

Grievance Policy

Board of Directors NSW Basketball Association



REVISED: March '06

1: Principles

BNSW has a code of conduct/ethics supported by the usual practices of employment. It is incumbent upon all staff, management as well as employees to uphold the principles set forth in any document issued for the guidance of staff of BNSW.

These values provide the framework by which BNSW staff will maintain integrity and professionalism while promoting a productive and harmonious working relationship within the BNSW work environment.

BNSW is required to put in place a fair system of review of actions taken by employees that effect fellow employees within the work environment.

The process must be:

- Aimed at resolution rather than formal determination;
- Fair and impartial;
- Completed in a timely manner;
- Consistent with the principles of natural justice and procedural fairness;
- Consistent with the use of alternate dispute resolution mechanisms (conciliation and/or mediation) where appropriate.

BNSW encourages staff and supervisors to attempt to resolve workplace problems in an informal manner whenever appropriate. Where this is not possible, matters affecting individuals in the course of their employment such as conditions of employment, assessment and/or performance issues, inappropriate behaviour in the workplace, discrimination and /or harassment should be dealt with by the process outlined in this policy.

Actions not covered by this policy are:

- Termination of employment;
- Reviews of promotion decisions;
- Administrative exemptions – application thought to be frivolous or vexatious, the application made over 12 months after action, the action has been previously reviewed, the applicant is not party to the action or the applicant has applied to an external body for review of the action.

Eligibility

All members of staff may lodge an application for review of an action under these guidelines.

2: Process of review of an action

Before lodging an application for review the applicant should consider:

- The outcome that they wish to achieve;
- What evidence exists to support their claim; and
- That an application for review of an action may not necessarily result in a change to, or a reversal of, a decision or action. Sometimes the only achievable outcome is an apology or an undertaking that a similar matter will be handled differently next time.
- If there is a company policy/procedure that exists that covers the situation subject to the possible review.

Applicants should be aware that unless exceptional circumstances exist the action will continue to operate pending the review outcome.

It is important that the person who is thinking of lodging an application for review should have discussed their concerns with their supervisor/manager/office manager. In many instances an issue may be resolved satisfactorily at this point. If an employee is unable to discuss the matter at this level they may have to seek a formal review of the matter.

The application for review of an action must:

- 1) be in writing (electronic submission is permissible);
- 2) describe the situation or decision;
- 3) set out why the employee is aggrieved, and
- 4) and briefly state the outcome that the employee is seeking .

If it is determined that the action is not reviewable then the employee will be informed in writing of the reasons for the decision. Where a review is to be undertaken, the CEO will determine who will conduct the review depending upon the circumstances surrounding the case, the two accepted grievance officers would be Technical & Operations Manager and the Office Manager.

3: The Investigation Process

Depending upon the action being reviewed, the process may initially attempt to resolve the issue in an informal manner through discussions with the aggrieved employee and their supervisor/manager. Alternate strategies such as mediation and conciliation may

also be used if it is felt that an amicable and beneficial result may result without the need for a formal decision on the application.

The investigator must carry out any investigation having due regard to procedural fairness.

Procedural Fairness and Proper Process

The **hearing rule** requires a decision maker to give a person the:

- Right to a fair hearing by an independent and unbiased person
- Right to know the case against them
- Right to have an opportunity to comment on material which may result in adverse findings on them

The **bias rule** requires a decision maker to be disinterested or unbiased in the matter to be decided

The **no evidence rule** requires that a decision be based upon logically proven evidence.

MEDIATION (or shuttle diplomacy)

The parties do not deal face to face. The conciliator acts as a go between conveying messages back and forward between the parties. The conciliator has control over the communications and may make suggestions aimed at reaching a compromise solution.

CONCILIATION

An independent third party assists and encourages the parties to reach agreement on a solution to a problem. The parties deal with each other face to face with the conciliator.

4: Findings

The investigator will provide a written report of their findings and recommendation/s to the CEO (if the CEO is not the investigator) who will determine the outcome of the review which may include confirming the action, varying the action, setting the action aside and substituting a new action or some other appropriate action.

The applicant will be advised of the findings and any action to be taken arising out of the investigation.

5: Secondary Review

If an employee has been advised that the action they wanted reviewed was not reviewable under these guidelines and that the employee disagrees; or is dissatisfied with the outcome of the review and the decision reached.

Then they may apply to the Board for a further review.

The application must be in writing, include reasons for seeking a further review and any specific outcome the employee requires.

Employees should consider carefully why they are not satisfied with the initial review and what else might be achieved by a further review.

6: Records

All papers pertaining to a review will be kept on a confidential file.

The confidential file will be kept locked in the CEO's office or the Company Secretary's home depending upon circumstances of the review.