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DISTRIBUTION	Internal	REVIEW DATE	01/04/2024

GRIEVANCE POLICY

Policy Statement

The State Archives and Records Authority (SARA) and Sydney Living Museums (SLM) are committed to providing a productive and respectful workplace free from unlawful discrimination, harassment, vilification, and victimisation.

SARA/SLM expects all its employees to act ethically and treat others with respect and courtesy.

Objectives

The purpose of this policy is to:

- provide a process for SARA/SLM to manage grievances
- ensure that SARA/SLM employees and contractors understand that inappropriate, unacceptable, unethical, and unlawful conduct will not be tolerated under any circumstances and that appropriate action will be taken against a person who engages in such conduct.
- Provide a clear process for the investigation of grievances

Examples of conduct that might be the subject of a grievance within the scope of this policy include:

- Conduct in breach of the Code of Conduct
- Conduct in breach of the Bullying and Harassment Free Workplace Policy including bullying, sexual harassment or discrimination, or other forms of unlawful discrimination
- Conduct in breach of relevant legislation such as the Work Health and Safety Act 2011 (NSW), the Government Sector Employment Act 2013 (NSW) or associated Regulations or Rules
- Taking any detrimental action (within the meaning of the Public Interest Disclosures Act 1994 (NSW)) against a person that is substantially in reprisal for the person making a public interest disclosure within the meaning of that Act
- A conviction or finding of guilt for a serious offence

These are examples of misconduct only and not intended to be a definitive list.

Scope

This policy applies to any anyone carrying out work for SARA/SLM in any capacity or are undertaking a business activity at any of our sites including any out-of-hours activity that has a relevant connection with SARA/SLM business or undertakings.

This includes:

- ongoing employees
- casual employees
- temporary employees
- volunteers
- contingent/labour hire staff
- contractors/consultants

The Head of People & Culture is responsible for monitoring and evaluating the implementation and effectiveness of this policy and for reviewing this policy as required.

Responsibilities

The following matrix sets out how stakeholders in the organisation will fulfil this commitment.

Stakeholder	Responsibilities
SARA/SLM employees, contractors, and consultants	• Be familiar and comply with this policy • Report all instances of breaches of SARA/SLM policy or procedure, unethical and unlawful behaviour, and misconduct to a manager or People and Culture representative. • If necessary, take advice from People and Culture about what is covered by this policy.
The Complainant	• Comply with this policy. • Be honest and truthful about the circumstances of the grievance. • Be aware that all grievances are treated as allegations until they have been substantiated. • Ensure that confidentiality is maintained over the investigation and the detail of the investigation.
The Respondent	• Comply with this policy. • Be honest and truthful about the circumstances of the grievances. • Be aware that all grievances are treated as allegations until they have been substantiated. • Ensure that confidentiality is maintained over the investigation and the detail of the investigation.
The Supervisor/Manager	• Be available to receive a grievances if a Complainant wants to make one. • Inform the relevant People and Culture representative of any grievances received under this policy. • Ensure as far as possible that confidentiality is maintained over the investigation and the detail of the investigation. • Take all reasonable steps to ensure that the Complainant, Respondent, and potential witnesses are protected from potential victimisation or retribution by providing safe and appropriate work arrangements during and after the grievance process and refer matters to their manager or People and Culture representative if such efforts are unsuccessful for any reason.
Senior Managers	• Be available to receive a grievance in the event a Complainant wants to make one. • Ensure as far as possible that all employees are well-informed about this policy so that they can actively comply with it.

	• Seek assistance from People and Culture to manage grievances made under this policy. • Ensure as far as possible that confidentiality is maintained. • Keep relevant Board members informed of the status and action being taken in relation to grievance investigations, if applicable.
Investigator	• Seek assistance from relevant personnel to conduct an investigation in accordance with this policy. • Ensure as far as possible that confidentiality is maintained during the investigation. • Keep senior management informed of the status and action being taken in relation to grievance investigations.

Key Principles

An employee may make raise a grievance about a matter falling within the scope of this policy to their immediate supervisor, manager, or a People and Culture representative.

Employees and witnesses will not be treated unfavourably in their employment for making a genuine grievance or participating in an investigation.

Wherever practicable and appropriate, grievances should initially be addressed within the workplace. Efforts should be made to resolve such issues before moving to the informal grievance process or the formal grievance process, as outlined below.

In some circumstances, it will not be appropriate to address an issue at a local level, for example where informal attempts to resolve a grievance have been unsuccessful or where the alleged conduct is of a serious nature. In certain circumstances, grievances and/or conduct may require reporting to an external agency or body, such as DEIT. In some limited circumstances it may be appropriate to defer or delay an investigation under this procedure to allow the processes of that external agency or body to proceed.

Employees who have a concern about possible misconduct but are not sure about the options that are available to assist them are encouraged to seek information from the People and Culture team.

There are two internal processes available to make a grievance: the informal grievance process and the formal Co grievance process. As each grievance will differ, SARA/SLM will determine the most appropriate process for dealing with the grievance. This may vary depending on the nature of the grievance. SARA/SLM will retain the discretion to treat any grievance as a formal or informal grievance.

Where SARA/SLM investigates a grievance, it will generally do so in accordance with the *SARA/SLM Grievance policy*. However, there may be circumstances where SARA/SLM or DEIT deems it appropriate or necessary to depart from this policy.

Confidentiality

All parties associated with the grievance are to maintain strict confidentiality and only discuss the grievance with those who have the responsibility for dealing with and/or those involved in the grievance. In certain circumstances SARA/SLM may be required to disclose certain information that it obtains during the grievance process to other participants and/or external agencies or bodies.

Efforts will be made to limit the disclosure of information to that which is required to ensure procedural fairness or is required by law. Disciplinary action taken as a consequence of a substantiated grievance may not be kept confidential.

An obligation of confidentiality does not stop an employee seeking advice or assistance, for example, from the Employee Assistance Program, a union representative, or a nominated support person.

Obligation to report certain forms of conduct or activity

In some instances, you may have a legal obligation to report certain forms of conduct or activity. In other instances, you may have an obligation or duty as an employee to report certain conduct to SARA/SLM. Nothing in this policy changes your legal obligations or duties.

Procedural Fairness

Before a decision is made which adversely affects the interests of a person under this policy, the person should be informed of the substance of the grievance against them and provided with an opportunity to respond.

Procedural fairness does not require that all parties be provided with:

- a copy of documents detailing the grievance; or
- a copy of any report or other documentation relating to a fact-finding inquiry or investigation

Informal Grievance Process

The focus of the informal grievance process will be on resolution rather than factual proof or substantiation of a grievance.

The informal grievance process will usually be applied to bring the Respondent's attention to conduct that the Complainant believes is unacceptable or inappropriate and should stop.

Grievances that may be appropriate to be dealt with in accordance with the informal grievance process might include, but not be limited to:

- an allegation that the Respondent has engaged in conduct that the Complainant believes would, if it were to continue, constitute workplace bullying.
- an allegation that the Respondent is treating the Complainant in a manner that would, if it were to continue, constitute harassment.
- An allegation that the Respondent is treating the Complainant in a detrimental and/or disadvantageous manner that is different to the Complainant's peers and the action is not reasonable action or implemented reasonably.

Examples of grievances that would not usually be appropriate to be dealt with in accordance with the informal grievance procedure would include allegations that the Respondent has:

- misappropriated funds or assets
- physically assaulted the Complainant or another person
- engaged in a systematic or serious breach of a SARA/SLM policy
- engaged in bribery or corruption
- a conflict of interest

A grievance may be made to the employee's manager or a People and Culture representative, depending on whom the Complainant feels comfortable approaching. Where a grievance is made to a manager, the manager should immediately notify a People and Culture representative.

Where a grievance is to be dealt with under the informal grievance process:

1. SARA/SLM will appoint a Grievance Handler to take responsibility for responding to the grievance. This person may be a supervisor, a more senior manager, or a People and Culture representative.
2. The Grievance Handler will discuss the grievance with the Complainant.
3. The Grievance Handler will discuss the grievance with the Respondent.
4. They will then seek to resolve the grievance as soon as practicable and decide on any outcomes as appropriate in the circumstances.

Formal Grievance Process

The focus of the formal grievance process is on determining whether a grievance can be substantiated and, if so, what action should be taken.

An Investigator may be appointed at the outset or during the process.

Where a grievance is to be dealt with under the formal grievance process:

1. The Complainant will be interviewed. The Complainant may be required to put the grievance in writing. Where this is not required, it is likely that the Investigator will prepare records based on what the Complainant says.
2. SARA/SLM will make an initial assessment of the grievance. It may decide not to proceed with the formal grievance process if the grievance is vexatious or trivial, does not amount to misconduct, or there is likely to be difficulty in establishing the facts.

The Respondent is informed of the grievance and actions that may be taken against him or her if the allegations are substantiated.

SARA/SLM will advise the Complainant and Respondent how it will communicate with them during the investigation in regard to:

- a. Conducting an unbiased and timely investigation of the allegations raised;
and
- b. Communicate the findings to the Complainant and the Respondent and provide a reasonable opportunity for the Respondent to respond.

Where necessary, different work arrangements may be established by SARA/SLM to ensure that the Complainant and the Respondent are provided with safe and appropriate work arrangements during the investigation process. This may include a change of duties, change in reporting lines, a change to seating arrangements, or other changes to prevent further incidents of the conduct or activity that is the subject of the grievance.

The Respondent will be interviewed or given a reasonable opportunity to respond to the grievance.

3. SARA/SLM will decide whether it will proceed with the matter and notify the Respondent of its decision. The Complainant is to be informed of any decision not to proceed with the matter.
4. Interviews with the witnesses and other persons may be carried out if appropriate. Follow-up interviews may be carried out if appropriate.

5. In investigation finding will be made which may be one of the following:
 - a. The grievance (i.e. the alleged conduct or activity) is substantiated in whole or in part, and whether any misconduct has occurred,
 - b. The grievance is not substantiated in whole or in part, or
 - c. Insufficient evidence is found to make a clear determination of the grievance or misconduct, in whole or in part.
6. SARA/SLM will advise the Respondent of the findings and proposed actions to be taken.
7. The Respondent will have a reasonable opportunity to make submissions in relation to the proposed action.
8. The findings will be explained to the Complainant.

SARA/SLM will then make a decision on actions to be taken.

Copies or extracts from documents detailing the grievance, including any report or other documentation related to a fact-find, inquiry, or investigation, will not be made available to persons other than the Complainant and the Respondent. Subject to statutory requirements and depending on the nature of the grievance, some of the above steps may be omitted or carried out in a different order as appropriate to the circumstances.

False or Vexatious Grievance

False grievances or Vexatious grievances constitute misconduct and may attract disciplinary action, including termination of employment.

External Involvement/Referral

This policy does not limit or affect:

- Any other legal obligation that SARA/SLM may have to report or refer a matter to a third party or external agency or authority as a consequence of the receipt of a grievance or as a consequence of things learnt during the course of an investigation.
- A Complainant's rights to contact a relevant external agency or authority in relation to matters that are the subject of a grievance. In certain circumstances, it may be appropriate for SARA/SLM to cease to deal with a grievance (in whole or in part) pending the outcome of an external investigation.
- SARA/SLM's right to refer certain grievance for legal advice or otherwise engage third parties to undertake investigations.

Records

Records relating to grievances and investigations will be accessed only by authorised persons as SARA/SLM considers appropriate or as required by law.

Employee Assistance Program (EAP)

Employees and their immediate family members may access free, confidential, and professional counselling assistance through the SARA/SLM Employee Assistance Program. Converge International is our provider and can be contacted on 1300 687 327 (1300 OUR EAP) or by making a booking online at <https://www.convergeinternational.com.au/cvi/about-us/make-an-eap-booking>

Legislation

This policy is consistent with and should be read in conjunction with all Agency policies and procedures related to work, health, and safety. SARA/SLM endeavours to comply with all relevant legislation and codes of practice, including:

- Government Sector Employment Act 2013 (NSW)
- Government Sector Employment (General) Rules 2014
- Public Interest Disclosures Act 1994 (NSW)
- Work Health and Safety Act 2011 (the WHS Act); and
- Work Health Safety Regulations 2011 (the WHS Regulations).

Related policies and procedures

- SARA/SLM Code of Conduct
- Breach of the Code of Conduct including Misconduct procedures
- Prevention and Management of Bullying and Harassment in the Workplace
- Other Related SARA/SLM Policies, Procedures, Directives and Guidelines

Definitions

- **Employees:** SARA/SLM ongoing, temporary, and casual employees. In this policy, Employees also include contractors and consultants who carry out work for SARA/SLM.
- **Grievance:** any alleged misconduct, breach of SARA/SLM's policies or procedures, breach of relevant legislation, regulation or codes, other inappropriate, unacceptable, unethical and/or unlawful behaviour, conduct or activities by or involving SARA/SLM employees, contractors or consultants.
- **Complainant:** the Employee who raises the grievance. There may be more than Complainant.
- **Grievance Handler:** the person appointed by SARA/SLM to take responsibility for responding to a grievance. This person may be a supervisor, a more senior manager, a People and Culture representative or another person.
- **Investigator:** the person nominated by SARA/SLM to be responsible for the grievance of the formal process of an investigation undertaken in accordance with this policy. The role may be performed by a representative of People and Culture or another person (e.g. a SARA/SLM representative or an external investigator engaged by SARA/SLM).
- **Vexatious Grievance** a grievance made in "bad faith," including any grievance that has been submitted as a tool for harassment, in retaliation for appropriate feedback and/or any other reason that is not genuinely related to the resolution of a legitimate grievance.
- **Respondent** a person who is named as the subject of a grievance. There may be more than one Respondent.

Superseded documents

- None

Revision history

Version	Date issued	Notes	By
1	01/04/2022	New policy for SARA Executive Agency.	Head of People and Culture

Review date

Reviews will be undertaken by the People and Culture Team every 2 years and more frequently if changes in legislation, policies or other Codes of Practice require amendment of this policy. The next scheduled review is due in April 2024.

Contact

If you require any additional information, contact the People & Culture team at:

humanresources@slm.com.au