

TASMANIAN STATE SERVICE
EVALUATION REPORT 2007



**AGENCY INTERNAL GRIEVANCE
RESOLUTION SYSTEMS**



CONDUCTED BY:

THE STATE SERVICE COMMISSIONER

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COMMISSIONER'S FOREWORD

Part of my role as State Service Commissioner involves evaluating the mechanisms that Agencies have put in place to ensure compliance with the State Service Principles and Code of Conduct, and other requirements set out in the *State Service Act 2000* (the Act). To facilitate this, my Office runs an evaluation program with the aim of examining particular areas of interest within the human resource practices and procedures in place in each of the 14 State Service Agencies.

This evaluation of internal grievance resolution systems follows a major evaluation of Agency performance management systems, two complete State Service Employee Surveys and annual surveys of Agency practices and procedures. I decided to concentrate this evaluation on Agencies' internal grievance resolution systems in light of the results of the 2005 State Service Employee Survey, which revealed a low level of confidence in the internal grievance resolution systems currently in place. This is also an area which relates directly to the review function undertaken by my Office.

Under Section 34(1)(j) of the Act, Heads of Agencies are required to develop and implement internal grievance resolution systems. This is supported by Commissioner's Direction No. 7 (Review of Actions) and Commissioner's Direction No. 2 (State Service Principles). Given that there is no further legislative requirement for Agencies in terms of the structure or content of their internal grievance resolution systems, I felt that an evaluation of the current features of these systems would be the logical starting point. From the outset it was recognised that Agency internal grievance resolution systems differ, due largely to the nature of employees and grievances covered.

Agency internal grievance resolution systems have evolved over time, in some Agencies with the input of human resource specialists and in others to meet the demands of respective Agencies as they arise. I consider having an effective and efficient internal grievance resolution system to be key to maintaining a fair and transparent system of management within each Agency.

I am confident that this evaluation will be a useful tool for each State Service Agency to review the current features of their systems against those in operation in other Agencies. This is particularly the case for the 6 Agencies indicating that they are in the process of, or are about to commence, their own review of their internal grievance resolution system.



Robert. J. Watling
STATE SERVICE COMMISSIONER

ACKNOWLEDGEMENTS

I would like to thank and acknowledge the cooperation and assistance provided by all State Service Agencies throughout this evaluation.

I would particularly like to acknowledge the assistance of the Contact Officers from each Agency whose careful consideration of the assessments and general feedback were integral to the evaluation process.

Finally I would like to thank Clio Simmons from my office for managing this project and Ian Wilcox for providing assistance in collecting and collating the information in this report.

1. EXECUTIVE SUMMARY

1.1 INTRODUCTION

One of the statutory functions of the Office of the State Service Commissioner (OSSC) is to evaluate practices, procedures and standards in relation to the management of employment in the State Service. Both the 2005 and 2007 State Service Employee Surveys revealed that there is a relatively low level of confidence among State Service employees in the operation and outcomes of their Agency's internal grievance resolution system. This evaluation grew out of a desire to examine what internal grievance resolution systems are currently in place within Agencies, not in terms of the operation of the system in practice, but in terms of the basic features of these systems.

Section 34(1)(j) of the *State Service Act 2000* (the Act) requires Heads of Agencies to develop and implement internal grievance resolution systems in the Agency. This is supported by Commissioner's Direction No. 7 (Review of Actions) which specifies that internal grievance resolution systems must reflect the principles of natural justice and procedural fairness, and Commissioner's Direction No. 2 (State Service Principles) which requires the State Service to provide "a fair system of review of decisions taken in respect of employees".

The key objectives in undertaking this evaluation were therefore:

1. To confirm that all Agencies have an internal grievance resolution system in place;
2. To confirm that these Agency systems comply with the minimum requirements of the Act and Commissioner's Directions No. 2 and 7; and
3. To identify the range of current features of Agencies' internal grievance resolution systems.

The evaluation was limited to an examination of the key internal grievance resolution system documentation supplied to OSSC by each Agency. The evaluation did not take account of performance data or the range of supporting materials available within Agencies that were not connected with the key source documentation.

In addition to this, the internal grievance resolution system evaluation report does not set benchmarks which Agencies will be required to meet. The additional information provided in this report is intended to be a useful tool for Agencies to compare the current features of their internal grievance resolution systems at a broad level.

1.2 KEY FINDINGS

This evaluation of internal grievance resolution systems has found that:

- **All Agencies comply with the legislative requirements to have implemented an internal grievance resolution system that reflects the principles of natural justice and procedural fairness (Objectives 1 and 2); and**
- **There is a wide range of internal grievance resolution systems in place within State Service Agencies (Objective 3).** The differences between the internal grievance resolution systems in place within Agencies principally centre on two criteria:
 - The degree of documentation of the internal grievance resolution system, and
 - The functional purpose of the primary internal grievance resolution system documentation.

This evaluation also identified the following in relation to the operation of internal grievance resolution systems within Agencies:

- Internal grievance resolution systems are not necessarily static;
- Agencies have different needs in relation to their internal grievance resolution systems;
- Agencies need to adopt a practical approach in relation to documentation of the system;
- Agencies use a variety of means to inform employees about the internal grievance resolution system; and
- Internal grievance resolution systems do not operate in isolation.

Agency internal grievance resolution systems have a core set of features in common, as set out in the summary below, but there is also a variety of other features apparent in a smaller number of Agency systems that might be of interest to other Agencies.

The features appearing in *all* Agency internal grievance resolution systems include:

(Every feature was assessed as “feature in place” or including one “feature partially in place”)

- A distinction between informal and formal processes is clearly made;
- Use of informal grievance processes is recommended as the first step;

- The internal grievance resolution system outlines when formal grievance processes should be used;
- The internal grievance resolution system provides for referral of grievance matters to the appropriate level of management;
- The internal grievance resolution system formally mentions adherence to the principles of natural justice and/or procedural fairness;
- The internal grievance resolution system provides the parties to a grievance with information on their rights and responsibilities in the grievance resolution process;
- The internal grievance resolution system provides both parties with a reasonable opportunity to prepare a submission and/or response;
- The internal grievance resolution system requires outcomes to be based on a proper consideration of the facts and circumstances prevailing at the time of the grievance;
- The internal grievance resolution system requires decision makers to be impartial and transparent;
- The internal grievance resolution system outlines an employee’s right of review to an external body (e.g. appropriate Industrial Tribunal, Office of the State Service Commissioner);
- The internal grievance resolution system outlines the roles and responsibilities for:
 - Managers/supervisors
 - The grievant
 - The respondent;
- The internal grievance resolution system includes mediation as an option for the resolution of grievances;
- The internal grievance resolution system clearly outlines the options that are available to employees with a grievance;
- The internal grievance resolution system outlines the processes involved in each option in logical sequence;
- The internal grievance resolution system requires grievance matters to be handled as quickly as possible after the event/behaviour/inaction leading to the grievance;
- The internal grievance resolution system directs employees to handle grievance matters as close as possible to the source of the grievance;

- The internal grievance resolution system clearly outlines all documentation required throughout the grievance process;
- Parties are informed of all information that might influence the resolution of the grievance matter;
- Parties are informed of the outcome of any grievance matter and, where appropriate, are provided with a copy of the written decision or outcome;
- The internal grievance resolution system requires employees to maintain appropriate confidentiality in all matters;
- The internal grievance resolution system is fully documented;
- Internal grievance resolution system documentation is written in clear and plain English;
- Internal grievance resolution system documentation has been lodged with the Office of the State Service Commissioner; and
- The internal grievance resolution system outlines sources of assistance for employees, managers/supervisors, Human Resources personnel and Contact Officers.

Features that *did not* appear in any Agency internal grievance resolution systems include:

- Internal grievance resolution system documentation makes reference to the *Privacy Act 1998* (Cth);
- Internal grievance resolution system documentation makes reference to the *Personal Information Protection Act 2004*;
- The internal grievance resolution system includes information on where to obtain relevant industrial awards and agreements; and
- The document refers to relevant Ministerial Directions (e.g. Ministerial Direction 1 - Administration, 2 - Leave Arrangements, 10 - Internet Usage).

Features that only appear in 3 or less Agency internal grievance resolution systems include:

(Assessments of either “feature in place” or “feature partially in place”)

- Internal grievance resolution system documentation makes reference to any of the following: *Age Discrimination Act 2004* (Cth), *Archives Act 1983*, *Disability Discrimination Act*

1992 (Cth), *Evidence Act 1995*, *Industrial Relations Act 1984*, *Human Rights and Equal Opportunity Act 1986* (Cth), *Freedom of Information Act 1991*, *Public Interest Disclosures Act 2002*, *Racial Discrimination Act 1975* (Cth), *Sentencing Act 1997*, *Sex Discrimination Act 1984*, *State Service Regulations 2001*, *Workplace Health and Safety Act 1995*, *Workplace Relations Act 1996* (Cth), *Youth Justice Act 1997*;

- The internal grievance resolution system includes references to relevant industrial awards and/or agreements;
- Grievance documentation refers to Commissioner’s Direction No. 3, Workplace Diversity;
- Grievance documentation refers to Commissioner’s Direction No. 6, Procedures for the Investigation and Determination of whether an employee is able to efficiently and effectively perform their duties;
- The internal grievance resolution system provides assistance with documentation for grievants who are unable to put their grievance in writing (e.g. due to language or comprehension difficulties);
- Grievants are informed to take due care with the wording of written information, in view of potential Freedom of Information (FOI) requests and/or use of the grievance documentation by third parties;
- Delays at any time in the grievance process are required to be explained to all parties;
- The internal grievance resolution system requires any meetings to be conducted in an appropriate location;
- The system states that any grievance matter documentation remains with the Agency; and
- Information and forms that supplement the primary internal grievance resolution system document are included in appendices or are hyperlinked from the main document.

1.3 POSITIVE OUTCOMES OF THE EVALUATION

This evaluation has found that:

- Agencies fully comply with the legislative requirements of the Act and relevant Commissioner's Directions;
- All Agencies have documented their internal grievance resolution systems;
- Agencies are aware of the need to regularly review their internal grievance resolution systems. Six Agencies have reviewed their internal grievance resolution system since its implementation and 6 Agencies also indicated that they are in the process of, or about to embark on, a system revision or review;
- Agencies have implemented internal grievance resolution systems which are underpinned by the principles of natural justice and procedural fairness, and which address key areas such as transparency, confidentiality, legislative requirements, and access to support services; and
- Agencies expressed interest in the outcome of this evaluation.

Issues that might be considered by Agencies include:

- Consistency between documentation available to support the internal grievance resolution system i.e. between documents available in hard copy and via the intranet, between managerial documents and operational documents;
- Accessibility of the internal grievance resolution system documentation to both employees using the intranet and those without internet/intranet access;
- Consideration of the target audiences for the information contained in the internal grievance resolution system documentation. Some Agencies provide a number of documents which are aimed at different audiences e.g. the principal document provides information for employees with a grievance, while supplementary documents are guidelines for managers/supervisors or Contact Officers;
- Potential risks e.g. those associated with freedom of information legislation, record keeping (the Archives Act 1983) and/or any diversity related legislation;
- Equity and access issues. Agencies could consider how well their internal grievance resolution system caters for the needs of people with language or comprehension difficulties or other diversity issues;

- Support that is available to Contact Officers. This might include training, provision of written materials and guidelines, and/or availability of processes such as debriefing if required;
- Examination of the distinction (if any) between diversity processes and grievance processes to maintain consistency, particularly relating to non-diversity grievances; and
- The opportunity to review what is available in other Agencies' internal grievance resolution systems.

2. EVALUATION BACKGROUND

2.1 LEGISLATIVE REQUIREMENTS

The statutory functions of the State Service Commissioner include a responsibility to evaluate the practices, procedures and standards that Agencies apply in relation to the management of, and employment within, the State Service. To date the Office of the State Service Commissioner has undertaken an evaluation of Performance Management Systems, two complete State Service Employee Surveys, as well as annual surveys of Agency practices and procedures designed to support compliance with the State Service Principles and Code of Conduct.

The significant focus of this evaluation is the internal grievance resolution systems currently in operation within Agencies. From a legislative perspective, Section 34(1)(j) of the *State Service Act 2000* (the Act) requires Heads of Agencies to develop and implement internal grievance resolution systems in their Agency. This is supported by Commissioner's Direction No. 7 (Review of Actions) which specifies that internal grievance resolution systems must reflect the principles of natural justice and procedural fairness, and Commissioner's Direction No. 2 (State Service Principles) which requires the State Service to provide "a fair system of review of decisions taken in respect of employees". Appendix 1 includes a copy of the relevant sections of the Act and Commissioner's Directions.

In contrast to other areas such as performance management and diversity, there is no further information included in either the Act or any Commissioner's Directions in relation to the format, scope or operation of these internal grievance resolution systems. This has led to development of grievance resolution systems by individual Agencies that have distinctly different structures and foci.

Information collected by the State Service Commissioner's Office through the State Service Employee Surveys (2005 and 2007) has revealed a relatively low level of confidence among employees in the operation of Agency internal grievance resolution systems. In 2007 46% of employees indicated that they had confidence in the processes and procedures used by Agencies to resolve employee grievances, and this represented a small increase from the previous Survey (42%). A similarly low proportion of employees indicated that they felt they would suffer no negative consequences from lodging a grievance (44% of employees in 2007 and 42% in 2005).

Based on information gathered through the Employee Surveys and annual Agency surveys, as well as the analysis of matters brought before me as State Service Commissioner, I decided to undertake an evaluation of internal grievance resolution

systems operating in Agencies as a project under my 2007 Evaluation Program.

2.2 EVALUATION OBJECTIVES

There were three objectives in undertaking this evaluation project:

1. To confirm that all Agencies have an internal grievance resolution system in place;
2. To confirm that these Agency systems comply with the minimum requirements of the Act and Commissioner's Directions No. 2 and 7; and
3. To identify the range of current features of Agencies' internal grievance resolution systems.

The third objective has been a significant focus of this evaluation, given the limited legislative requirements specified in the Act and Commissioner's Directions. It was envisaged that the output of Objective 3, the list of current features, would be a useful framework for Agencies to compare their systems to others, and to identify any areas they might like to consider in potentially improving their internal grievance resolution systems. It is important to note, however, that the list of current features identified as part of this evaluation is not prescriptive for Agencies, and they will not be required to implement all the features which have been identified. This evaluation report has also focused more on 'current practice' across Agencies than 'best practice', as the latter implies a benchmark which Agency systems must meet.

2.3 EVALUATION METHODOLOGY

This project was based on an evaluation of the documentation of each Agency internal grievance resolution system. This documentation was provided by Heads of Agencies in July 2007, and formed the sole source of information upon which the evaluation was based.

The methodology included four key phases:

1. Development of the Agency Assessment Sheet

This phase involved a key theme evaluation of the 14 Agency internal grievance resolution system documents, identifying the principal features appearing across the systems. This was not restricted to features which appear across *all* Agency systems – where a feature was considered principally important, it was included in the master feature list. An assessment system was also developed, to indicate whether any given feature was "in place," "partially in place" or "not in place".

2. Evaluation of Agency Internal Grievance Resolution Documents

Using the Assessment Sheet from Phase 1, each Agency's grievance resolution documentation was evaluated against the master list of current features. Where justification for an assessment was required this was included on the Agency's Assessment Sheet.

3. Confirmation of Assessment Sheets with Agencies

The evaluations included in the Assessment Sheets were taken to Agency representatives for discussion and feedback, with the aim of producing a confirmed set of feature assessments.

4. Reporting of Project Outcomes

The feedback from Agencies and confirmed Assessment Sheets were collated into a final report.

There are three important considerations in relation to the methodology employed for this evaluation:

1. The evaluation was restricted to an evaluation of the information contained within Agency internal grievance resolution system documentation, and did not take account of any information outside this documentation. This meant that features needed to be specifically mentioned in documentation to obtain an assessment of either "feature partially in place" or "feature in place";
2. The information drawn from this evaluation process is intended to be used for illustrative purposes and should only be viewed as informative by Heads of Agencies; and
3. The documentation and feedback received from the Department of Police and Emergency Management did not include information on the Fire Service's internal grievance resolution system, and thus the assessments given to this Agency's internal grievance resolution system do not represent a whole-of-Agency assessment.
4. This evaluation was carried out prior to the realignment of Agencies in February 2008. These changes should be taken into account in interpreting the data in this report.

2.4 EVALUATION OUTPUTS

This report presents a summary of the Assessment Sheets from each State Service Agency, as well as summary comments relating to each subsection of the Assessment Sheet, obtained from discussions with Agency representatives. Some sections of the report also contain excerpts drawn directly from Agency internal grievance resolution system documentation,

which have been included either for illustrative purposes or to provide further examples to assist Agencies.

The following section also provides a brief overview of data collected by this Office in relation to internal grievance resolution systems in operation, and employees' attitudes towards them.

2.5 OVERVIEW OF INTERNAL GRIEVANCE RESOLUTION SYSTEM DATA

The Office of the State Service Commissioner collects information on the operation of Agency internal grievance resolution systems via the annual Agency Survey and the biennial State Service Employee Survey. The former examines the work that has been undertaken in any given year to ensure Agency compliance with the Act, Commissioner's Directions, State Service Principles and Code of Conduct, and provides information from a managerial perspective in relation to grievance resolution. The latter complements this with information from State Service employees, principally relating to employees' confidence in the operation of Agency grievance resolution systems.

The annual Agency Surveys for 2006 and 2007 revealed the following information in relation to Agency internal grievance resolution systems:

- All 14 Agencies indicated that they have clearly documented, formal internal grievance resolution procedures;
 - All 14 Agencies indicated that their systems contain processes or guidelines to assist employees to resolve grievances informally e.g. via discussion with other parties, mediation;
 - Employees are accessing their Agency's internal grievance resolution systems.
- During the 2006-07 financial year 131 State Service employees accessed their Agency's formal grievance resolution system, a slight drop from 147 employees accessing the system in financial year 2005-06¹; and
- Some grievances are managed outside Agency internal grievance resolution systems.

During the 2006-07 financial year 88 grievances were taken to external bodies such as the Ombudsman,

¹ Please note that formal procedures do not include mediation and conciliation that takes place at work unit level. Formal grievances are defined as those submitted where a formal investigation is undertaken after an employee complains to Agency management in writing about an issue that affects them.

Anti-Discrimination Commissioner, the Office of the State Service Commissioner, Industrial Tribunals and the Nursing Board of Tasmania. This represented an increase from the previous year's figure of 62.

State Service Agencies have engaged in a number of activities aimed at informing employees about their Agency's internal grievance resolution systems. The Agency Survey 2007 revealed that the most common methods employed are providing information on the internal grievance resolution system to new employees as part of the induction process and posting information on the Agency's intranet (12 out of 14 Agencies). Some Agencies also provide face-to-face information sessions for employees, publish information in Agency bulletins and newsletters and use manager's regular meetings.

The following pages provide a graphical representation of data relating to grievance resolution within the Tasmanian State Service:

Figure 1.0 – Categories of Internal Grievances Raised within State Service Agencies

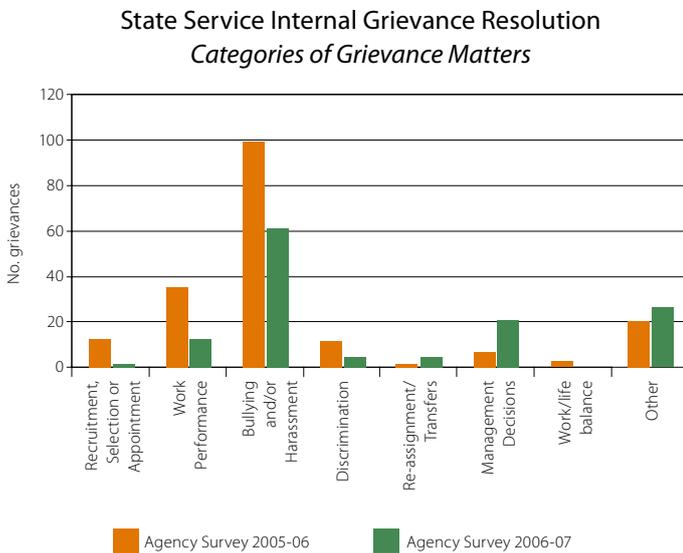


Figure 1.0 shows the category of internal grievances raised by State Service employees for the years ending 30 June 2006 and 2007 respectively. These statistics were reported by Agencies for inclusion in the 2006 and 2007 OSSC Annual Report.

These statistics indicate that the highest number of grievances were in relation to bullying and/or harassment. This was followed by grievances relating to work performance in 2005-06 and by grievances relating to management decisions in 2006-07.

Please note that in 2005-06 one person was the source of 23 separate grievance matters relating to bullying and/or harassment.

Figure 2.0 – Outcomes of Agency formal grievance processes

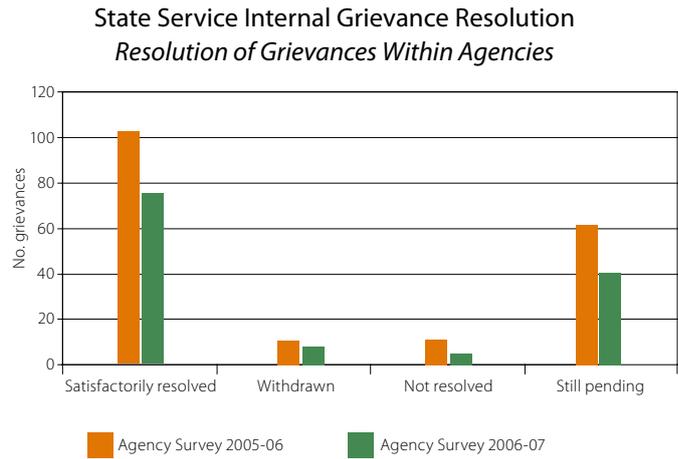


Figure 2.0 provides an overview of how grievances were resolved in the years ending 30 June 2006 and 2007 respectively. These statistics were reported by Agencies for inclusion in the 2006 and 2007 Commissioner's Annual Report.

These figures reveal that the large majority of grievances are resolved in Agencies through agreement between the grievant/s and the Agency.

Figure 3.0 – Use of Agency Formal Grievance Resolution Processes

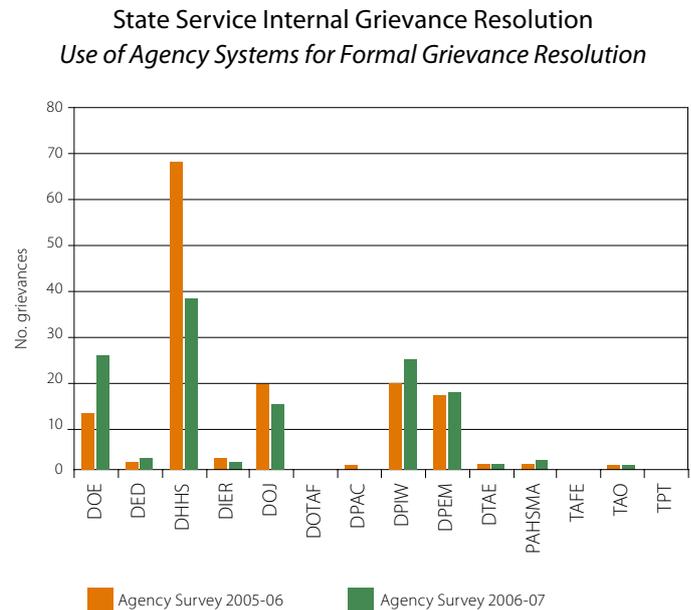


Figure 3.0 reveals the number of formal grievances raised by employees between 2005 and 2007. These statistics were reported by Agencies for inclusion in the 2006 and 2007 Commissioner's Annual Report.

The data reveals the variation in numbers of employees accessing formal grievance procedures and demonstrates the higher demand placed on some Agency internal grievance resolution systems over time.

A number of Agencies have indicated that they are about to commence, or are currently in the process of, reviewing their internal grievance resolution systems. These Agencies include the Department of Education, the Department of Health and Human Services, the Department of Economic Development, the Department of Police and Emergency Management, the Department of Primary Industries and Water and TAFE Tasmania.

The 2007 Agency Survey revealed the following review schedules are in place among Agencies:

Agency	Date implemented	Date last reviewed
Department of Economic Development	2001	2006
Department of Education	1997	2005 under review
Department of Health and Human Services	September 2005	September 2005
Department of Infrastructure, Energy and Resources	January 2005	Not yet reviewed
Department of Justice	pre 2003	2005
Department of Police and Emergency Management	2004	2006
Department of Premier and Cabinet	1998	2006
Department of Primary Industries and Water	2003	January 2006
Department of Tourism, Arts and the Environment	June 2004	June 2006
Department of Treasury and Finance	2002	2003
Port Arthur Historic Site Management Authority	June 2000	October 2006
TAFE Tasmania	2003	Currently under review
Tasmanian Audit Office	-	2006/07
The Public Trustee	2003	2006

The 2007 State Service Employee Survey undertaken by this Office revealed the following in relation to employees' perceptions of grievance resolution within their Agency²:

- 78% of employees agree that their workplace has a formal process or procedure for resolving grievances and disputes;
- 46% of employees have confidence in these processes and procedures;
- 51% of employees agree that their manager/supervisor is skilled enough to effectively resolve grievances and disputes that arise in the workplace;
- 67% of employees would be comfortable approaching their manager/supervisor to discuss a workplace grievance or dispute, and
- 44% of employees feel confident that they will not suffer any negative consequences if they lodge a grievance.

² The full Tasmanian State Service Employee Survey Report 2007 is available at <http://www.osscc.tas.gov.au>

3. OVERALL EVALUATION RESULTS

EVALUATION OBJECTIVES

Objective 1: Confirm that State Service Agencies have an internal grievance resolution system currently in place

This evaluation confirmed that all fourteen State Service Agencies have an internal grievance resolution system in place.

Objective 2: Ensure that Agency internal grievance resolution systems comply with the legislative requirements of the *State Service Act 2000 (the Act)* and *Commissioner’s Directions No. 2 and 7*.

All 14 State Service Agencies were assessed as fully compliant with the legislative requirements in the Act to have developed and implemented an internal grievance resolution system which adheres to the principles of natural justice and procedural fairness.

This evaluation has highlighted *no compliance issues* in relation to Commissioner’s Directions No. 2 and 7.

Objective 3: Identify the current features of Agency internal grievance resolution systems

This report outlines a number of the current features of Agency internal grievance resolution systems and provides comments in relation to their application within Agencies. On the following page is a summary chart revealing the results of the evaluation for each of the 14 State Service Agencies.

The Agency names have been abbreviated in the summary chart as follows:

DED	Department of Economic Development
DOE	Department of Education
DHHS	Department of Health and Human Services
DIER	Department of Infrastructure, Energy and Resources
DOJ	Department of Justice
DPEM	Department of Police and Emergency Management
DPAC	Department of Premier and Cabinet
DPIW	Department of Primary Industries and Water
DTAE	Department of Tourism, Arts and the Environment
DOTAF	Department of Treasury and Finance
PAHSMA	Port Arthur Historic Site Management Authority
TAFE	TAFE Tasmania
TAO	Tasmanian Audit Office
TPT	The Public Trustee

Section 4 of this report examines each of these features in more detail.

Figure 4 Summary of Evaluation results

Assessment Key:

- Feature in place
- Feature partially in place
- Feature not in place

Application of the internal grievance resolution system	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
Definition of internal grievance														
The internal grievance resolution system includes a clear definition of 'internal grievance'	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system provides examples of different types of grievances	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system covers grievances between employees, and between employees and the Agency	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Reference to other Agency systems														
Specified grievances are managed <i>outside the internal grievance resolution system</i> e.g. anti-discrimination, bullying, harassment, Equal Employment Opportunity complaints	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system includes details on obtaining information about these processes	●	●	●	●	●	●	●	●	●	●	●	●	●	●
A clear distinction is made between the Agency's internal grievance resolution system and performance management system	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Informal vs formal grievance resolution processes														
A distinction between informal and formal processes is clearly made	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Use of informal grievance processes is recommended as the first step	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system outlines when formal grievance processes should be used	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Referral of grievance matters														
The internal grievance resolution system provides for referral of grievance matters to the appropriate level of management	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system provides for referral of alleged breaches of the Code of Conduct	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system provides for referral of grievances relating to alleged Inability	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system provides for referral of alleged criminal offences to appropriate authorities	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Communication of the internal grievance resolution system to employees														
The internal grievance resolution system clearly states that it applies to all Agency employees	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system includes a communication strategy to inform employees about the internal grievance resolution system	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Any designated contact personnel e.g. Workplace Behaviour Contact Officers (Contact Officers) are listed in system documentation	●	●	●	●	●	●	●	●	●	●	●	●	●	●

Assessment Key:

- Feature in place
- Feature partially in place
- Feature not in place

	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
Legislative framework and guiding principles														
Reference to relevant legislation														
Internal grievance resolution system documentation makes reference to relevant legislation, which might include:														
• <i>Age Discrimination Act 2004</i> (Cth)	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Anti-Discrimination Act 1998</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Archives Act 1983</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Disability Discrimination Act 1992</i> (Cth)	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Evidence Act 1995</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Industrial Relations Act 1984</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Human Rights and Equal Opportunity Commission Act 1986</i> (Cth)	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Freedom of Information Act 1991</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Privacy Act 1998</i> (Cth)	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Personal Information Protection Act 2004</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Public Interest Disclosures Act 2002</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Racial Discrimination Act 1975</i> (Cth)	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Sentencing Act 1997</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Sex Discrimination Act 1984</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>State Service Act 2000</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>State Service Regulations 2001</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Workplace Health and Safety Act 1995</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Workplace Relations Act 1996</i> (Cth)	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Youth Justice Act 1997</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Reference to relevant industrial awards and agreements														
The internal grievance resolution system includes references to relevant industrial awards and/or agreements	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system includes information on where to obtain relevant industrial awards and agreements	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Reference to the State Service Principles and Code of Conduct														
The internal grievance resolution system makes reference to the State Service Principles and Code of Conduct	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system includes a copy of the State Service Principles and Code of Conduct, or information on how to obtain access to these	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Reference to relevant Ministerial and Commissioner's Directions														
The document refers to relevant Commissioner's Directions, namely:														
• Commissioner's Direction No. 3, Workplace Diversity	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Commissioner's Direction No. 5, Procedures for the Investigation and Determination of whether an employee has breached the Code of Conduct	●	●	●	●	●	●	●	●	●	●	●	●	●	●

	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
• Commissioner's Direction No. 6, Procedures for the Investigation and Determination of whether an employee is able to efficiently and effectively perform their duties	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Commissioner's Direction No. 7, Review of State Service Actions	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Commissioner's Direction No. 8, Procedure for Suspension of State Service Employees with or without Pay	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The document refers to relevant Ministerial Directions (e.g. Ministerial Direction 1 - Administration, 2 - Leave Arrangements, 10 - Internet Usage)	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Guiding Principles														
The internal grievance resolution system formally mentions adherence to the principles of natural justice and/or procedural fairness	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system:														
• Provides the parties to a grievance with information on their rights and responsibilities in the grievance resolution process	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Provides both parties with a reasonable opportunity to prepare a submission and/or response	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Requires outcomes to be based on a proper consideration of the facts and circumstances prevailing at the time of the grievance, and	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Requires decision makers to be impartial and transparent	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Review rights to OSSC and other external bodies														
The internal grievance resolution system outlines an employee's right of review to an external body (e.g. appropriate Industrial Tribunal, Office of the State Service Commissioner)	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The system provides information on the process of lodging a review with these external bodies and/or reference to where this information can be obtained	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The system mentions the specific time frames involved in lodging a review with the Office of the State Service Commissioner	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Employees are encouraged to utilise the Agency's internal grievance resolution system before seeking an external review	●	●	●	●	●	●	●	●	●	●	●	●	●	●

Assessment Key:

- Feature in place
- Feature partially in place
- Feature not in place

Roles and Responsibilities within the Internal Grievance Resolution System	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
Use of designated Workplace Behaviour Contact Officers														
The internal grievance resolution system includes Contact Officers with responsibility for providing basic guidance and advice on the grievance resolution process	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Contact Officers are supported by a clear role statement outlining the scope of their duties	●	●	●	●	●	●	●	●	●	●	●	●	●	●
A debriefing process is available to Contact Officers	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Outline of roles and responsibilities														
The internal grievance resolution system outlines the roles and responsibilities for:														
• Head of Agency/CEO	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• The Human Resources Manager	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• The Human Resources Branch	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Contact Officers	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Managers/supervisors	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• The grievant	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• The respondent	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system provides guidelines for dealing with grievances relating to an employee's direct supervisor/manager	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system provides assistance with documentation for grievants who are unable to put their grievance in writing (e.g. due to language or comprehension difficulties)	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The role of third parties														
The internal grievance resolution system provides all parties lodging a grievance with an opportunity to have a third party present at any meetings	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system provides contact details for the Department's Employee Assistance Program	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system includes mediation as an option for the resolution of grievances	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system uses internally trained mediators where appropriate, with the consent of the parties	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system uses external mediators where appropriate, with the consent of the parties	●	●	●	●	●	●	●	●	●	●	●	●	●	●

Assessment Key:

- Feature in place
- Feature partially in place
- Feature not in place

Processes and Procedures	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
Options for resolution of the grievance														
The internal grievance resolution system clearly outlines the options that are available to employees with a grievance	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system outlines the processes involved in each option in logical sequence	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Time limits are specified for the different stages in the grievance resolution process	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system includes taking no action as an available option e.g. in instances where the grievance has already been resolved and/or the grievant would simply like the grievance recorded	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system requires managers to consider interim administrative arrangements, where appropriate	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Procedural matters														
Internal grievance resolution system documentation is made available to all parties to a grievance as a formal step in the grievance process	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system requires grievance matters to be handled as quickly as possible after the event/behaviour/inaction leading to the grievance	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system directs employees to handle grievance matters as close as possible to the source of the grievance	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system clearly outlines all documentation required throughout the grievance process	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system requires the following information to be documented for each (formal) grievance:														
• A description of the incident/behaviour/inaction	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• An outline of why the employee is aggrieved	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• The date and names of other parties involved, including any witnesses	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Details of the outcomes sought by the grievant	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Grievants are informed to take due care with the wording of written information, in view of potential freedom of information (FOI) requests and /or use of the grievance documentation by third parties	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system clearly states zero tolerance for victimisation of employees raising grievance matters	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Parties are informed of all information that might influence the resolution of the grievance matter	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Delays at any time in the grievance process are required to be explained to all parties	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Parties are informed of the outcome of any grievance matter and, where appropriate, are provided with a copy of the written decision or outcome	●	●	●	●	●	●	●	●	●	●	●	●	●	●

	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
Appropriate recordkeeping														
The internal grievance resolution system specifies the records that must be kept for each grievance matter	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Disposal of grievance matter documentation is consistent with the Disposal Schedule of the <i>Archives Act (1983)</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Privacy and confidentiality														
The internal grievance resolution system requires employees to maintain appropriate confidentiality in all matters	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system requires any meetings to be conducted in an appropriate location	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system requires that records of grievance matters are stored in a confidential and secure location	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system states that information relating to an employee grievance matter should not be placed on personnel files, except in certain specified circumstances e.g. where a grievance matter ends in disciplinary action being taken	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The system states that any grievance matter documentation remains with the Agency	●	●	●	●	●	●	●	●	●	●	●	●	●	●

Assessment Key:

● Feature in place ● Feature partially in place ● Feature not in place

	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
System Documentation and Support														
Full documentation of the internal grievance resolution system														
The internal grievance resolution system is fully documented	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Internal grievance resolution system documentation is written in clear and plain English	●	●	●	●	●	●	●	●	●	●		●	●	●
Internal grievance resolution system documentation includes a glossary of all appropriate terms	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Internal grievance resolution system documentation contains:														
• Commencement/approval date	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Person approving internal grievance resolution system documentation	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Procedural document contact person	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• The last review date	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Review history of changes to the document	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Document version control	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system is subject to regular review														
The internal grievance resolution system has been reviewed at least once since its implementation	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Internal grievance resolution system documentation has been lodged with the Office of the State Service Commissioner	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Availability of information and support materials														
The internal grievance resolution system outlines sources of assistance for employees, managers/supervisors, Human Resources personnel and Contact Officers	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Information and forms that supplement the primary internal grievance resolution system document are included in document appendices or are hyperlinked from the main document	●	●	●	●	●	●	●	●	●	●	●	●	●	●

4. KEY SYSTEM FEATURES

INTRODUCTION

Internal grievance resolution systems are implemented in a wide variety of configurations within State Service Agencies. Differences in the nature of grievances, employees under the system's coverage, and managerial structures within Agencies make this inevitable. This documentation evaluation and discussions with Agencies revealed that many of these differences hinge on two criteria:

1. The degree of documentation of the internal grievance resolution system

There are differing levels of documentation of the internal grievance resolution system between Agencies. While some Agencies have attempted to document their system as fully as possible in the one source document, others are moving towards a more pragmatic, matter-specific grievance resolution system model, under which processes and procedures are documented separately and key people within the Agency are used as 'gatekeepers' to determine which Agency grievance process is best suited to the grievance matter at hand.

Thus at one end of this scale is internal grievance resolution system documentation which is principally contained within one document, which provides some of the following: contextual statements, scope and application of the system (e.g. what are 'grievable issues'), legal background, processes and procedures, and contacts for further information. These documents were generally available as whole documents for distribution.

At the other end of the scale are internal grievance resolution systems which include the same information in a series of documents. There may also be other processes within the internal grievance resolution system that are not fully documented, though the processes are understood by those who operate them. Thus for Agencies adopting this approach, the documentation provided to this Office as part of this evaluation was seen as one component of many within the internal grievance resolution system.

2. The functional purpose of the primary internal grievance resolution system documentation

Agencies also differed in terms of the functional purpose of the internal grievance resolution system documentation. For some Agencies, the documentation provided to this Office was principally a managerial document, used to provide details on the Agency's higher level approach and the general operation of the system. These documents tended to provide information at a broader level.

At the other end of this scale was internal grievance resolution system documentation with a stronger operational focus. Documentation in this category concentrated more on processes and procedures, providing information for grievance managers and employees to follow.

The difference in functional purpose of the documentation evaluated by this Office is important, as this can affect the type of features that appear in the system, and therefore the outcome of this evaluation. It should also be noted, however, that much internal grievance resolution system documentation evaluated by this Office could be categorised as both managerial and functional in purpose.

In addition to this, the following is recognised in relation to the current state of internal grievance resolution systems within Agencies:

- **Internal grievance resolution systems are not necessarily static**

Internal grievance resolution systems currently in place within Agencies have evolved to suit the individual needs of each Agency, and in most cases are still in a state of evolution. Six of the 14 Agencies indicated that they are either about to commence, or are in the process of, reviewing their internal grievance resolution systems. This evaluation has been undertaken based on the system documentation available in July 2007, with some appreciation that approximately half of the internal grievance resolution systems (and their supporting documentation) may be subject to change in the near future.

- **Agencies have different needs in relation to their internal grievance resolution systems**

The different needs of Agencies in relation to grievance resolution means that a "one size fits all" approach to the development of internal grievance resolution systems is problematic. Some of the features outlined in this Section of the report are well suited to some Agency systems, but less to others and it is emphasised that the features outlined do not necessarily represent the benchmark in relation to internal grievance resolution systems. The master list of features is intended as a guide to the features that are currently in place within at least one of the Agency internal grievance resolution systems.

- **Agencies need to adopt a practical approach in relation to documentation of the system**

It is recognised that in the development of system documentation an Agency must strike a balance between

including all possible information and ensuring that the document remains as practical and succinct as possible. However, Agencies should remember that the internal grievance resolution system documentation is a key source of information for employees and must therefore provide sufficient information to inform employees of their rights and responsibilities, what processes to follow and how to obtain further information and/or advice. The documentation also provides guidance to supervisors and managers who must address grievance matters.

- **Agencies use a variety of means to inform employees about the internal grievance resolution system**

Feedback from Agencies as part of this evaluation has underlined the importance of mechanisms such as the Agency intranet in distributing information on the internal grievance resolution system. However, a significant proportion of State Service employees do not have access to the internet and therefore this information should be distributed to them separately or made available in the workplace. Agencies may wish to consider how this is dealt with by grievance managers, particularly considering the comprehensiveness of information that may be printed and sent to these employees.

- **Internal grievance resolution systems do not operate in isolation**

This Office is aware that internal grievance resolution systems have links to other Agency systems, such as diversity and performance management systems, among others. This evaluation was restricted to an examination of internal grievance resolution system documentation, although it is recognised that some of the features being assessed as part of this evaluation might be contained within other systems and procedures, leading to a similar outcome for employees with grievances.

GUIDE TO THE EVALUATION PROCESS

As outlined in the Methodology Section of this report, the internal grievance resolution documentation received from each Agency was evaluated against a master list of features according to an assessment system. This was based on the following categories:

- Green – the named feature was “in place”
- Yellow – the named feature was “partially in place”
- Orange – the named feature was “not in place”.

The assessments given to each feature were based only on the information available in the Agency’s internal grievance

resolution system documentation, as provided to this Office. A green assessment was given in cases where the system feature was clearly mentioned in internal grievance resolution system documentation. A yellow assessment was given in instances where the feature was mentioned briefly and/or was only partially in place. An explanation of the yellow assessments was provided to each Agency as part of the confirmation process.

An orange assessment was given to features that were not mentioned at all in internal grievance resolution system documentation. However, it should be noted that an orange assessment does not necessarily mean that a feature is not in place in the internal grievance resolution system, but simply that the system documentation provided to this Office made no reference to this feature.

It is also acknowledged that an orange assessment does not necessarily mean that the feature is not in place in practice. Several Agencies were keen to emphasise that certain features that are not clearly stated in internal grievance resolution system documentation are adhered to in practice. In many cases the feature actually occurs in practice, but has not been reflected in system documentation.

Finally, an orange assessment for any particular feature does not represent a deficiency within the Agency. The Agency may never need or intend to introduce features that have been given an orange assessment as being “not in place”.

The key system features were divided into five categories of features:

- 4.1 Application of the internal grievance resolution system;
- 4.2 Legislative framework and guiding principles;
- 4.3 Roles and responsibilities within the internal grievance resolution system;
- 4.4 Processes and procedures, and
- 4.5 Documentation and support.

Please note that the numbers listed beside each feature in the following sections relate to these categories.

4.1 APPLICATION OF THE INTERNAL GRIEVANCE RESOLUTION SYSTEM

This section examines the application of internal grievance resolution systems within Agencies, in terms of the scope of the matters dealt with and how the internal grievance resolution system relates to other Agency systems or processes. This section also considers whether the internal grievance resolution system documentation includes information on how the system is communicated to employees e.g. information on contact personnel and/or an internal grievance resolution system communication strategy.

4.1.1 Definition of internal grievance

Assessment Key:

● Feature in place ● Feature partially in place ● Feature not in place

Application of the internal grievance resolution system	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
Definition of internal grievance														
The internal grievance resolution system includes a clear definition of 'internal grievance'	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system provides examples of different types of grievances	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system covers grievances between employees, and between employees and the Agency	●	●	●	●	●	●	●	●	●	●	●	●	●	●

This set of features examined how Agencies define what constitutes an internal grievance matter under their internal grievance resolution system, and what guidelines are provided to employees. The evaluation found that only 6 Agencies included a specific definition of 'internal grievance' (or 'grievance') in their documentation, with the remaining 8 choosing not to include a specific definition.

Definitions of 'internal grievance' appearing in Agency documentation include:

- A grievance is a concern or complaint related to treatment in the workplace.
- Any type of problem, concern or complaint where a staff member believes that he/she has received unfavourable treatment from the Department or another staff member, wishes to bring the grievance to the Agency's attention, and requires an action or response from the Agency.
- An expression of dissatisfaction about a work situation. It may result from an action, omission, situation or decision which is perceived to be unfair, unjustified or a violation of rights.
- Concerns arising between employees and managers/supervisors over a range of issues.
- A grievance is any matter, within a workplace, causing an employee concern.
- A grievance is defined as any matter of concern to an employee arising directly or indirectly from their employment.

It was suggested that some Agencies have purposely not included a formal definition of 'internal grievance' in documentation in order not to restrict the scope of application of the internal grievance resolution system. It was commented that including a definition might lead to a situation where grievances fall outside the parameters set by the Agency, implying that these matters must be dealt with elsewhere. One Agency considered it more useful to provide details of what did not constitute a grievance, rather than focusing on what lies within the formal definition.

A larger proportion of Agencies have included examples of different types of grievances to provide employees with guidance on what matters can be dealt with through the internal grievance resolution system. Only one Agency did not include examples in its system documentation.

Examples of internal grievances appearing in Agency documentation include those relating to:

- Working conditions
- The way work is allocated or managed
- The interpretation of people management policies
- Perceived unfairness in the workplace
- Access to training and career development opportunities
- Appointment to positions/selection decisions
- Variation of duties
- Management decisions, actions or inaction
- Decisions in the workplace
- Human resources policies and practices
- Relationships between or with co-workers, supervisors or others in the workplace
- Harassment, discrimination, bullying or victimisation in the workplace
- Potentially unlawful behaviour such as fraud, corruption, maladministration, serious waste, assault
- Safety/occupational health and safety concerns
- Resource issues
- Procedural or systems-based issues
- Environmental issues
- Access and equity
- The Code of Conduct or State Service Principles
- Customer service/complaints from customers
- Work performance
- Any other matter relating to a person’s employment within an Agency.

The evaluation also examined whether Agency internal grievance resolution system documentation outlined who might be involved in any grievance matter raised. Thirteen of the 14 Agencies specified that their system addressed and managed grievances not only between employees but also between an employee and the Agency (i.e. not with an individual, but with management, or other matters relating to employment within the State Service where the grievance does not focus on the actions or behaviour of a single employee).

4.1.2 Reference to other Agency systems

Assessment Key:

- Feature in place
- Feature partially in place
- Feature not in place

Application of the internal grievance resolution system	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
Reference to other Agency systems														
Specified grievances are managed <i>outside the internal grievance resolution system</i> e.g. anti-discrimination, bullying, harassment, Equal Employment Opportunity complaints	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system includes details on obtaining information about these processes	●	●	●	●	●	●	●	●	●	●	●	●	●	●
A clear distinction is made between the Agency’s internal grievance resolution system and performance management system	●	●	●	●	●	●	●	●	●	●	●	●	●	●

This set of features examined what reference is made within system documentation to other Agency systems, such as performance management systems and/or separate processes for dealing with certain types of grievances. The evaluation revealed that 5 of the 14 Agencies have separate processes for dealing with specific types of grievances, with the most common of these being discrimination, bullying and/or harassment matters. Four of these 5 Agencies also provided details for employees wishing to find out more about these separate processes.

For the remaining 9 Agencies, the internal grievance resolution system, as set out in their formal system documentation, is all-inclusive and deals with all types of grievance matters.

This evaluation also examined whether Agency grievance documentation draws a line between matters that should be managed through the internal grievance resolution system and those that are more appropriately dealt with via the Agency’s performance management system. Six of the 14 Agencies clearly made this distinction in their documentation.

One Agency commented that referring internal grievance resolution matters to be addressed via the performance management system was not appropriate, as the performance management system is focused primarily on employee development.

4.1.3 Informal vs formal grievance resolution processes

Assessment Key:

- Feature in place
- Feature partially in place
- Feature not in place

Application of the internal grievance resolution system	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
Informal vs formal grievance resolution processes														
A distinction between informal and formal processes is clearly made	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Use of informal grievance processes is recommended as the first step	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system outlines when formal grievance processes should be used	●	●	●	●	●	●	●	●	●	●	●	●	●	●

This set of features focused on whether Agencies have both informal and formal grievance processes in place and how this is represented in their grievance documentation. The evaluation found that all Agencies make this distinction in their documentation, and further that all Agencies recommend the use of informal grievance processes before proceeding to formal processes.

In the majority of cases, Agencies encourage grievants to try to resolve any grievance directly with the person/s concerned. However, all Agencies are also careful to specify when formal grievance processes must be undertaken.

Agencies recommend formal grievance processes under the following circumstances:

- Where informal grievance resolution has been unsuccessful in the past (with the employee at hand or the matter at hand);
- Where the nature of the issue makes informal resolution methods such as mediation inappropriate;
- Where it appears that the action or behaviour amounts to a breach of the Code of Conduct or a breach of criminal law;
- Where the grievant appears justified in an unwillingness to enter into an informal grievance process; or
- Where the issue itself is non-negotiable.

Several Agencies observe in their documentation that informal and formal grievance processes are not mutually exclusive. In some circumstances it can be beneficial to use a combination of both types of processes e.g. using mediation following the resolution of a formal complaint, or even during the management of the complaint, to encourage better working relationships.

4.1.4 Referral of grievance matters

Assessment Key:

● Feature in place ● Feature partially in place ● Feature not in place

Application of the internal grievance resolution system	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
Referral of grievance matters														
The internal grievance resolution system provides for referral of grievance matters to the appropriate level of management	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system provides for referral of alleged breaches of the Code of Conduct	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system provides for referral of grievances relating to alleged Inability	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system provides for referral of alleged criminal offences to appropriate authorities	●	●	●	●	●	●	●	●	●	●	●	●	●	●

This set of features examined how internal grievance resolution system documentation describes internal referral processes, either to other levels of management or to more appropriate Agency systems. The evaluation found that all 14 Agencies outline the process of referring grievance matters to the appropriate level of management. In most cases this is couched in terms of the employees responsible for managing grievance matters being aware of their own limitations and referring grievance matters to a more senior manager where necessary.

A similarly high proportion of Agencies (13 of the 14) outline the referral processes for breaches of the Code of Conduct. However, fewer Agency systems document referral processes for alleged criminal offences (9 Agencies). Agencies with this feature in place in their documentation mention referral to authorities such as Tasmania Police and/or the Director of Public Prosecutions. Some Agencies also specify in their documentation that where a criminal charge has been raised and provided, Heads of Agencies may proceed with the application of sanctions for breach of the Code, without first undertaking an investigation and determination process.

Comments received from Agencies in relation to dealing with alleged criminal matters suggest that these cases are dealt with via the Agency’s disciplinary procedures. However, this evaluation revealed that there were no guidelines at all for referring alleged criminal offences to the appropriate authorities included in 4 of the 14 Agency documents.

Only 3 Agencies included referrals of alleged Inability matters in their internal grievance resolution system documentation.

4.1.5 Communication of the internal grievance resolution system to employees

Assessment Key:

● Feature in place ● Feature partially in place ● Feature not in place

Application of the internal grievance resolution system	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
Communication of the internal grievance resolution system to employees														
The internal grievance resolution system clearly states that it applies to all Agency employees	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system includes a communication strategy to inform employees about the internal grievance resolution system	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Any designated contact personnel e.g. Workplace Behaviour Contact Officers (Contact Officers) are listed in system documentation	●	●	●	●	●	●	●	●	●	●	●	●	●	●

This set of features examines what information is included in system documentation in relation to communicating the internal grievance resolution system procedures to employees. The scope of this information depends heavily on whether the internal grievance resolution system documentation is principally a managerial or operational tool (see Section 4 of this report).

The evaluation revealed that Agency internal grievance resolution system documentation generally includes a statement relating to the scope of the system i.e. underlining that it applies to all Agency employees. In 2 Agencies this is implied, though the documentation does not contain a formal scope statement. Some Agencies have also outlined the scope in more detail e.g. that their internal grievance resolution system applies in any location where the Agency's business is carried out, client locations, off-site business or social functions, and whether it applies to volunteers. One Agency's documentation made specific mention that the application of the internal grievance resolution system includes the use of the Agency's computer and telephone facilities (voicemail, email and the internet).

Three Agencies have included a communication strategy in their internal grievance resolution system documentation. This principally focuses on the roles and responsibilities of key Human Resources personnel, including Contact Officers, in communicating the system and its processes to employees.

Communication strategies used to promote the internal grievance resolution system among employees include:

- Promotion and information sessions within the Agency;
- Information flyers;
- Inclusion of information on the internal grievance resolution system in the Agency's induction program, and orientation and leadership development programs;
- Requirement for new employees to sign to acknowledge their awareness of the system;
- Grievance resolution system documentation is posted on the Agency's intranet;
- Physical posting of the details of the internal grievance resolution system on Agency worksites;
- Promotion through the designated Contact Officers;
- Information sessions management groups; and
- Training sessions for managers and employees.

Several Agencies indicated that they have not included a communications strategy in their grievance documentation as the internal grievance resolution system operates in the same context as other human resource practices and thus falls under the broader human resource communication strategy within the Agency.

Only 5 out of the 14 Agencies specifically included contact details for their Workplace Behaviour Contact Officers (or equivalent) in their internal grievance resolution system documentation. It is recognised, however, that often this information is distributed via sources other than the source grievance documentation e.g. on Agency noticeboards and intranets.

4.2 LEGISLATIVE FRAMEWORK AND GUIDING PRINCIPLES

This section examines the legislative framework within which Agency internal grievance resolution systems operate and the guiding principles upon which the systems are based. This section is intended to be a useful checklist of the legal documents that are mentioned in at least one of the Agency systems and/or were included for consideration by Agency management.

4.2.1 Reference to relevant legislation

Assessment Key:

- Feature in place
- Feature partially in place
- Feature not in place

Legislative framework and guiding principles	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
Reference to relevant legislation														
Internal grievance resolution system documentation makes reference to relevant legislation, which might include:														
• <i>Age Discrimination Act 2004</i> (Cth)	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Anti-Discrimination Act 1998</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Archives Act 1983</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Disability Discrimination Act 1992</i> (Cth)	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Evidence Act 1995</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Industrial Relations Act 1984</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Human Rights and Equal Opportunity Commission Act 1986</i> (Cth)	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Freedom of Information Act 1991</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Privacy Act 1998</i> (Cth)	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Personal Information Protection Act 2004</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Public Interest Disclosures Act 2002</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Racial Discrimination Act 1975</i> (Cth)	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Sentencing Act 1997</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Sex Discrimination Act 1984</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>State Service Act 2000</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>State Service Regulations 2001</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Workplace Health and Safety Act 1995</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Workplace Relations Act 1996</i> (Cth)	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• <i>Youth Justice Act 1997</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●

This list of legislation provides a snapshot of the range of legislation referred to in Agency internal grievance resolution system documentation. Some of these references are Agency-specific and others indicate the particular focus of the internal grievance resolution system in some Agencies (e.g. those which provide greater focus on anti-discrimination, anti-bullying and harassment). In the main, these pieces of legislation are included as references at the end of the internal grievance resolution system documentation.

The evaluation revealed that there is no single piece of legislation referred to across all Agency internal grievance resolution systems, although all Agencies bar one make reference to the *State Service Act 2000*. No Agency made reference to the *State Service Regulations 2001*, *Personal Information Protection Act 2004* or the *Privacy Act 1998*.

Where Agencies have chosen not to include references to relevant legislation in their internal grievance resolution system documentation, the following reasons were mentioned:

- Direct reference to legislation unnecessarily complicates the internal grievance resolution system;
- References to this legislation are applicable more broadly than just internal grievance resolution and therefore references appear on more general human resource documentation and/or the intranet; and
- Appropriate advice on relevant legislation is provided on an on-demand basis.

4.2.2 Reference to relevant industrial awards and agreements

Assessment Key:

- Feature in place
- Feature partially in place
- Feature not in place

Legislative framework and guiding principles	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
Reference to relevant industrial awards and agreements														
The internal grievance resolution system includes references to relevant industrial awards and/or agreements	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system includes information on where to obtain relevant industrial awards and agreements	●	●	●	●	●	●	●	●	●	●	●	●	●	●

This set of features examined whether Agency documentation made any reference to relevant industrial awards or agreements. Where an award contains a provision for dealing with disputes or grievances, care should be taken that the Agency’s internal grievance resolution system is consistent with the award dispute resolution process.

The evaluation revealed that no Agency internal grievance resolution system documentation included references to specific industrial awards or agreements. However, there was recognition in 3 Agencies’ documentation that some awards contain provisions relating to grievance resolution. It followed that no Agencies included information on the sources of specific industrial awards and agreements.

4.2.3 Reference to the State Service Principles and Code of Conduct

Assessment Key:

- Feature in place
- Feature partially in place
- Feature not in place

Legislative framework and guiding principles	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
Reference to the State Service Principles and Code of Conduct														
The internal grievance resolution system makes reference to the State Service Principles and Code of Conduct	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system includes a copy of the State Service Principles and Code of Conduct, or information on how to obtain access to these	●	●	●	●	●	●	●	●	●	●	●	●	●	●

This set of features examined whether the State Service Code of Conduct and Principles were specifically mentioned in internal grievance resolution system documentation. Agencies’ internal grievance resolution systems are complemented by the Principles and Code of Conduct, which set out the standards of behaviour and conduct expected of every State Service employee.

The evaluation found that 9 of the 14 Agencies made specific reference to both legal documents, and 4 Agencies made either a passing reference to both or did not mention one of the two documents. One Agency made no mention of either the Principles or Code of Conduct.

Six of the 14 Agencies included either a copy of the Principles and Code in the main body of the documentation or as an appendix, or specific information on how to obtain access to them. This was mainly achieved via website references to either the Commissioner’s website or the Agency’s own intranet.

4.2.4 Reference to relevant Ministerial and Commissioner’s Directions

Assessment Key:

- Feature in place
- Feature partially in place
- Feature not in place

Legislative framework and guiding principles	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
Reference to relevant Ministerial and Commissioner’s Directions														
The document refers to relevant Commissioner’s Directions, namely:														
• Commissioner’s Direction No. 3, Workplace Diversity	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Commissioner’s Direction No. 5, Procedures for the Investigation and Determination of whether an employee has breached the Code of Conduct	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Commissioner’s Direction No. 6, Procedures for the Investigation and Determination of whether an employee is able to efficiently and effectively perform their duties	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Commissioner’s Direction No. 7, Review of State Service Actions	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Commissioner’s Direction No. 8, Procedure for Suspension of State Service Employees with or without pay	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The document refers to relevant Ministerial Directions (e.g. Ministerial Direction 1 - Administration, 2 - Leave Arrangements, 10 - Internet Usage)	●	●	●	●	●	●	●	●	●	●	●	●	●	●

This set of features examined which Commissioner’s Directions were referred to in Agency internal grievance resolution system documentation. The most relevant Commissioner’s Directions were CDs 5 and 7 (referenced in 10 of the 14 Agencies’ documents). There was no mention of any Ministerial Directions in Agencies’ internal grievance resolution system documentation reviewed, suggesting that these may be incorporated into Agency processes and procedures outside the internal grievance resolution system.

A number of Agencies’ documents refer to the internal grievance resolution guidelines which in the past accompanied Commissioner’s Direction No. 7 ‘Review of State Service Actions’. This information was removed from Commissioner’s Direction No. 7 as part of a review process in 2004, and thus formal references to these guidelines should be removed from Agency internal grievance resolution documentation.

4.2.5 Guiding principles

Assessment Key:

- Feature in place
- Feature partially in place
- Feature not in place

Legislative framework and guiding principles	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
Guiding Principles														
The internal grievance resolution system formally mentions adherence to the principles of natural justice and/or procedural fairness	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system:														
• Provides the parties to a grievance with information on their rights and responsibilities in the grievance resolution process	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Provides both parties with a reasonable opportunity to prepare a submission and/or response	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Requires outcomes to be based on a proper consideration of the facts and circumstances prevailing at the time of the grievance, and	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Requires decision makers to be impartial and transparent	●	●	●	●	●	●	●	●	●	●	●	●	●	●

This set of features examined whether Agency internal grievance resolution system documentation formally mentioned the principles of natural justice and/or procedural fairness by name. These terms are often used interchangeably as natural justice refers to principles underpinning the concept of fairness, and procedural fairness the processes and procedures underpinning the same concept.

Commissioner’s Direction No. 7 (Review of Actions) specifies that Heads of Agencies must, in accordance with Section 34(1) (j) of the Act, develop internal grievance resolution systems for their Agencies that reflect the principles of natural justice and procedural fairness.

This evaluation found that all Agencies made specific mention of the principles of natural justice and/or procedural fairness by name in their internal grievance resolution system documentation. All Agencies also met the criteria relating to these principles in operation within the internal grievance resolution system. Full compliance with this legislative requirement is one of the key findings of this evaluation, as outlined in Section 3 of this report.

4.2.6 Review rights to OSSC and other external bodies

Assessment Key:

- Feature in place
- Feature partially in place
- Feature not in place

Legislative framework and guiding principles	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
Review rights to OSSC and other external bodies														
The internal grievance resolution system outlines an employee's right of review to an external body (e.g. appropriate Industrial Tribunal, Office of the State Service Commissioner)	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The system provides information on the process of lodging a review with these external bodies and/or reference to where this information can be obtained	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The system mentions the specific time frames involved in lodging a review with the Office of the State Service Commissioner	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Employees are encouraged to utilise the Agency's internal grievance resolution system before seeking an external review	●	●	●	●	●	●	●	●	●	●	●	●	●	●

This set of features examined how the review rights of employees to external bodies are covered in internal grievance resolution system documentation. Employees have a right of review to a number of external bodies, including:

- The Anti-Discrimination Commission
- The Human Rights and Equal Opportunity Commission
- The State Service Commissioner
- The Tasmanian Industrial Commission
- The Ombudsman, and
- The Tasmanian court system.

The evaluation revealed that 13 of the 14 Agencies specified in their grievance documentation that employees have a right of review to external bodies, with the remaining Agency including a brief reference to this in an Appendix document. Eleven Agencies supported this information with details on the process of lodging a review with these external bodies, or by providing references to where employees can seek out this information.

Nine Agencies specifically mentioned the timeframe within which a review to the State Service Commissioner must be lodged, and one Agency mentioned the need to adhere to timeframes without providing further detail. This feature was included in the assessment given the relative urgency with which employees must lodge a review, within 14 days of the occurrence of the action/inaction upon which the review is based.

Just over half of Agencies (8 of the 14) have formally written into their internal grievance resolution system documentation that they encourage employees to use the Agency's own internal grievance resolution system before seeking a review elsewhere. This is not legally a requirement as employees have the right to seek a review externally at any stage. The Office of the State Service Commissioner encourages this practice.

Agencies which did not include information relating to an employee's review rights in their internal grievance resolution system documentation indicated that this information is advised to employees face-to-face by human resources personnel.

4.3 ROLES AND RESPONSIBILITIES WITHIN THE INTERNAL GRIEVANCE RESOLUTION SYSTEM

This section examines the application of internal grievance resolution systems within Agencies, in terms of the scope of the matters dealt with and how the internal grievance resolution system relates to other Agency systems or processes. This section also considers whether the internal grievance resolution system documentation includes information on how the system is communicated to employees e.g. information on contact personnel and/or an internal grievance resolution system communication strategy.

This section also examines the documentation of roles and responsibilities within Agency internal grievance resolution systems. This includes whether the system includes a designated Contact Officer role providing assistance to employees, in what detail the roles and responsibilities of key people are outlined and the role of any third parties in the system.

4.3.1 Use of designated Workplace Behaviour Contact Officers (Contact Officers)

Assessment Key:

- Feature in place
- Feature partially in place
- Feature not in place

Roles and Responsibilities within the Internal Grievance Resolution System	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
Use of designated Workplace Behaviour Contact Officers														
The internal grievance resolution system includes Contact Officers with responsibility for providing basic guidance and advice on the grievance resolution process	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Contact Officers are supported by a clear role statement outlining the scope of their duties	●	●	●	●	●	●	●	●	●	●	●	●	●	●
A debriefing process is available to Contact Officers	●	●	●	●	●	●	●	●	●	●	●	●	●	●

This set of features examined the number of Agency systems containing a designated Contact Officer role and how the support mechanisms for these Officers are documented. These personnel are variously known as Workplace Behaviour Contact Officers (WBCOs) or Workplace Contact Officers.

The evaluation revealed that 9 Agencies have such a role incorporated into their internal grievance resolution system. Three Agencies have this feature partially in place, either because the Contact Officers mentioned are principally Diversity Contact Officers, or because grievance documentation directs employees to the Human Resources Management Branch for advice and information, but does not specify whether this is via designated Contact Officers.

Where Contact Officers are in place, their role is generally to act as a contact point and to provide information and guidance on the grievance process, without providing advice or acting as an employee advocate. Within some Agencies Contact Officers also have an educative role, including information dissemination and fostering the development of an attitude that unfair and inequitable treatment, harassment, victimisation or discrimination is unacceptable. Several Agencies' Contact Officers have a role that is broader than the internal grievance resolution system, involving providing support in dealing with bullying and harassment matters, raising awareness of working with people with a disability, and other more general diversity roles.

In one Agency the role of the Contact Officer has evolved to include documenting the grievance on behalf of the grievant, via the use of a template grievance form.

Several Agencies have a network of Diversity Contact Officers in place, whose primary role is to report harassing or discriminatory behaviour, which can form the basis of employee grievances.

Other roles in place within Agencies which play a part in the internal grievance resolution system include:

- Investigation Officers, with responsibility for investigating complaints, grievances, inability and disciplinary allegations, in addition to providing advice and support in relation to grievance issues;
- Workplace Mediation Supervisor (WMS), with responsibility for referring parties to mediation and arranging appointments with the mediator; and
- Workplace Behaviour Coordinator (WBC), with responsibility for providing support and advice to the network of Workplace Behaviour Contact Officers.

The evaluation also examined whether grievance documentation included a role statement for Contact Officers. Four of the 14 Agencies had such a formal statement in their documentation, with 2 Agencies outlining this role very briefly. It is recognised, however, that this information is often kept outside formal grievance documentation and communicated instead via means such as the Agency intranet and office bulletin boards.

The evaluation also looked at whether grievance documentation mentions a debriefing process available to Contact Officers. Debriefing is essentially a stress minimisation process, and a process that can be very useful particularly in relation to the handling of complex or difficult grievance matters.

4.3.2 Outline of roles and responsibilities within the internal grievance resolution system

Assessment Key:

- Feature in place
- Feature partially in place
- Feature not in place

Roles and Responsibilities within the Internal Grievance Resolution System	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
Outline of roles and responsibilities														
The internal grievance resolution system outlines the roles and responsibilities for:														
• Head of Agency/CEO	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• The Human Resources Manager	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• The Human Resources Branch	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Contact Officers	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Managers/supervisors	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• The grievant	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• The respondent	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system provides guidelines for dealing with grievances relating to an employee's direct supervisor/manager	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system provides assistance with documentation for grievants who are unable to put their grievance in writing (e.g. due to language or comprehension difficulties)	●	●	●	●	●	●	●	●	●	●	●	●	●	●

This set of features examined the range of roles that are outlined in an Agency's formal internal grievance resolution system documentation. The evaluation revealed that the roles and responsibilities of grievants and respondents are well covered in documentation, as are the role and responsibilities of managers and supervisors dealing with the grievance (all Agencies have this feature in place). Agency system documents acknowledge that grievance resolution is an integral part of a manager or supervisor's duties. Managers and supervisors have a responsibility to identify, prevent and address problems in the workplace.

The role and responsibilities of Contact Officers is outlined in 8 of the 14 Agency system documents, ranging from a brief mention in procedures to a full explanation as part of a role statement for this position (see section 3.1). Agencies were generally unanimous in their emphasis on Contact Officers not offering advice on the substance of the grievance, only information on the options

open to employees with a grievance, and the process of submitting a grievance.

The role of the Human Resources Branch appears to be covered in the majority of Agency grievance documents. Eleven of the 14 Agencies include information on the role and responsibilities of the Human Resources Manager. Slightly less focus is placed on outlining the roles and responsibilities of the Human Resources Branch (9 Agencies), presumably given that the role of the Human Resources Manager has covered this area, or the Head of Agency/CEO (8 Agencies).

The evaluation revealed that the majority of Agencies provided some guidance to employees in relation to grievances that involve their direct manager or supervisor. Guidelines in this area were formally included in 10 of the 14 internal grievance resolution system documents.

This evaluation also examined whether sources of assistance for employees with grievances who have language or comprehension difficulties is formally documented. Only 1 Agency of the 14 has written this into system documentation, in the form of the supervisor/manager being responsible for documenting a grievance where an employee is unable to put their grievance in writing themselves.

4.3.3 The role of third parties

Assessment Key:

- Feature in place
- Feature partially in place
- Feature not in place

Roles and Responsibilities within the Internal Grievance Resolution System	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
The role of third parties														
The internal grievance resolution system provides all parties lodging a grievance with an opportunity to have a third party present at any meetings	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system provides contact details for the Department’s Employee Assistance Program	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system includes mediation as an option for the resolution of grievances	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system uses internally trained mediators where appropriate, with the consent of the parties	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system uses external mediators where appropriate, with the consent of the parties	●	●	●	●	●	●	●	●	●	●	●	●	●	●

This set of features examined how the role of third parties is outlined in Agency internal grievance resolution system documentation. Grievants have the right to be accompanied by a support person during all discussions relating to the grievance matter. This support person might be a representative from the union or employer association, or some other person of choice e.g. colleague, friends, spouse, or other relative. The evaluation found that 11 of the 14 Agencies have written this right into their formal grievance documentation. One Agency referred to support persons only in relation to assisting and advising in relation to the preparation of a written response to the grievance.

Feedback from Agencies who did not include this in their internal grievance resolution system documentation suggested that all parties are made aware of this right at an initial face-to-face meeting.

A number of Agencies engage external providers to deliver an Employee Assistance Program (EAP) which can provide employees with a channel to air issues and complaints prior to expressing them in the workplace. If personal or other external issues are the root of a grievance, use of this service can also assist in preventing problems from escalating to the point where they affect others in the work environment. This evaluation found that while a potentially larger number of Agencies have an EAP in place, only 6 Agencies included the contact details for the EAP in their formal system documentation. Five Agencies partially listed these details, by referring to the EAP without providing contact details.

A feature that is clearly in place across all Agency internal grievance resolution systems is the use of mediation, and/or conciliation, as a grievance resolution option. Other features relating to the use of mediation that have been included in internal grievance resolution system documents include:

- A template pre-mediation agreement (an agreement between the mediator and those participating in the mediation, outlining their commitment to the process, confidentiality and abiding by the agreed outcomes);
- A step-by-step guide to the mediation process for managers and supervisors;
- An outline of the key skills required of managers/supervisors in the process of mediation;
- An outline of the roles of all parties involved, including third parties; and
- An outline of the situations in which mediation is appropriate and/or inappropriate.

The evaluation also looked for evidence of whether the internal grievance system documentation outlined the use of internal and/or external mediators. Seven of the 14 Agencies mentioned their use of internally trained mediators in system documentation. Four Agencies either did not specify how mediation is organised within their Agency. The training provided by Agencies to any internal mediators was outside the scope of this evaluation, though Agencies should be aware of the need to ensure that internal mediators are suitably selected and provided with appropriate training and development. The particular issues relating to internal mediators centre on perceptions of their lack of independence.

A larger proportion of Agencies (9 of the 14 Agencies) indicated in their documentation that they employ external mediators in grievance resolution processes. The remaining 4 Agencies, as before, did not specify whether mediation is managed internally or externally. While not examined as part of this evaluation, several Agencies appear to be using their Employee Assistance Program provider to access external mediation services as well.

4.4 PROCESSES AND PROCEDURES

This section examines a selection of the processes and procedural issues affecting the operation of Agency internal grievance resolution systems. It includes an evaluation of the resolution options that are outlined in formal grievance documents, an overview of how specified procedural issues are dealt with, recordkeeping and what written guidance is included for maintaining appropriate privacy and confidentiality.

4.4.1 Options for resolution of the grievance

Assessment Key:

● Feature in place ● Feature partially in place ● Feature not in place

Processes and Procedures	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
Options for resolution of the grievance														
The internal grievance resolution system clearly outlines the options that are available to employees with a grievance	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system outlines the processes involved in each option in logical sequence	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Time limits are specified for the different stages in the grievance resolution process	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system includes taking no action as an available option e.g. in instances where the grievance has already been resolved and/or the grievant would simply like the grievance recorded	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system requires managers to consider interim administrative arrangements, where appropriate	●	●	●	●	●	●	●	●	●	●	●	●	●	●

This set of features examines how Agencies set out recommended options for the resolution of internal grievance matters in their system documentation. It found, unsurprisingly, that providing clear information to employees on resolution options was a key feature in every Agency system. It also found that these options were outlined in every Agency’s documentation in a logical sequence.

- The range of grievance matter resolution options identified by Agencies in their formal documentation includes:*
- The behaviour causing distress to the grievant is highlighted and the behaviour ceases;
 - The grievant is provided with a better understanding of the situation resulting in a resolution of their concerns;
 - An explanation for the behaviour leading to the grievance is provided to the grievant;
 - A verbal or written apology (private or public);
 - The respondent (and/or grievant) is provided with a formal reprimand;
 - Re-crediting of leave taken;
 - Agreement to take no further action;
 - Agreement to participate in counselling;
 - A mediation conference (using internal mediators);
 - A mediation conference (using external mediators);
 - Commencement of more appropriate grievance resolutions processes (e.g. discrimination, bullying and harassment);
 - Disciplinary action where a breach of the Code of Conduct has been established;

- A change to procedure or practice within an Agency;
- Awareness raising or training;
- The affirmation or rescindment of a decision;
- Referral of a matter to an external Agency for further investigation or prosecution; or
- It is determined that there is no substance to the grievance matter and it is closed.

Some Agencies included suspension of the grievant and/or respondent, transfer of duties and termination of employment as possible grievance matter resolution options. Agencies should note that these references should be removed from internal grievance resolution documentation as they are to be used only as sanctions for determined breaches of the Code of Conduct.

Wherever possible, grievances should be addressed by a process of discussion, cooperation and conciliation. The evaluation found that this was a common thread through all 14 internal grievance resolution systems.

Breaking the internal grievance process (both informal and formal) into steps can assist in making the process easier and clearer for employees to follow. It also allows for timeframes to be applied to each step, where appropriate. This evaluation found that all 14 Agencies outline the grievance resolution options open to employees in logical sequence, and that 10 of the 14 specify timeframes for the stages in the sequence. One Agency specified timeframes for formal grievances only. The benefit of documenting timeframes for the grievance process is in preventing periods of inaction on the part of the person managing the grievance and the employee initiating the grievance matter. However there is also a need to ensure that employees and managers adhere to the timeframes specified.

Comments received from Agencies revealed that a primary reason for not including timeframes was that each internal grievance resolution process is considered on a case-by-case basis and that the prescription of a time limit is not appropriate in some cases.

In examining the options open to employees in resolving a grievance, it was interesting to note that 6 of the 14 Agencies included taking no action as an available option. For example, this option might be applied in instances where the grievance has already been resolved and/or the grievant would simply like the grievance recorded rather than pursuing formal action. The manager/supervisor concerned would need to ensure that if this option is chosen, the behaviour/individuals involved would not affect the work performance or health of the grievant or others in the workplace. A number of Agencies commented that they did not consider this an appropriate resolution option, with the view that a grievance should be proactively addressed in some way if it has been identified.

The evaluation also considered whether Agency internal grievance resolution systems formally require managers to consider interim administrative arrangements, where appropriate. The resolution of grievance matters can take an extended period of time and thus it may be necessary to consider implementing changes in the workplace as an interim measure, mainly to ensure that the workplace remains safe, productive and that the grievance is not exacerbated during the period in which it is addressed. The evaluation found that 4 Agencies included written advice for managers/supervisors in this regard, with 2 Agencies prompting managers/supervisors to deal with any immediate safety issues, or to consider administrative measures as a resolution option, though not necessary as an interim management measure.

It should be noted that not all grievance situations are raised by the grievants themselves; in some cases they may be observed by a supervisor/manager or other third party. Any internal grievance resolution system should consider how such a situation is to be handled.

4.4.2 Procedural matters

Assessment Key:

● Feature in place ● Feature partially in place ● Feature not in place

Processes and Procedures	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
Procedural matters														
Internal grievance resolution system documentation is made available to all parties to a grievance as a formal step in the grievance process	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system requires grievance matters to be handled as quickly as possible after the event/behaviour/inaction leading to the grievance	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system directs employees to handle grievance matters as close as possible to the source of the grievance	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system clearly outlines all documentation required throughout the grievance process	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system requires the following information to be documented for each (formal) grievance:														
• A description of the incident/behaviour/inaction	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• An outline of why the employee is aggrieved	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• The date and names of other parties involved, including any witnesses	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Details of the outcomes sought by the grievant	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Grievants are informed to take due care with the wording of written information, in view of potential freedom of information (FOI) requests and/or use of the grievance documentation by third parties	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system clearly states zero tolerance for victimisation of employees raising grievance matters	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Parties are informed of all information that might influence the resolution of the grievance matter	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Delays at any time in the grievance process are required to be explained to all parties	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Parties are informed of the outcome of any grievance matter and, where appropriate, are provided with a copy of the written decision or outcome	●	●	●	●	●	●	●	●	●	●	●	●	●	●

This set of features examines a number of procedural matters relating to the operation of the internal grievance resolution system. This section provides an overview of what information has been formally written into grievance documentation.

The first procedural matter to be considered as part of the evaluation was whether the grievance documentation formally includes providing the documentation itself to all parties to a grievance, *as the first step in the management of any grievance*. As has been seen in this report so far, the documentation outlines the roles and responsibilities of all parties, as well as resolution options and sources of assistance, among many other things. It is a source of information for employees who are both considering launching a grievance matter and for managers/supervisors and other staff members who are required to manage the process.

The evaluation found that 5 of the 14 Agencies have formally included this as a procedural step in their grievance documentation. One Agency provides information on how the internal grievance resolution system and its processes will be publicised among employees and managers, but does not include a specific requirement for the system documentation to be provided to parties to a grievance at the outset. Anecdotal evidence from Agencies suggests that internal grievance resolution system documentation is provided to parties at the time the grievance process is outlined, whether this is at initial meetings or via email/ access to the intranet.

Some Agencies indicated as part of this evaluation that they are moving away from an all-inclusive internal grievance resolution system document towards an approach focusing on human contact and personal referrals. On the other hand, one Agency was also clear to point out that having such a comprehensive document readily available to employees allows them to find out what is involved in the grievance process without drawing attention to their situation. This is particularly the case for smaller State Service Agencies.

The evaluation examined other areas of direction for managers/supervisors in relation to grievance handling that have been written into internal grievance resolution system documentation. A key directive was to handle grievances as promptly as possible after the event/behaviour/inaction leading to the grievance. Thirteen of the 14 Agencies included this feature in their documentation, with the remaining Agency making a very broad reference to this. All Agencies recognised in their documentation the need to handle grievance matters as close as possible to the source of the grievance, and directed their employees accordingly.

Directions in relation to documenting the grievance were also uniformly included in grievance documentation, with 13 of the 14 Agencies clearly outlining all documentation required throughout the grievance process. That said, the information required to be documented varies between Agencies.

Eight of the 14 Agency internal grievance resolution systems required the following information to be recorded:

- A description of the incident/behaviour/inaction;
- An outline of why the employee is aggrieved;
- The date and names of other parties involved, including any witnesses; and
- Details of the outcomes sought by the grievant.

Four Agencies had this feature partially in place in their system documentation, stating that grievances must be fully described and/or documented, but not specifying what information should be documented.

Other information requested by Agencies in their system documentation (e.g. as part of template forms) includes:

- What action, if any, has been taken by the grievant and/or supervisor/manager to seek resolution of the matter (e.g. through informal grievance processes); and
- Any other documentation that is considered relevant to the matter and which may assist in the evaluation process.

The evaluation examined whether persons documenting the grievance were advised to be mindful of the formal wording of the written grievance, in view of potential freedom of information (FOI) requests and/or use of the grievance documentation by third parties. One Agency included this as a guidance note in grievance documentation. Tasmania has some of the most expansive FOI legislation in Australia and this is therefore an issue for consideration among Agencies.

Agencies were more uniform in their directions to employees about victimisation. Victimisation includes any unfavourable treatment of a person as a consequence of their involvement in a grievance under these procedures. Unfavourable treatment includes ostracism, adverse changes to the work environment, and the denial of access to resources, work opportunities or training.

Section 10(5) of the Act provides that an officer or employee must not victimise or discriminate against another officer or employee because they have reported an alleged breach of the Code of Conduct. Grievances relating to discrimination or victimisation may result in action being taken in accordance with the Act. Victimisation also applies to the treatment of any employee involved in a grievance, whether a grievant, respondent, support person or witness.

Zero tolerance for victimisation also applies to the implementation of the resolved outcome – this must be supported in good faith by all parties. The evaluation examined whether documentation clearly states zero tolerance for victimisation of employees raising grievance matters. This was a feature in 11 of the 14 Agency internal grievance resolution system documents.

All Agency internal grievance resolution systems revealed an acknowledgement in their documentation of the need to ensure that parties are informed of information that might influence the resolution of the grievance matter. This is a key tenet of the

principles of natural justice and procedural fairness, to which all Agency systems must, and do, adhere. Also key to these principles is that parties are informed of the outcome of the process – specifically this evaluation looked at whether parties are informed of the outcome and provided with a copy of the written decision or outcome. All Agencies included this requirement in their system documentation.

There appeared to be, however, less commitment to informing parties of the reasons for delays in the grievance process. This evaluation revealed that only 2 of the 14 Agencies formally included mention of this in their internal grievance resolution system documentation. It is acknowledged that this feature must be balanced with the practicality of informing parties of every minor delay – it is intended more as a prompt to consider whether parties are kept informed when grievance processes take quite some time to resolve. It is also recognised that while not clearly stated in internal grievance resolution system documentation, this may be a feature adhered to in practice.

4.4.3 Appropriate recordkeeping

Assessment Key:

- Feature in place
- Feature partially in place
- Feature not in place

Processes and Procedures	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
Appropriate recordkeeping														
The internal grievance resolution system specifies the records that must be kept for each grievance matter	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Disposal of grievance matter documentation is consistent with the Disposal Schedule of the <i>Archives Act (1983)</i>	●	●	●	●	●	●	●	●	●	●	●	●	●	●

This set of features examines the information that is included in Agency internal grievance resolution system documentation in relation to recordkeeping. The evaluation found that 11 of the 14 Agencies specified the records that must be kept for each grievance matter in their documentation. One Agency outlines only the required records for investigations into breaches of the Code of Conduct, and 2 Agencies do not include this information in their source internal grievance resolution system documentation.

The range of grievance matter documentation Agencies mentioned includes:

- All written documentation must be maintained
- Records of all interviews
- File notes of telephone calls
- Documentation of decisions made and the reasons behind them
- Briefing notes
- Internal memos
- Other relevant Agency documents.

Agencies are also required to keep sufficient data to support reporting processes for internal Agency management and statutory reporting requirements to OSSC. Information to be reported for statistical purposes should, as far as is practicable and reasonable, be in an unidentifiable form.

A number of Agency system documents also outline the terms of disposal for grievance matter records. Six of the 14 Agencies have specified that this must be consistent with the Disposal Schedule of the *Archives Act 1983*. Comments from Agencies suggested that this issue might be dealt with via the Agency’s separate processes and procedures for managing personal information.

4.4.4 Privacy and confidentiality

Assessment Key:

- Feature in place
- Feature partially in place
- Feature not in place

Processes and Procedures	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
Privacy and confidentiality														
The internal grievance resolution system requires employees to maintain appropriate confidentiality in all matters	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system requires any meetings to be conducted in an appropriate location	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system requires that records of grievance matters are stored in a confidential and secure location	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The internal grievance resolution system states that information relating to an employee grievance matter should not be placed on personnel files, except in certain specified circumstances e.g. where a grievance matter ends in disciplinary action being taken	●	●	●	●	●	●	●	●	●	●	●	●	●	●
The system states that any grievance matter documentation remains with the Agency	●	●	●	●	●	●	●	●	●	●	●	●	●	●

This set of features examined how privacy and confidentiality are outlined in Agency internal grievance resolution system documentation. Agency employees must recognise that the information provided by grievants and respondents during the course of a grievance process is usually of a personal and sensitive nature and thus this information must be treated in a confidential manner. The evaluation found that all Agencies mention the need to maintain appropriate confidentiality in all matters relating to a grievance.

The evaluation also examined what detail is included in relation to this, namely:

- Whether the need to conduct meetings in an appropriate location is mentioned (3 Agencies); and
- Whether the need to store records in a confidential and secure location is mentioned (10 Agencies).

Access to electronic data files relating to grievance matters should also be kept secure at all times, via restrictions on electronic databases and filing systems. One Agency’s documentation includes a formal access schedule outlining which Agency staff have access to records (e.g. Secretary, Director, Corporate Services, Manager, Human Resources, Investigating Officer, Supervisor, Divisional Head).

Agencies are also bound by legislation to prevent the indiscriminate release of information. Maintaining a confidential record of grievance matters allows this information to be kept separate from information on personnel files, which change Agency with the employee. This evaluation found that 8 Agencies specified in their grievance documentation that details of grievance matters should not be placed on personnel files *except in certain specified circumstances*.

The range of circumstances include:

- Where a grievance matter ends in a disciplinary action being taken;
- When “certain circumstances” have been determined, the employee is advised in writing and provided with a copy of the documentation; and
- In all other situations except where the issue is considered sensitive or highly personal in nature.

Four Agencies had this feature partially in place, mainly stating that employees will be informed of information that is placed on their personnel file and/or provided with a copy of the documentation to be placed on the file and, in the case of one Agency system, information will be acknowledged by all parties prior to this occurring.

Only one Agency’s formal documentation stated that any grievance matter documentation remains with the Agency. Thus when an employee transfers or is promoted to another Agency, information on any internal grievances lodged by or against the employee should remain on the Agency’s personnel files. Once again, this is an issue that in some Agencies is covered by the Agency’s processes and procedures for managing personal information, and in other Agencies this occurs in practice though it is not documented.

4.5 DOCUMENTATION AND SUPPORT

This section examined some of the structural elements of the internal grievance resolution system documentation, including information relating to the validity and currency of the formal documentation relied on for this evaluation.

4.5.1 Full documentation of the internal grievance resolution system

Assessment Key:

● Feature in place ● Feature partially in place ● Feature not in place

System Documentation and Support	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMMA	TAFE	TAO	TPT
Full documentation of the internal grievance resolution system														
The internal grievance resolution system is fully documented	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Internal grievance resolution system documentation is written in clear and plain English	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Internal grievance resolution system documentation includes a glossary of all appropriate terms	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Internal grievance resolution system documentation contains:														
• Commencement/approval date	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Person approving internal grievance resolution system documentation	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Procedural document contact person	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• The last review date	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Review history of changes to the document	●	●	●	●	●	●	●	●	●	●	●	●	●	●
• Document version control	●	●	●	●	●	●	●	●	●	●	●	●	●	●

This set of features related to the documentation of the system and the information that has been included in relation to the approval, authority and review of the internal grievance resolution system. Firstly, it was assumed that all internal grievance resolution systems are fully documented and that this documentation formed the basis of this evaluation. The evaluation found that all Agency internal grievance resolution systems were written clearly and were easy to comprehend.

Four of the 14 Agencies included a glossary in their formal system documentation, with 3 more Agencies including a limited glossary e.g. one that focused on 3 terms, or on bullying and harassment, with no general grievance terms included. A list of the terms that have been included in glossaries and their meanings is included in Appendix 2.

This evaluation also examined what details are included about the status of the documentation itself. This was mainly prompted by the need to track the current version of any system documentation, to avoid any possible confusion on the part of grievants, management and external bodies such as the Office of the State Service Commissioner, who make reference to these documents. While 11 of the 14 Agencies have a commencement or approval date listed on the document, the following features were less commonly in place:

- Last review date (7 Agencies)
- Document version control (6 Agencies)
- Person approving the system documentation (5 Agencies)
- Procedural document contact person (3 Agencies), and
- Review history of changes to the document (1 Agency, with 1 more Agency having this feature partially in place).

In some Agencies the review history of changes to grievance documentation is available elsewhere on a separate procedural file and therefore this is a feature which is not included in the documentation itself. It is also recognised that some Agency internal grievance resolution documents are only available as information contained within web pages on the Agency intranet. However, there is still a need to track the currency of this information and to ensure that all parties, whether the grievant and respondent, management or external bodies, are accessing the same information.

In relation to including a contact person for the internal grievance resolution system, Agencies commented that:

- Contacts for human resource units/personnel are generally included in information so that staff turnover does not require constant updating;
- Each division in the Agency has a designated human resources consultant who may be contacted in relation to all human resources processes and procedures; and
- Formal Agency documents follow a specific format, which determines the information that is included in relation to areas such as version currency.

One Agency makes use of a publishing database for all electronic files listed on the Agency intranet. This includes information relating to version control, review dates, change history and related metadata.

4.5.2 The internal grievance resolution system is subject to regular review

Assessment Key:

- Feature in place
- Feature partially in place
- Feature not in place

System Documentation and Support	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
The internal grievance resolution system is subject to regular review														
The internal grievance resolution system has been reviewed at least once since its implementation	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Internal grievance resolution system documentation has been lodged with the Office of the State Service Commissioner	●	●	●	●	●	●	●	●	●	●	●	●	●	●

This set of features briefly examined whether the grievance documentation included an indication of the internal grievance resolution system having been reviewed at least once since its implementation. The evaluation revealed that 5 of the 14 Agency internal grievance resolution system documents included references to a review date, indicating that at least one review had been undertaken.

Updating of internal grievance resolution system documentation might occur following:

- Review of Agency processes and procedures;
- Review of relevant legislation; and/or
- Review of State Service Commissioner’s Directions and Ministerial Directions.

As part of this evaluation the full documentation was requested from each Agency, and thus all Agencies meet the criteria for this evaluation. While it is not currently a legal requirement for Agencies to provide the Office of the State Service Commissioner with an updated copy of their internal grievance resolution system, the version on file is relied upon when grievance matters are heard by the Commissioner or his delegate.

4.5.3 Availability of information and support materials

Assessment Key:

- Feature in place
- Feature partially in place
- Feature not in place

System Documentation and Support	DED	DOE	DHHS	DIER	DOJ	DPEM	DPAC	DPIW	DTAE	DOTAF	PAHSMA	TAFE	TAO	TPT
Availability of information and support materials														
The internal grievance resolution system outlines sources of assistance for employees, managers/supervisors, Human Resources personnel and Contact Officers.	●	●	●	●	●	●	●	●	●	●	●	●	●	●
Information and forms that supplement the primary internal grievance resolution system document are included in document appendices or are hyperlinked from the main document	●	●	●	●	●	●	●	●	●	●	●	●	●	●

This set of features examined the support options that have been outlined in Agency internal grievance resolution system documentation. The evaluation found that 13 of the 14 Agencies outline the sources of support that are available for employees (grievants and respondents), their managers/supervisors, Human Resources personnel and Contact Officers. Sources of assistance were not outlined in the remaining Agency’s documentation.

The evaluation also found that information supplementary to the main system documentation was included by the same 13 Agencies, to provide access to additional resources.

Useful support materials currently in use in Agency systems include:

- A process checklist for supervisors/managers with specified timeframes;
- A checklist to ensure all required information has been obtained;
- A tool to support an initial assessment of the grievance matter;
- Case study examples illustrating the various types of grievances and resolution methods;
- Flowchart diagrams to guide employees and managers through the grievance resolution system;
- A copy of relevant documents e.g. the State Service Principles, State Service Code of Conduct;
- Commissioner’s Directions (or a reference to their location);
- An overview of the mediation/conciliation process; and
- Inclusion of Frequently Asked Questions.

Template forms are also currently in use in a number of Agencies. Template forms might be considered for:

- A formal grievance resolution form;
- Guidelines for conducting an interview e.g. questions;
- A Statement of Reasons for Outcomes/Decisions;
- Records Process; and
- Request for Reconsideration.

APPENDIX 1

LEGISLATIVE REQUIREMENTS

Heads of Agencies are required under the *State Service Act 2000* (the Act) to “develop and implement an internal grievance resolution system in the Agency,” (s34 (1)(j)).

This is supported by the State Service Principles, which require that “the State Service provides a fair system of review of decisions taken in respect of employees” (s 7 (1) (m)) and Commissioner’s Directions No. 2 and 7:

- **Commissioner’s Direction No. 2, State Service Principles**

Heads of Agencies must put in place measures in the Agency to ensure that:

- a) The Agency has a system for the review of employment decisions that is available to all Officers and employees in the Agency; and
- b) The system complies with the Act and the Regulations in relation to rights of access to employment decisions, and processes for review of employment decisions, including the requirements of procedural fairness; and
- c) Officers and employees must help to ensure that these requirements are effectively complied with.

- **Commissioner’s Direction No. 7, Review of State Service Actions**

This specifies the procedures for a review in accordance with Section 51(1) of the Act. Commissioner’s Direction No. 7 also prescribes that:

- Heads of Agencies must develop internal grievance resolution systems for their Agency that reflect the principles of natural justice and procedural fairness
- Employees who have a grievance about any matter relating to their employment in the State Service will normally be expected to utilise internal Agency grievance resolution systems in an attempt to resolve their grievances.

The State Service Commissioner is required to “take such steps as the Commissioner considers necessary to uphold, promote and ensure adherence to the State Service Principles” and to “evaluate the adequacy of systems and procedures in Agencies for ensuring compliance with the Code of Conduct.” (s 18 (1)(e)) of the Act.

APPENDIX 2

LIST OF TERMS APPEARING IN INTERNAL GRIEVANCE RESOLUTION SYSTEM GLOSSARIES

Please note that the information included in this glossary has been drawn verbatim from Agency internal grievance resolution system documentation and the Office of the State Service Commissioner makes no claims as to its accuracy or currency.

GLOSSARY TERM	DEFINITION
Arbitration	Arbitration is the traditional means of resolving industrial matters. It involves the submission of evidence to an independent third party, which then makes a decision that is binding on all parties. It is a formal process
Bullying	Bullying is repeated less favourable treatment of one person by another or others which is unreasonable and inappropriate in the workplace. Bullying behaviour intimidates, offends, degrades and/or humiliates another person. It can occur between an employee and a manager and between employees. <i>(Anti-Discrimination Act 1998)</i>
	Bullying is unreasonable and inappropriate workplace behaviour which intimidates, offends, degrades, insults or humiliates an employee, in isolation or in front of co-workers, clients or customers and which includes physical or psychological behaviour.
Complainant	The staff member lodging a grievance, either formally or informally.
	A complainant is the person who has a concern about a condition or circumstance of employment which they feel is discrimination, harassment or bullying.
Complaint made in good faith	A complaint made in 'good faith' is one that is made honestly and in the genuine belief that a matter occurred as described in the complaint.
Conciliation	A process similar to mediation except the third party is known as a conciliator. Unlike a mediator or facilitator the conciliator does have an advisory role with respect to the content or outcome of the resolution but not a determinative role. This advisory role can take the form of suggesting terms of settlement, offering expert advice or actively encouraging participants to reach an agreement. <i>(National Alternative Dispute Resolution Advisory Council 1997)</i>
	Conciliation involves a third party working with the parties in conflict to achieve a settlement. A conciliator has a legitimate role in ensuring a settlement is reached, and may suggest or promote solutions to the parties. 'Agreement-making' is central to conciliation. Managers and supervisors may 'conciliate' conflict.
	<i>Conciliation</i> involves a third party (e.g. a manager, supervisor or HR Officer) working with the parties in conflict to achieve resolution. The conciliator may suggest or promote solutions to the parties.
Conferencing	A process also known as facilitation and is similar to mediation except that the parties involved are a group who is directed by a neutral third party known as a facilitator. The facilitator does not have an advisory or determinative role with respect to the content or outcome of the resolution. <i>(National Alternative Dispute Resolution Advisory Council 1997)</i>
Contact Officer	A Contact Officer is a specially trained employee whose role it is to inform and support either the person <i>making a complaint</i> or a person who has a complaint made against them.

Disciplinary Process	The process used for managing allegations of serious misconduct, serious and repeated performance issues or inappropriate and unlawful behaviour by employees of the Department which if proven, could lead to a determination that the State Service Code of Conduct was breached.
Discrimination	Treating another person on the basis of one or more of the following attributes less favourably than a person without that attribute (direct discrimination). In addition, it means a person imposing an unreasonable condition, requirement or practice which disadvantages a member of or a group of people who share one or more of the following attributes (indirect discrimination). <i>(Anti-Discrimination Act 1998)</i>
	Discrimination includes both direct and indirect discrimination: <ul style="list-style-type: none"> • Direct discrimination is treatment that is obviously unfair or unequal where a person or group is treated differently when the differences are irrelevant. • Indirect discrimination occurs when a person or group is treated the same although they are different. By not taking the differences into account, a person or group benefits at the expense of others.
Formal Complaint	A formal complaint occurs when an employee makes a written complaint about any condition or circumstance of employment which they feel is discrimination, harassment or bullying. The formal resolution procedures apply.
Formal Resolution Processes	Process that usually involves a series of documented investigative steps and may result in formal action being taken, or formal sanctions being applied if a complaint is proven.
Frivolous Complaint	This is a complaint that can be defined as being trivial in that it lacks seriousness or does not make sense.
Grievance	Refer to Section 4.1 of this report.
Harassment	Conduct which offends, humiliates, intimidates, insults or ridicules another person on the basis of: <ul style="list-style-type: none"> e) gender; f) marital status; g) pregnancy; h) breastfeeding; i) parental status; j) family responsibilities; in circumstances in which a reasonable person would have anticipated that the other person would be offended, humiliated, intimidated, insulted or ridiculed. <i>(Anti-Discrimination Act 1998)</i>
	Harassment is behaviour which makes a person feel offended, humiliated, insulted, ridiculed or intimidated. It is behaviour that is unwelcome, unreciprocated and usually (but not necessarily) repetitive. If an employee feels uncomfortable or powerless to stop the behaviour, or if it interferes with the ability to perform normal duties, then the distress caused by the behaviour is real, regardless of the actual intentions of the other party. Harassment can be either deliberate or unintentional. Harassment may include sexual harassment, bullying or victimisation.
Informal Complaint	An informal complaint occurs when an employee feels aggrieved, bullied, harassed or discriminated against and wishes to deal with it informally.

Informal Resolution Processes	These generally involve the people in conflict coming together to discuss their differences. This may involve one employee approaching another to discuss a point of disagreement or conflict between them, or third parties being involved such as mediators or conciliators.
Initial Assessment	An initial review by the person receiving the complaint to determine whether the grievance resolution process is the most appropriate means to deal with the complaint.
Malicious Complaint	A malicious complaint can be defined as a complaint made with the primary intention of causing distress to another person, usually the respondent. This is not to be confused with a complaint made in good faith, but found to be without merit.
Mediation	Mediation is a process whereby a suitably skilled person acts as an independent, neutral 'mediator' to bring about a mutually agreeable resolution of a disagreement between parties.
	A process involving opposing parties in dispute with a neutral third party acting as a mediator. The mediator assists the parties to clearly identify disputed issues and mutually develop strategies and options to resolve the disputed issues. The mediator does not have an advisory or determinative role with respect to the content or outcome of the resolution. (National Alternative Dispute Resolution Advisory Council 1997)
	Mediation involves an <i>independent</i> and <i>uninvolved</i> third party working with the parties in conflict to assist each to express their needs and concerns and to reach agreement.
	<i>Mediation</i> involves an independent and uninvolved third party who works with the parties to the conflict to assist each to express their needs and concerns and to reach agreement where possible.
Next Level Manager	The person to whom the immediate supervisor/manager of the complainant reports.
Procedural Fairness	This includes two main principles; the Hearing Rule, which provides that a person should know the case against them and have a chance to respond, and the Bias Rule, which provides that any hearing should be by an impartial adjudicator.
Respondent	The person against whom the grievance is made.
	The person who has a complaint made against them.
Sexual Harassment	Sexual harassment is defined as the following behaviour by one person to another, where a reasonable person in the circumstances would have anticipated that the person would be offended, humiliated, intimidated, insulted or ridiculed: (<i>Anti-Discrimination Act 1998</i>)
Staff Member	An employee of the Agency, whether employed on a casual, temporary, permanent or contractual basis, as well as students and volunteers working for the Department.
Support Person	An individual of the person's choice, who provides support to that person during any meetings attended as part of the grievance management process, but does not advocate on their behalf. This could include a family member, friend, colleague or union representative.
Vexatious Complaint	A vexatious complaint can be defined as a complaint made without sufficient grounds and designed only to cause annoyance. This is not to be confused with a complaint made in good faith, but found to be without merit.
Victimisation	A person subjecting, or threatening to subject, another person or an associate of that other person to any detriment. (<i>Anti-Discrimination Act 1998</i>)
	Subjecting a person to any detriment or threat of detriment because they have made a complaint, been a witness to an incident or supported the complainant or respondent.
Workplace Behaviour	Behaving appropriately in the workplace and having a workplace free from discrimination, harassment and bullying.
Workplace Diversity	Recognising the value of individual differences and managing them in the workplace.





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