



MLC Grievance Resolution Process

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The Grievance Management Process is a step-by-step guide. It provides a mechanism for ensuring that grievances are effectively resolved.

This process can be applied with suitable modification to complaints made by those who work at MLC or by third parties who wish to lodge a complaint.

Basic principles of dispute resolution

There are basic principles that apply to all processes of dispute resolution:

1. The matters raised are confidential. Allegations are not to be the subject of gossip or of disparaging someone who has made a complaint or the person against whom the complaint has been made.
2. At all times, we must behave professionally and courteously to each other. Persons who make complaints or the persons against whom the complaints have been made may, understandably, feel angry, hurt and confused. Those feelings do not legitimize behaviour to anyone involved that is not professional, respectful and courteous.
3. Complaints need to be dealt with as quickly as possible bearing in mind the need to allow each party natural justice. Sometimes, however, dealing with a complaint can require patience and understanding by all who are involved.
4. Complaints should only be made to achieve resolution of legitimate disputes and never for other motives.
5. Any party can, at any time, withdraw allegations that they have made. However, the party withdrawing the allegation may be required by MLC management to make an apology to the other party.
6. Above all, MLC seeks to maintain a safe, respectful working environment. Over and above resolving the particular dispute, MLC may need to take steps, including disciplinary steps, to deal with matters that emerge from a complaint. This can include disciplinary action if MLC forms the view that any of these procedures have been abused or used for improper motives.
7. MLC reserves the right to inform the police or any other relevant body if matters are raised that it is obliged to report or which, given the seriousness of the matter alleged, it is appropriate to report.
8. With the best will in the world by all concerned, it is not always possible to achieve a resolution of a dispute that satisfies all concerned. The goal of the processes set out below is to achieve the best possible resolution in the circumstances.

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Step 1 – identifying the grievance

The first step in resolving any dispute is to identify the grievance.

Step 2 - Verbal Discussion (optional)

Step 2.1 Discussion with the individual allegedly causing the grievance

Wherever possible, a person with a complaint should first raise the issue informally with the person whose behaviour is causing the grievance. While MLC encourages complainants to take this step before electing to take another path, this step is optional. It may, of course, be inappropriate because of the nature of the complaint (for example, the complaint maybe of serious misbehavior) or the complainant may not feel able to raise the matter in this way (for example, because they feel intimidated).

This informal way of resolving a complaint has many advantages:

- The person against whom the complaint is made may not understand that what they are doing is causing a grievance. They may have no intention of causing offence. Simply raising the matter may enable that person to understand the effect of what they are doing and change their ways.
- The matter does not have to be dealt with officially by MLC management. If MLC management becomes involved, resolving the dispute may involve the imposition of some form of disciplinary behaviour and may result in details being recorded on an employee's file.
- It is generally much quicker than any other form of dispute resolution.

Step 3 Raising the issue with Management

If the grievance cannot be resolved directly with the individual causing the grievance, the grievance should be raised with the relevant line manager.

If it is not appropriate to talk to the line manager, the individual may raise the grievance with the MLC Director or Board Chairperson.

Step 4 – informal resolution by management

Ordinarily, MLC management will attempt to resolve the dispute informally. This may involve a discussion between the complainant and the person against whom the complaint is made (the respondent) facilitated by a member of MLC management. Informal efforts by management to resolve complaints may not be appropriate (for example, if an allegation is made of serious misbehavior).

Step 5 – formal resolution – choice of the resolution path

If the dispute cannot be resolved informally, MLC, in discussion with the complainant, will determine which path is more appropriate to resolve the dispute. Ultimately, this is a decision for management although the views of the complainant will be taken into account in determining the appropriate course.

The two options for resolution available are as follows:

1. A *mediation* path – this path provides the opportunity for a complaint to be resolved by a mediation process.
2. A *formal investigation* path. In summary, this path involves the relevant manager, Director or Chairperson either him or herself or through a delegate or external investigator (the investigating officer), identifying the allegations, reviewing the evidence, putting the allegations and evidence to the alleged perpetrator of the relevant behaviour (the respondent). The respondent then has the opportunity to respond to the allegations and the evidence. The person conducting the investigation, after considering all the relevant evidence available, will prepare a report on what has happened which will then be considered by the appropriate level of management or the Board (see below) for an appropriate response.

The appropriate path for a resolution may vary for particular individuals and types of grievance. Whatever path is taken, all parties concerned must respect the privacy of everyone involved including third parties and potential witnesses of the relevant behaviour.

It may be appropriate for MLC management or the Board to make arrangements for alternative work processes including alternative supervision of those involved to ensure the well being of all concerned.

Step 5 – The implementation of the relevant option

Mediation

MLC will decide on an appropriate mediation process to resolve the dispute.

Mediation is a voluntary, confidential and neutral process designed to help parties achieve a mutually beneficial resolution to their dispute. Mediation generally involves two or more parties coming together, in the presence of a mediator, to attempt to resolve their disputes. The mediator acts as a neutral medium to assist communication, aid negotiation, facilitate understanding and ‘manage’ the negotiation process.

A mediator has no determinative or advisory role, but they do control the process and can help parties to:

- 1 Identify the issues in dispute
- 2 Explore their respective needs
- 3 Generate their own options
- 4 Reality-test their options
- 5 Reach their own agreements

Mediation will be the preferred option where parties agree to the process and are happy for the mediation session/s to remain confidential. Where the mediation path is chosen, only the parties involved in the dispute need attend. As a general rule the issues discussed in the mediation session will be confidential, unless there are concerns for the safety of persons and/or property. The manager handling the dispute may, however, ask for a

report back, which confirms whether or not the matter was resolved, and if yes, what the agreed resolution plan is (in order to help them monitor compliance). Likewise parties may both agree to report-back on the process.

Parties involved in the mediation may ask to have a friend or colleague present to assist them in the mediation process or in any mediation.

MLC may decide that it is appropriate to appoint an independent mediator to carry out the mediation.

The goal of a mediation is to resolve the dispute completely or, if that is not possible, to prepare a resolution plan that the parties agree to for the resolution of the dispute over time.

If the mediation process uncovers inappropriate behaviour by a member of staff, MLC may take disciplinary action against that staff member including instant dismissal if the misbehavior is of a serious nature, involves criminal behaviour or puts a member of the MLC community at serious risk.

Formal investigation

Formal investigation covers the following steps:

1. A complaint being made to MLC management or the Chair of the Board.
2. The complaint must be in writing. It must identify the following:
 - a. The nature of the offending behaviour.
 - b. Details of the offending behaviour including when and where it occurred and details of what happened.
 - c. The consequences of the offending behaviour for the complainant.
 - d. Names of any witnesses.
 - e. All evidence in support of the allegations.
3. MLC is not obliged to take any action until all of this information has been provided in writing by the complainant.
4. The Director or, if the complaint is about him or her, the Chair of the Board will investigate the allegations or may delegate that task to another person to carry out the investigation. The person carrying out the investigation is referred to as the investigating officer in this document.
5. The investigating officer will have discretion about how he or she conducts the investigation but the following principles shall be applied by all involved in the complaint including the investigating officer:
 - a. The investigation must be carried out promptly.
 - b. All parties to the dispute must co-operate promptly with the investigating officer. If a party to a dispute fails to co-operate and assist the investigating officer in a reasonable manner and within a reasonable time, the

investigating officer may conclude their investigation without that assistance – noting the failure of the party to co-operate or assist as appropriate.

- c. The complainant and the person against whom a complaint is made (the respondent) shall have the opportunity to respond to all allegations that are made against them that are relevant to the substance of the complaint.
- d. Subject to what follows, the complaint and all evidence shall be kept confidential by all concerned with the investigation:
 - i. The allegations and all evidence may be shared with the Director or the Chairperson of the Board. If the complaint involves the Director, however, no information or evidence shall be provided to him or her unless it is necessary under this process to accord the Director the opportunity to respond to that information or evidence in accordance with this procedure.
 - ii. If there is any allegation of illegality, the allegation may be provided to the police or if MLC is otherwise required by law to disclose the information or evidence.
 - iii. If there is any threat to the health and safety of any person, the investigating officer may take such steps (including the disclosure of evidence or information) that are appropriate to ensure the health and safety of any person.
 - iv. The confidentiality of all persons involved shall be respected.
 - v. It may be appropriate to put in place alternative work arrangements or supervision arrangements to ensure that no one is intimidated or put in a position where their health or wellbeing is put at risk by the investigation. This principle is subject to what is reasonable in the circumstances given the operational needs and capacity of the Centre.
- e. Every allegation and all evidence given to the investigating officer by either party shall be made available to the other party.
- f. Within a week of his or her appointment as investigating officer, he or she shall contact the respondent and provide him or her with a copy of the complaint.
- g. The ordinary course in which an investigation will be as follows:
 - i. The complainant submits complaint in writing.
 - ii. The investigating officer notifies the respondent and provides him or her with a copy of the complaint within a week of being appointed as investigating officer.
 - iii. The investigating officer shall allow the respondent a reasonable time (generally no more than 14 days) to respond to the complaint. The response must contain all the facts the respondent wishes to

assert in response to the complaint together with all evidence in support of the respondent's position (the response).

- iv. The investigating officer shall then provide the response to the complainant.
- v. The investigating office shall allow the complainant a reasonable time (generally no more than 7 days) to reply to the response.
- vi. During the investigation, the investigating officer may obtain statements from such other persons as he or she deems relevant. The investigating officer may also ask for documents that are relevant to his or her report. Procedural fairness requires that the investigating officer provide both parties with any additional statements or documents that he or she obtains and ask the parties for their comments on them.
- vii. After the investigating officer has received all the information from the parties (the complaint, the response and the reply (if any)) and has given the parties the opportunity to comment on such additional evidence as the investigating officer considers relevant, he or she will prepare a report setting out such factual conclusions that he or she may reach and making recommendations to MLC for the resolution of the dispute.
- viii. If the investigating officer is the Director, his or her report shall go to the Chair of the Board for action by the Board. If the investigating officer is a delegate of the Director, the report shall go to the Director for him or her to take whatever action is required. If the investigating officer is a delegate of the Chair, the report shall go to the Chair for the Board to take whatever action it deems appropriate.
- ix. The person or body charged with making a determination of what action should be taken based on the investigating officer's report, shall then take such action as is necessary to implement its determination and to ensure that the determination is implemented, is effective and that all issues have been resolved.

The goal of a formal investigation process is to resolve the dispute completely or, if that is not possible, to devise a resolution plan for the resolution of the dispute over time.

If the this process uncovers inappropriate behaviour by a member of staff, MLC may take disciplinary action against that staff member including instant dismissal if the misbehavior is of a serious nature, involves criminal behaviour or puts a member of the MLC community at serious risk.

Step 6 - Management monitor situation

Whatever path is adopted, at the end of the process, MLC management is responsible for ensuring that any determination is implemented and/or the complaint has been resolved.

This is the responsibility of the Director (assuming he or she is not the respondent) or the appropriate line manager. If the Director is the respondent, the Chair or such person as the Chair may delegate to this role, shall ensure that any determination is implemented and/or any dispute is resolved.

Step 7 – Situational review

Where appropriate, the parties shall meet again to report progress on the resolution of the dispute or the implementation of a resolution plan.