

Workplace Discrimination & Harassment Policy

East Coast Apprenticeships is committed to providing a safe, flexible and respectful environment for staff and clients free from all forms of discrimination, bullying and sexual harassment.

All East Coast Apprenticeships staff are required to treat others fairly and equitably, with dignity, courtesy and respect.

By effectively implementing our *Workplace Discrimination and Harassment Policy* we will attract and retain talented staff and create a positive environment for staff.

This policy applies to:

- board members
- all staff, including: managers and supervisors; full-time, part-time or casual, temporary or permanent staff; job candidates; work experience, student placements, apprentices, trainees, contractors, sub-contractors and volunteers
- how East Coast Apprenticeships provides services to clients and how it interacts with other members of the public
- all aspects of employment, recruitment and selection; conditions and benefits; training and promotion; task allocation; shifts; hours; leave arrangements; workload; equipment and transport
- on-site, off-site or after-hours work; work-related social functions; conferences – wherever and whenever staff may be as a result of their East Coast Apprenticeships duties
- staff treatment of other staff, of clients, and of other members of the public encountered in the course of their East Coast Apprenticeships duties.

All complaints will be handled confidentially and impartially, investigated promptly and recommendations implemented. You will not be disadvantaged in your employment conditions or opportunities as a result of lodging a complaint.

East Coast Apprenticeships is an equal opportunity employer. At all stages of the employment relationship (recruitment and selection, terms and conditions of work, training and professional development opportunities, promotion and transfer, retirement, retrenchment and termination) staff will be treated on their merits and valued according to how well they perform their duties.

Staff rights and responsibilities

All staff are entitled to:

- recruitment and selection decisions based on merit and not affected by irrelevant personal characteristics
- work free from discrimination, bullying and harassment
- the right to raise issues or to make an enquiry or complaint in a reasonable and respectful manner without being victimised
- reasonable flexibility in working arrangements, especially where needed to accommodate their family responsibilities, disabilities, religious beliefs or culture

All staff must:

- follow the standards of behaviour outlined in this policy
- offer support to people who experience discrimination, bullying or harassment, including providing information about how to make a complaint
- avoid gossip
- respect the confidentiality of complaint resolution procedures
- treat everyone with dignity, courtesy and respect

Additional responsibilities of Managers and Supervisors

Managers and Supervisors must also:

- model appropriate standards of behaviour
- take steps to educate and make staff aware of their obligations under this policy and the law
- intervene quickly and appropriately when they become aware of inappropriate behaviour
- act fairly to resolve issues and enforce workplace behavioural standards, making sure relevant parties are heard
- help staff resolve complaints informally
- refer formal complaints about breaches of this policy to the appropriate complaint handling officer for investigation
- ensure staff who raise an issue or make a complaint are not victimised
- ensure that recruitment decisions are based on merit and that no discriminatory requests for information are made
- seriously consider requests for flexible work arrangements

MERIT AT EAST COAST APPRENTICESHIPS

All recruitment and job selection decisions at East Coast Apprenticeships will be based on merit – the skills and abilities of the candidate as measured against the inherent requirements of the position – regardless of personal characteristics.

It is unacceptable and may be against the law to ask job candidates questions, or to in any other way seek information, about their personal characteristics, unless this can be shown to be directly relevant to a genuine requirement of the position.

UNACCEPTABLE WORKPLACE CONDUCT

Discrimination, bullying and harassment are unacceptable at East Coast Apprenticeships and are unlawful under the following legislation:

- *Sex Discrimination Act 1984* (Cth)
- *Racial Discrimination Act 1975* (Cth)
- *Disability Discrimination Act 1992* (Cth)
- *Age Discrimination Act 2004* (Cth)
- *Australian Human Rights Commission Act 1986* (Cth)

Staff (including managers) found to have engaged in such conduct might be counselled, warned or disciplined. Severe or repeated breaches can lead to formal discipline up to and including dismissal.

1) Discrimination

Discrimination is treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by the law, such as sex, age, race or disability. There are two types of discrimination, direct and indirect.

Direct, is when a person or group is treated less favourably than another person or group in a similar situation because of a personal characteristic protected by law (see list below). *For example, a worker is harassed and humiliated because of their race, or, a worker is refused promotion because they are 'too old'.*

Indirect, is when an unreasonable requirement, condition or practice is imposed that has, or is likely to have, the effect of disadvantaging people with a personal characteristic protected by law (see list below). *For example, redundancy is decided based on people who have had a worker's compensation claim rather than on merit.*

Protected personal characteristics under Federal discrimination law include:

- a disability, disease or injury, including work-related injury
- parental status or status as a carer, for example, because they are responsible for caring for children or other family members
- race, colour, descent, national origin, or ethnic background
- age, whether young or old, or because of age in general
- gender
- industrial activity, including being a member of an industrial organisation like a trade union or taking part in industrial activity, or deciding not to join a union
- religion
- pregnancy and breastfeeding
- sexual orientation, intersex status or gender identity, including gay, lesbian, bisexual, transsexual, transgender, queer and heterosexual
- marital status, whether married, divorced, unmarried or in a de facto relationship or same sex relationship
- political opinion
- social origin
- medical record
- an association with someone who has, or is assumed to have, one of these characteristics, such as being the parent of a child with a disability

It is also against the law to treat someone unfavourably because you assume they have a personal characteristic or may have it at some time in the future.

2) Bullying

Workplace bullying is repeated, unreasonable behaviour directed towards a worker or a group of workers, that creates a risk to health and safety.

'Repeated behaviour' refers to the persistent nature of the behaviour and can refer to a range of behaviours over time.

‘Unreasonable behaviour’ means behaviour that a reasonable person, having regard for the circumstances, would see as victimising, humiliating, undermining or threatening.

A single incident of unreasonable behaviour is not bullying, although it may have the potential to escalate into bullying and therefore should not be ignored. However single incidents can also present a risk to health and safety and will not be tolerated.

Bullying can take many forms, including jokes, teasing, nicknames, emails, pictures, text messages, social media posts / messages, social isolation, ignoring people, or unfair work practices.

Behaviours that may constitute bullying include:

- sarcasm and other forms of demeaning language
- threats, abuse or shouting
- coercion
- isolation
- inappropriate blaming
- ganging up
- teasing or practical jokes
- constant unconstructive criticism
- deliberately withholding information or equipment that a person needs to do their job or access their entitlements
- unreasonable refusal of requests for leave, training or other workplace benefits

Bullying is unacceptable in East Coast Apprenticeships and may also be against occupational health and safety law.

Unlike bullying, harassment and discrimination do not have to be repeated to be against the law. If someone is being bullied because of a personal characteristic protected by equal opportunity law, it is a form of discrimination.

What is not considered to be workplace bullying?

Many things that happen at work are generally not considered to be bullying, although some experiences can be uncomfortable for those involved. Differences of opinion, performance management, conflicts and personality clashes can happen in any workplace, but usually they do not result in bullying.

Reasonable management action, carried out in a fair way, is not bullying. Managers have a right to direct the way work is carried out and to monitor and give feedback on performance.

3) Sexual Harassment

Sexual harassment is a specific and serious form of harassment. It is unwelcome sexual behaviour, which could be expected to make a person feel offended, humiliated or intimidated. Sexual harassment can be physical, spoken or written. It can include:

- comments about a person’s private life or the way they look
- sexually suggestive behaviour, such as leering or staring
- brushing up against someone, touching, fondling or hugging
- sexually suggestive comments or jokes

- displaying offensive screen savers, photos, calendars or objects
- repeated unwanted requests to go out
- requests for sex
- sexually explicit posts or messages on social networking sites
- insults or taunts of a sexual nature
- intrusive questions or statements about a person's private life
- sending sexually explicit emails or text messages
- inappropriate advances on social networking sites
- accessing sexually explicit internet sites
- behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

Just because someone does not object to inappropriate behaviour in the workplace at the time, it does not mean that they are consenting to the behaviour.

Sexual harassment is considered to be in the workplace when it happens at work, at work-related events, between people sharing the same workplace, or between colleagues outside of work. All staff and volunteers have the same rights and responsibilities in relation to sexual harassment.

A single incident is enough to constitute sexual harassment – it doesn't have to be repeated. All incidents of sexual harassment, no matter how large or small or who is involved – require employers and managers to respond quickly and appropriately.

East Coast Apprenticeships recognises that comments and behaviour that do not offend one person can offend another. This policy requires all staff to respect other people's limits.

4) Victimization

Victimization is subjecting or threatening to subject someone to a detriment because they have asserted their rights under equal opportunity law, made a complaint, helped someone else make a complaint, or refused to do something because it would be discrimination, sexual harassment or victimization. Victimization is against the law.

It is also victimization to threaten someone (such as a witness) who may be involved in investigation of an equal opportunity concern or complaint.

Victimization is a very serious breach of this policy and is likely (depending on the severity and circumstances) to result in formal discipline against the perpetrator. East Coast Apprenticeships has a zero-tolerance approach to victimization.

5) Gossip

It is unacceptable for staff at East Coast Apprenticeships to discuss with other staff members, clients or suppliers about any complaint of discrimination or harassment.

Breaching the confidentiality of a formal complaint investigation or inappropriately disclosing personal information obtained in a professional role (for example, as a manager) is a serious breach of this policy and may lead to formal discipline.

RESOLVING ISSUES

East Coast Apprenticeships strongly encourages any staff member who believes they have been discriminated against, bullied, sexually harassed or victimised to take appropriate action.

Appropriate action may include one or more of the following:

1. Supported self-resolution,
2. Informal complaint
3. Formal complaint (internally)
4. Formal complaint (externally)

Staff who do not feel safe or confident to take actions may seek assistance from a Manager / Contact Officers for guidance and support. Managers may action on their behalf to resolve issues.

1. Supported Self-Resolution

If you feel confident and want to deal with the situation yourself, you can use the self-resolution approach. *However, it is not necessary that you try to resolve the complaint this way.*

- Advise a Manager of the concern. Discuss your resolution strategy with a Manager or the Contact Officers. It is not the role of the Contact Officer to resolve a workplace issue.
- Try approaching the person responsible for the discriminatory or sexually harassing behaviour, tell them:
 - what behaviour/s you are unhappy with,
 - why you're unhappy with those behaviours, and
 - what changes you would like to see.
- Keep a record of the date, time and conversation details.
- If this does not resolve the issue, discuss your options with a Manager or Contact Officer.

The Manager you advised of the concern is responsible for ensuring you are protected against any retaliations.

Contact Officers will listen without judgement, maintain confidentiality and provide information on your situation, East Coast Apprenticeships' policies and procedures, applicable laws and providing support contacts. They are NOT advisors, advocates, counsellors, investigators or reporting on specific cases.

2. Informal Complaint

Although you have the right to make either a formal or an informal complaint, East Coast Apprenticeships encourages you to consider the informal process first, as this can often achieve a better result for both parties.

The informal approach will not include an investigation or disciplinary action. Instead, a 'no blame' approach will be used. The main focus in an informal complaint is to return the individuals to productive work as soon as possible without further discriminating, harassing or bullying behaviour.

Informal Complaint Options:

- a) Supported self-resolution (see [option 1](#) in resolving issues)

- b) Report the issue to a Manager. That Manager is then responsible for identifying and minimising any risk without implication, or
- c) Request for a Manager to speak to the person on your behalf to see if the solution can be resolved simply.

The Contact Officer / Manager should keep a record of the incident. The information recorded should cover the nature of the incident, its impact on the work area and the outcome of the informal process. The parties to the incident do not need to be identified in these records. There is no need to include details of the incident in the personnel files of those involved, as this is only necessary once a formal process is initiated.

3. Formal Complaint (Internally)

A formal complaint involves a written complaint given to an East Coast Apprenticeships Manager, followed by an investigation, resolution actions and monitoring.

The formal complaint investigation aims to promptly resolve the complaint and ensure fairness for all parties concerned by having an impartial / independent person conducting the investigation.

Making a formal complaint:

- Inform a Manager or Contact Officer that you want to lodge a formal complaint, and
- Complete a written complaint with specific allegations including dates, times and names of any witnesses.
- The Manager or Contact Officer will advise the Operations Manager of the formal complaint, who will then select an appropriate investigator.

The Manager or Contact Officer should follow these principles during a formal complaint process:

- Ensure confidentiality
- Provide support for both parties involved and assist in the formal process
- Treat the person who is alleged to have committed the bullying / harassment / discrimination as innocent until proven otherwise
- Provide an opportunity to respond to the allegations made,
- Explain the right to appeal

Investigating a formal complaint (Use [Formal Complaint and Investigation Form](#) below):

1. Meet separately with both parties as soon as possible to discuss and notify in writing:
 - Meeting and complaint details
 - Rights and responsibilities
 - Expected timeframes for the process and possible consequences
 - How the complaint will be investigated (interviews, witness statements, viewing evidence)
 - The process requires confidentiality including access to the investigation materials
 - Who can be present during interviews (emotional support person)
 - Supports available to each party (Contact Officers)
 - Interim measures to ensure worker safety while the investigation is being conducted (if required, suspension or reassignment until investigation is concluded)

2. Collect complaint details and specific allegations to be investigated.
3. Collect the response to the allegation.
4. Request supporting evidence and witness names.
5. Collect witness statements to specific allegations.
6. Collect and review all evidence.
7. Prepare a report of the findings for all parties involved and the Operations Manager or CEO.

Investigation Outcomes:

The Operations Manager or CEO will consider the report findings and take appropriate actions.

- If the complaint is upheld, any disciplinary action that is taken needs to reflect the seriousness of the matter,
- Mitigating factors should be considered when assessing if disciplinary action is necessary,

Parties involved will be issued in writing any action to be taken in relation to them. If the outcome is not acceptable to the parties, an appeal can be made within two (2) weeks to the CEO to review the complaint and outcome. The Operations Manager will monitor the outcomes of complaints and take appropriate action to prevent further complaints arising.

If the allegations are substantiated:

- And the accused admits to the allegation/s made against them and are remorseful, the disciplinary actions may include but not limited to apologising, referral to counselling / training services, verbal / written warning, change of work conditions and entering into [Improved Behaviour Agreement](#) (below),
- And the accused denies the allegations that are later found to be true, the disciplinary actions may be more serious such as demotion or termination of employment.
- Illegal acts (such as violence) may be reportable to the police. Support for the victim of the illegal act will be offered.

If the allegations cannot be substantiated:

- And the accused denies the allegations, appropriate actions will need to aim to remedy the issue with both parties, such as mediation*, counselling, training, changes to working conditions, enter into [Expected Behaviour Agreement](#) (below) or addressing organisation issues that may have contributed.
- And the accuser made the allegations maliciously, counselling should be provided and enter into [Expected Behavioural Agreement](#) (below).

*Mediation is a voluntary process where an impartial Manager assists both parties to present their grievances, understand each point of view and aim to come to an agreement to move forward.

Assistance and Support after an investigation

It may be necessary to monitor and provide support following an investigation. This may include

- offering professional counselling
- redressing any inequality resulting from the bullying, discriminating or harassing behaviour
- re-instating of any lost privileges resulting from the bullying, discriminating or harassing behaviour (e.g. re-crediting leave)
- mentoring and support from a senior manager, or
- providing training (i.e. resilience training, assertive communication or self-esteem programs).

A follow-up review will be conducted by a Contact Officer to ensure the wellbeing of the parties involved and actions taken to stop the bullying have been effective.

4. Formal Complaint (Externally)

A complaint to an external agency will not prevent this procedure or investigation from continuing where the Contact Officer or Operations Manager decides that this is appropriate.

A complaint can be lodged with the Anti-Discrimination Commission Queensland (ADCQ). The Commission has powers to prevent ongoing bullying. NOTE: A complaint to the ADCQ must be made within one year of the incident, unless good reasons for any delay can be shown.

MORE INFORMATION

Request further information from your Contact Officers who may refer you to the ADCQ government website or contacts.

East Coast Apprenticeships has Contact Officers and Managers available to discuss workplace issues and concerns. A Manager may take immediate action as required. A Contact Officer will review the concerns and highlight options available, particularly within East Coast Apprenticeships' policies and procedures.

Improved Behaviour Agreement

This agreement relates to an employee's expected behaviour as outlined in East Coast Apprenticeships':

- Employment Contract - terms and conditions
- Workplace Discrimination and Harassment Policy and Procedure (EMP002)
- Health and Safety Policy (WHS011)
- Conflict of Interest (GEN055)

East Coast Apprenticeships expects staff to:

- perform any duties associated with their position in a conscientious, competent and honest manner, consistent with the values of the organisation.
- treat all others with respect and courtesy, having regard for their dignity and rights.
- act fairly and equitably, respecting diversity in the environment which they work in.
- prevent and respond to unlawful discrimination against other employees, volunteers, clients and stakeholders.
- not engage in bullying, violence, harassment or any other forms of victimisation.
- act in a professional manner that does not reflect adversely on the organisation or other employees.
- use social media in a manner that does not compromise the organisation's reputation and does not include derogatory, shaming or other personal attacks towards or about employees, the governing body, volunteers, client or other stakeholders.

After a formal investigation and considering the situation, it is expected that your behaviour improves and specifically that:

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By signing this agreement, I am confirming that I have read and understood this agreement and the applicable policies. I have also been made aware of the consequences to my actions if I fail to meet the improved behaviour.

Employee Name			
Employee Signature		Date	
ECA representative			
Representative signature		Date	



Expected Behaviour Agreement

This agreement relates to an employee's expected behaviour as outlined in East Coast Apprenticeships':

- Employment Contract - terms and conditions
- Workplace Discrimination and Harassment Policy and Procedure (EMP002)
- Health and Safety Policy (WHS011)
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- act fairly and equitably, respecting diversity in the environment which they work in.
- prevent and respond to unlawful discrimination against other employees, volunteers, clients and stakeholders.
- not engage in bullying, violence, harassment or any other forms of victimisation.
- act in a professional manner that does not reflect adversely on the organisation or other employees.
- use social media in a manner that does not compromise the organisation's reputation and does not include derogatory, shaming or other personal attacks towards or about employees, the governing body, volunteers, client or other stakeholders.

By signing this agreement, I am confirming that I have read and understood this agreement and the applicable policies. I have also been made aware of the consequences to my actions if I do fail to meet the expected behaviours.

Employee Name			
Employee Signature		Date	
ECA representative			
Representative signature		Date	



Formal Complaint and Investigation Form

PART ONE - Complaint

Part One is to be completed with the assistance of a Manager or Contact Officer. Before completing this form, read the Workplace Discrimination and Harassment Policy and Procedure (EMP002).

Your Details

Employee Full Name (Person A)	
Position	
Contact Number	
Direct Manager	
Manager / Contact Officer assisting to complete Part One	

Person(s) Involved – who is the complaint about

Full Name (Person B)	
Position	
Their relationship to you (eg manager, co-worker)	

If more than one person,

Full Name/s, Position/s and their relationship/s to you (eg manager, co-worker)	
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Who witnessed any or all incidents (statements to be obtained)

Witness 1	Full Name	
	Position	
Witness 2	Full Name	
	Position	

Allegation Details

Outline the alleged behaviour in breach of the policy	
When and where did this occur? Be specific with dates, times and exact locations	

<p>Why do you believe you were treated this way?</p>	
<p>Are there documents, emails or further information (eg social media posts) relating to this complaint? Describe how we can obtain a copy.</p>	
<p>Aside from making this complaint, describe what steps you have taken to resolve this issue? If no other steps, discuss your options with the assisting Contact Officer / Manager before progressing.</p>	
<p>What effect has the behaviour had on you? (loss of sleep, loss of productivity, embarrassment, etc)</p>	
<p>Should the allegation be substantiated, what do you think would be an appropriate outcome? (eg an apology)</p>	

Declaration

I declare that the information I have provided in this form is, to the best of my knowledge, true and correct as I recall the behaviour to have occurred. I have completed this form of my own free will and understand the process that will now be followed in line with East Coast’s policy.

<p>Employee Name</p>			
<p>Employee Signature</p>		<p>Date</p>	

PART TWO - Investigation

To be completed by the assigned investigator for this incident.

Investigator Details

Full Name	
Position	
Start date of investigation	

Informing the parties involved of an investigation

Notification should be in writing by the investigator. Refer to the policy for requirements.

Who has been notified		Date notified	
		Date notified	
		Date notified	
		Date notified	
		Date notified	

INVESTIGATION OUTLINE – refer to Policy for requirements

ACTIONS	REQUIRED?	DATE DUE
Collect response to allegation	Yes <input type="checkbox"/>	
Collect witness statements	Yes <input type="checkbox"/> No <input type="checkbox"/>	
Collect supporting evidence	Yes <input type="checkbox"/> No <input type="checkbox"/>	
Review all evidence	Yes <input type="checkbox"/>	
Complete report and submit to CEO / Operations Manager	Yes <input type="checkbox"/>	

RESPONSE TO ALLEGATION/S

Meeting with Person B

Full Name (Person B)	
Position	
Contact Number	
Direct Manager	
Meeting Date	
Attendees	
Response to allegation	<input type="checkbox"/> Agree all allegations are true <input type="checkbox"/> Parts of the allegation is true <input type="checkbox"/> Deny all allegations
Detailed response to allegation	
Are there documents, emails or further information (eg social media posts) relating to this complaint? Describe how we can obtain a copy.	

Declaration

I declare that the information I have provided in this form is, to the best of my knowledge, true and correct as I recall the behaviour to have occurred. I have completed this form of my own free will and understand the process that will now be followed in line with East Coast's policy.

Person B Signature		Date	
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WITNESS STATEMENTS (if required)

Meeting with Witness 1

Full Name (Witness 1)	
Position	
Contact Number	
Direct Manager	
Meeting Date	
Attendees	
Date/s of incident/s witnessed	
Location/s of incident/s witnessed	
Describe the incident/s witnessed	
Are there documents, emails or further information (eg social media posts) relating to this complaint? Describe how we can obtain a copy.	

Declaration

I declare that the information I have provided in this form is, to the best of my knowledge, true and correct as I recall the behaviour to have occurred. I have completed this form of my own free will and understand the process that will now be followed in line with East Coast's policy.

Witness 1 Signature		Date	
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Meeting with Witness 2

Full Name (Witness 2)	
Position	
Contact Number	
Direct Manager	
Meeting Date	
Attendees	
Date/s of incident/s witnessed	
Location/s of incident/s witnessed	
Describe the incident/s witnessed	
Are there documents, emails or further information (eg social media posts) relating to this complaint? Describe how we can obtain a copy.	

Declaration

I declare that the information I have provided in this form is, to the best of my knowledge, true and correct as I recall the behaviour to have occurred. I have completed this form of my own free will and understand the process that will now be followed in line with East Coast's policy.

Witness 2 Signature		Date	
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SUPPORTING EVIDENCE

Type of evidence	Describe relevance to allegation	Does it substantiate the allegation?
		<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNCLEAR
		<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNCLEAR
		<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNCLEAR
		<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNCLEAR

INVESTIGATION OUTCOME

Consider all statements and evidence provided carefully.

<p>Has there been a breach in the Policy?</p>	<input type="checkbox"/> YES, by (full name) _____ <input type="checkbox"/> NO <input type="checkbox"/> UNCLEAR
<p>Explain what has led you to this outcome?</p>	
<p>What are the recommendations to be considered to resolve this complaint?</p>	

<p>Investigator Name</p>			
<p>Investigator Signature</p>		<p>Date</p>	

PART THREE - ACTIONS

To be completed by the CEO or Operations Manager after an investigation into a formal complaint.

Course of Action	<input checked="" type="checkbox"/>	Responsible Person	Parties Involved	Date Due	Completed
Apology (written or verbal)	<input type="checkbox"/>				
Mediation (NB: not appropriate if allegation is substantiated)	<input type="checkbox"/>				
Warning (verbal / written)	<input type="checkbox"/>				
Expected Behaviour Agreement	<input type="checkbox"/>				
Improved Behaviour Agreement	<input type="checkbox"/>				
Counselling / Training Services	<input type="checkbox"/>				
Change of Work Conditions	<input type="checkbox"/>				
Address Contributing Organisational Issues	<input type="checkbox"/>				
Demotion	<input type="checkbox"/>				
Termination of Employment (Refer to Fair Work Guidelines)	<input type="checkbox"/>				
Report an illegal act to the police	<input type="checkbox"/>				

Formal Complaint Closed – by CEO / Operations Manager

Closing comments?			
Name			
Signature		Date	