example and role modelling is an important strategy to encourage children to manage conflict appropriately.
- Staff/carers, students and volunteers are encouraged to comply with the Grievances and Complaints Management Policy.
- How does the service encourage staff/carers to resolve grievances and complaints equitably and respectfully? Are there professional development and training opportunities for staff/carers to improve their conflict resolution skills?
- Staff/carers can role model to one another. Are there opportunities for staff/carers to discuss issues that consistently arise that cause conflicts of opinion? How can other staff/carers support colleagues? Do others have skills that can assist others?
- Staff/carers can role models to families. Is there any opportunity for families to address issues or conflicts of opinion in an open and secure space with other families, management and/or staff? How can the service offer opportunities to develop ongoing parenting skills and knowledge training or in-services that may assist families in expanding their understanding of child development and current caregiving best practices?
- Students offer a wealth of knowledge of up to date practices being taught in the profession, and while deserve positive role models to learn from, can also be a valuable resource for services.

Policy review

- The service will review the Grievances and Complaints Management Policy and procedures every 18 months.
- Families are encouraged to collaborate with the service to review the policy and procedures.

- Staff/carers are essential stakeholders in the policy review process and will be encouraged to be actively involved.

Procedures

The following are examples of procedures that a service may employ as part of its daily practices.
Examples:
- Documenting and reporting a grievance or complaint.
- Employee induction procedure.
- Evaluating and monitoring grievances or complaints outcomes.
- Policy development and review procedure.
- Procedure for dealing with the media.
- Procedure for handling complaints against a family member, staff/carer, student, volunteer or visitor.
- Procedure for non-compliance of the Grievances and Complaints Management Policy and procedures by a:
    - child;
    - staff/carer;
    - parent or family member;
    - student/volunteer; or
    - visitor
- Procedure for reporting to a regulatory body or external agency.
- Procedures for supporting staff/carers before and after a complaint.
- Student and volunteer induction procedure.

Measuring tools

The service may further specify tools that assist in measuring the effectiveness of the policy.

For example, the service can develop a registry of grievances and complaints detailing the occurrence, frequency, nature, mediation outcomes and final resolution of each situation.

Links to other policies

The following are a list of examples:
- Child protection
- Confidentiality and privacy
- Enrolment of new children and families to the service
- Guiding children's behaviour
- Meeting children's individual and group needs
- Occupational health and safety
- Records management
- Recruitment of new employees

Manage conflict in industrial relations

Unchecked conflicts and grievances can result increased levels of absenteeism, low worker moral, reduced levels of productivity and a higher staff turnover. To manage conflict effectively, the management team first requires the skills to identify potential grievances or conflicts.

Processes to resolve these issues must be in place and effective and it is important to have an identified person or persons within the organisation to take responsibility for managing these issues. A formal procedure must also be in place so employees know how and when to air their grievances.

Key terms

Conciliation

A process of suggesting options for a solution or paths to a solution to solving a dispute.

Grievance procedure

A formal procedure that enables employees to know when and how to air their grievances.

Mediation

A process of negotiating a mutually agreed solution between parties involved in a dispute, where the mediator is neutral and makes no proposals and provides no advice.

Procedural fairness
The process is fair.
Substantive fairness
The final decision is fair.
Workplace culture

The shared values and beliefs of the employees within a particular workplace.

Grievance procedures

Documented grievance procedures
Both Certified and Australian Workplace Agreements must contain a grievance procedure.

When preparing a grievance procedure, you must ensure that it is both procedurally and substantively fair, in order to meet the legal requirements of both the state and federal Industrial Relations Commissions.

Complaints provide a valuable opportunity to resolve potentially damaging conflicts and maintain a productive workforce. Grievances should be handled sympathetically, seriously and sensitively. A person doesn't get a fair hearing when their complaint is dismissed as trivial, time wasting or ridiculous.

Legal responsibilities

To be effective and to meet employers' legal responsibilities a grievance procedure must:
- be written down, easily understood and communicated to staff, taking into account any special requirements (e.g. put on audio cassette, video or placed on the company's website)
- be user-friendly and trusted by all parties
- state the time limit that grievances will be handled within
- state that all grievances will be handled fairly, confidentially and free of unfair repercussions
- provide a range of entry points so that everyone feels comfortable coming forward
- identify the steps to be taken, who will take them, and to solve the grievance at the lowest level possible

Grievance resolution strategies

For a grievance to be resolved, it is essential that those responsible for resolving it have the power and skills to do so. Following are some strategies to achieve this:

1. Allow all parties to the grievance access to support (eg legal representation, counselling, interpreters, union representation).
2. Set out the types of solutions which should be reached, and ensure that grievance solutions are consistent.
3. Consider only the relevant information, especially where the grievance could result in disciplinary action.
4. Specify where the records will be kept and who will have access to these.
5. Provide an internal appeal system, and provide information on external sources of advice, should the person be dissatisfied with the internal grievance procedure or resolution.

Grievance outcomes

An effective grievance procedure should allow the following outcomes:

- a peaceful method of conflict resolution to reduce industrial action and provide greater stability
- quick and effective results
- improved communications and working relationships
- employee participation and consultation in the workplace
- increased productivity and efficiency of the organisation
- resolution of problems with workplace change programs
- better emotional wellbeing, performance and morale of employees
- avoidance of the costs and delays of going to the tribunal
- natural justice for employees

Key points

Formal grievance policies must be supported by both employers and employees to be effective and must resolve grievances within a specified time period. All grievances must be taken seriously. Supervisors who are trained in this area must deal with matters in strict confidentiality.

Conflict management

It is an inevitable part of any manager's job that you will, at some time, need to resolve a conflict situation in your workplace. You may face conflict with:

- differences between employees
- laying off key employees
- challenging customers
- motivating unproductive staff
- helping employees perform at a higher level

There are a number of different ways that conflict is expressed within the workplace – it may be through the use of strikes, an increased level of absenteeism, and increased levels in staff turnover.

It becomes an important management skill to identify the potential conflict, and provide methods for the early resolution of conflict, for example, through a grievance procedure. More importantly, you need to possess the skills to manage these forms of conflict.

Conflict management skills

Conflict management skills include

- negotiating skills
- conciliation and mediation skills
- an awareness of controlling difficult situations using legal remedies
- knowledge of your own responsibilities
- who you need to notify
- The ability to work within specified time frames. When you undergo conflict management training, you need to examine issues such as:
- understanding how conflict impacts on yourself and others
- encouraging the development of effective problem solving skills
- communication skills required to address conflict
- skills to resolve a dispute in a productive way
- legal avenues available to you, should the conflict escalate (e.g. industrial disputes)

Along with a formal grievance policy, conflict management training can concentrate on providing employers with skills in conciliation and mediation. Both methods can be used to help resolve a conflict or dispute between two parties.

Conciliation

Conciliation is a skill that is used to resolve conflicts within an organisation.
The role of a conciliator is to play an active part in trying to solve the dispute, often by suggesting options for solutions or paths to a solution.

The conciliation procedure is flexible and can be as formal or informal as the situation requires. An advantage of this style of conflict resolution is that if it is successful, it should enable all parties involved to learn how to manage their relationships and solve their own problems.

Mediation

Mediators are often used when there are two or more parties involved in a high level dispute which, for example, results in legal action. The mediator's role is to help the parties to negotiate an agreed solution.

The mediator is neutral, makes no proposals and provides no advice. His or her role is to help the parties involved in the conflict talk their way through the problem and find a mutually agreed solution. This may be helpful within an organisation where employees are having problems working together or where there are claims of discrimination or harassment. These problems can be very damaging to the individuals concerned, as well as to the company, and may be legally expensive to pursue. In these instances, successful mediation offers a structured negotiation, resulting in an agreed outcome by all of those involved.
Dispute resolution procedures and external bodies

There are occasions when the organisation's dispute resolution procedure fails to resolve the grievance or conflict. In this situation, the next step is to refer the matter to the state or federal Industrial Relations Commission.

In this situation, the employee may refer, if they haven't already done so, to specialist assistance in the form of either legal or union representation.

Employers may also refer to outside specialists, including an external industrial relations expert, an employment advocate available either privately or through employer associations, or services such as conciliation available through the state and federal Industrial Relations Commission
.
Employer options under the Act

In cases on industrial action, the Australian Workplace Relations Act 1996 provides employers the following range of options:
- orders to stop or prevent industrial action
- penalties
- damages and injunctions

Orders to stop or prevent industrial action
Employers can apply to the AIRC for an order to stop or prevent industrial action. The AIRC may then make an order if there is actual or threatened industrial action in the following categories:
- an industrial dispute
- the negotiation or proposed negotiation of a Certified Agreement
- any work regulated by a federal award or Certified Agreement

Penalties

The Australian Workplace Relations Act 1996 does not allow industrial action to occur during the life of an agreement. If an industrial dispute occurs during this time, employers are able to seek either a penalty (up to $10,000 for a body corporate or $2,000 in any other case) or an injunction to stop the action.

Damages and injunctions

Employers are able to take legal action in a state/territory Supreme Court for damages or an injunction for a breach of common law, for example, for unlawful interference with their trade or business.

Before taking action in the Supreme Court, employers are required to apply to the AIRC for a certificate. The Commission must then immediately try to stop the industrial action. However, if the industrial action is continuing 72 hours after the AIRC has been notified, they will then issue employers with a certificate, which is then used in court.

Paying workers during industrial action

The Australian Workplace Relations Act 1996 states that it is illegal to pay employees during periods of industrial action.

It is also illegal for employees to accept payment during periods of industrial action, make claims (either personally or through their union) for pay during this time, or threaten further industrial action to obtain their pay.

Dismissing striking workers

It is illegal for employers to dismiss or threaten to dismiss employees for undertaking protected industrial action. In this instance it means that industrial action is allowed under certain conditions, for example, during the negotiating period of an agreement.

Should an employer dismiss an employee(s) for undertaking unprotected industrial action, for example, during the life of an agreement, the normal requirements must be met: the dismissal must not be unfair, that is, harsh, unjust, unreasonable or unlawful (i.e. dismissal for not signing an AWA).

Helpful Websites:
http://anrl.com.au/samples/NHRM604AC_S.pdf