



GRIEVANCE RESOLUTION FRAMEWORK

PURPOSE

The Australian Democrats is committed to providing an environment in which its members and employees can work together to achieve the Party's aims. As an important part of this, the Australian Democrats aims to prevent discrimination, harassment and bullying within the Party, and to create an accessible and effective means of resolving grievances that do arise.

The Australian Democrats aims to treat all grievances seriously, and to deal with them quickly and as fairly and confidentially as is reasonably possible. This should help to create and maintain the culture that we want, and will also help the Party, its members and representatives to meet the legal obligations that they have under discrimination and work health and safety legislation.

This document provides a framework for the processes that are likely to be used by The Australian Democrats if someone raises a grievance:

- In relation to the Code of Conduct, on Discrimination, Bullying and Harassment; or
- about other issues or disputes at the Party.

The framework is intended to complement the schedule laid out in the Constitution. It describes some options and processes which may be used by the Party to resolve grievances. These processes may be applied flexibly to suit circumstances, and other processes may be used instead. The National Executive has an absolute discretion as to how the Party will deal with a grievance.

This document should be read in conjunction with the Code of Conduct and the Constitution.

What should you do if you have a grievance?

If you think you are being treated unfairly or inappropriately in any way – including if you think that you have been unlawfully discriminated against, harassed or bullied – you should ask the person responsible for the conduct to stop as soon as possible. If you do not feel that you can do this, or it doesn't work, or the person repeats the behaviour, you should report the grievance as set out below.

If you are concerned that someone else within the function of the Party is being treated unfairly or inappropriately, you should treat the issue the same way – if you can, raise the issue with the person responsible for the conduct, or otherwise report the grievance to the Party as set out below.

The Party aims to treat all grievances with appropriate confidentiality. Accordingly, in most circumstances the grievance resolution process will be managed by only two people within the Party. However, in more serious cases or other appropriate circumstances, other National Executive members may also be involved.

Reporting a grievance

Any grievance should initially be reported in detail in writing to the National Executive Committee. The National Executive will form a suitably qualified Grievance Committee made up of no more than three people, wholly or partially sourced from within the National Executive that will manage the grievance resolution process without bias.

If the grievance involves members of the National Executive, then the grievance should initially be reported to members of the National Executive not involved in the grievance.

If, given the nature of the grievance and the parties involved, a member of the proposed Grievance Committee is considered to have a conflict of interest another member will be appointed to the Grievance Committee.

As a first step, the Grievance Committee will generally consider whether the grievance is sufficiently serious that the Party should potentially take interim action against any Member. If the Grievance Committee considers that this is appropriate, the Grievance Committee will report the grievance to the National Executive to consider what actions it might take.

In all circumstances, the Grievance Committee should report any formal findings it (or an external party the Party engages for the purpose) makes to the National Executive. The National Executive will have the final say on the formal action/s, if any, that the Party will take as a result of the grievance.

Confidentiality

The Australian Democrats will make the utmost effort to keep any grievance which is reported to it as confidential as reasonably possible.

Members must be careful with whom they discuss a grievance. It is very easy for rumours to spread, and this can impact adversely on everyone involved.

Any person who has raised a grievance, is the subject of a grievance, is involved in an investigation as a witness to a grievance or otherwise knows of the grievance must at all times, unless required as part of an investigation, keep confidential all matters relating to the grievance including:

- the fact that a grievance has been raised;
- the name of the person raising the grievance (**Complainant**);
- the name of the person/s who is the subject of the grievance (**Respondent**);
- the name of any witness/es to the grievance;
- the nature of the grievance; and
- any findings or other decisions of the Grievance Committee.

Without limiting this confidentiality obligation, grievances must not be discussed without the prior approval of the Grievance Committee.

In addition, and for the avoidance of doubt, grievances including, without limitation, their outcomes or merits, must never be disclosed to or discussed with any media outlets or journalists either directly or indirectly.

For the avoidance of doubt, this confidentiality obligation does not preclude:

- a complainant initially discussing his or her grievance in confidence with another person within the Party or an external advisor, as part of deciding whether to raise the grievance with the Party;
- any matter relating to a grievance being disclosed to the National Executive;
- the National Executive discussing a grievance to determine any appropriate formal action to be taken;
- the Grievance Committee disclosing any grievance for the purpose of an investigation or to seek legal advice;
- the Grievance Committee disclosing any disciplinary sanction taken by the National Executive as a result of a grievance; and/or
- any person disclosing any matter relating to a grievance if required to do so by law or in the context of legal proceedings.

Notwithstanding anything set out above, the National Executive has the right to waive, in part or in whole, the above confidentiality obligations if it considers it is in the interests of the Party to do so.

Willful breach of the above confidentiality obligations with respect to a grievance will constitute a breach of the Code of Conduct and may give rise to disciplinary action.

Procedure once the Grievance has been raised

After a grievance is raised, one or both members of the Grievance Committee will initially speak to the Complainant with a view to establishing the basis and details of the grievance. Once this is done, the members of the Grievance Committee will consult with each other and with the Complainant before deciding how the grievance will be managed by the Party.

There are different options for resolving grievances. A party may wish, or the Grievance Committee may decide, for a grievance to be dealt with by the Grievance Committee either informally or formally.

The Grievance Committee has an absolute discretion as to whether the Party will:

- accept and/or engage in any grievance resolution process concerning a grievance;
- engage in a formal or informal process; and/or
- engage external specialist advisors to assist it to resolve a grievance within either the

formal or informal process. This might include, for example, engaging an advisor to investigate the grievance and make findings of fact and/or law, an advisor to conciliate or mediate between the parties or an advisor to provide legal advice.

Informal resolution

Informal resolution is what happens when the people involved resolve the issues between themselves. This may involve all or one of the following:

- discussions;
- an exchange of correspondence; and/or
- a mediated meeting between the parties involved to see if the issues can be resolved between them.

Informal resolution will NOT involve the Party conducting any investigation or making a formal decision about what has happened, or what the consequences of the grievance should be.

However, the Grievance Committee may help the parties with discussions or other communications or give guidance about appropriate next steps. It may also ask its lawyers to provide advice about the grievance or bring in an external mediator to assist the parties to resolve their issues.

Formal resolution

Formal resolution processes will generally be used if it is appropriate for the Party to:

- make a formal decision about what has happened; and/or
- decide about what the consequences (if any) of the grievance should be.

It involves a formal investigation and findings of fact on the balance of probabilities. It may also involve an opinion on the legal position based on findings of fact.

A formal resolution process may be suitable if the grievance is about a very serious issue; for example if it involves:

- a potential breach of discrimination, or work health and safety legislation;
- a serious breach of the Code of Conduct;
- several people; and/or
- very serious or complex issues.

In a formal resolution process:

- the Party will appoint an independent organisation outside of the Party to investigate the grievance. The Party will not investigate of the grievance itself;
- the Party or the investigator will ask the Complainant to provide a statement about the grievance, in detail, usually in writing. It is important for this statement to be specific, clear and comprehensive, so that all relevant issues can be considered;
- the Respondent will be given details of the allegation(s) against him/her and be given a reasonable opportunity to explain his/her side of the story;
- other people (witnesses) may be interviewed;
- notes will be taken of interviews and documents may be collected;
- after considering the evidence, the investigator will make a finding in writing about the grievance on the balance of probabilities; and
- if the grievance is substantiated, the investigator may make recommendations on what action that should be taken.

There may be circumstances in which some of the steps outlined above are not appropriate and the National Executive will determine, in its absolute discretion on a case by case basis, the most appropriate method of handling the complaint.

Mediation

At any point in the process of resolving a grievance, whether informally or formally, the National Executive or the Grievance Committee may require the parties to attend a mediation.

Outcomes

The outcome of both types of grievance process may be:

- a compromise between the parties involved about the issues raised;

- a solution in which both parties benefit to some extent;
- a decision that a grievance is substantiated (correct) or unsubstantiated (incorrect);
- a decision that one of the parties has breached the Code of Conduct or another of the Party's policies;
- a public statement by the Party; and/or
- no action being taken.

Whatever the process used, the Australian Democrats will keep a record of the grievance and the outcome.

If the investigator finds that a breach of the Code of Conduct or another of the Australian Democrats' policies has occurred, or if a person has otherwise acted inappropriately, the Grievance Committee may act against that person which may include asking him or her to do one or more of the following:

- apologise to the person who made the grievance; and/or
- if appropriate, apologise to others who may have been offended by the Member's actions that led to the grievance being made; and/or
- attend training on discrimination, harassment and/or bullying.

If the inappropriate behavior is particularly serious, or the person refuses to follow the Grievance Committee's recommendations, particularly if the complaint involves allegations of discrimination, harassment, vilification or bullying or other inappropriate behaviour, then the National Executive on behalf of the Party may take whatever action it considers appropriate, including:

- if the person is an employee, taking disciplinary action up to terminating the person's employment;
- if the person is a volunteer, terminating any ongoing direct or indirect relationship with the person;
- if the person is a member:
 - suspending the person from the Party for a period of time;
 - expelling the person from the Party; or
 - taking any other action permitted by the Constitution in the circumstances.

It is unlawful to victimise a person who has made a complaint of discrimination, harassment, vilification or unlawful bullying. However, if a person lies about a complaint or makes a complaint maliciously or otherwise in bad faith, the National Executive may take whatever further action it considers appropriate, which might involve disciplinary action (including expulsion or suspension of membership) or termination of employment (in the case of an employee).