



EFFECTIVE DISPUTE RESOLUTION

Dear members,

Minimise your risk of an Industrial Relations claim or stress-related Workers Compensation claim.

Effective dispute resolution can help employers to maintain good relationships with their employees by dealing with workplace issues at an early stage.

Employees will likely be more cooperative and productive if they know that their grievances will be taken seriously by the employer and there is the opportunity for an independent party to assist in resolving the dispute if it cannot be resolved in the workplace.

This pack provides some suggested practices that may help you deliver effective dispute resolution at the workplace level; and potentially avoid the costs of resolving a claim externally via the Fair Work Commission or via Workers Compensation.

These suggested practices are not tailored to a specific circumstance and are not a substitute for independent legal advice with workplace matters. This guide should also be used in conjunction with your relevant Human Resource (HR) policies and procedures.

Some of these workplace matters may include:



**Employee
conflict**



**Bullying and
harassment**



Misconduct



**Performance
reviews**

ClubsNSW have a team of Workplace Relations advisors who can provide individual assistance, including assistance with building or refining your HR policies and procedures.

Club Employers Mutual (CEM) also have a series of simple, short videos aimed at supplying employers with easy techniques to engage their employees and improve mental health in the workplace. These may assist in helping to reduce some stress-related Workers Compensation claims. The videos can be found at <https://www.inappropriatecorp.com.au/>

If you require more information on Industrial Relations, please contact ClubsNSW; and for Workers Compensation (if you are insured with CEM) please contact CEM.

ClubsNSW on 1300 730 001
CEM on 8251 9062

If you do not have your Workers Compensation with CEM, please contact iCare on 02 8297 7500.

SUGGESTED PRACTICES PRE-CLAIM

INITIAL INFORMAL DISCUSSION/S



- Identify issue and clarify employee expectations
- Retrain employee if required
- Offer EAP* if relevant
- Refer to relevant policy and procedure
- Consider calling CEM* / ClubsNSW*

If issue remains unresolved, escalate to formal meetings

If resolved, let the employee/s know in writing

FORMAL DISCUSSION/S



- Review outcomes from previous discussions/ meetings
- Explore possible job analysis or re-design if relevant
- Refer to relevant policy and procedure
- Offer EAP* if relevant
- Call CEM* / ClubsNSW*

If issue remains unresolved, escalate to formal meetings

If resolved, let the employee/s know in writing

FORMAL MEETING



- Review outcomes of all previous meetings
- Consider same strategies as formal discussion
- Refer to relevant policy and procedure
- Is mediation* appropriate?
- Termination* if relevant

If issue resolution is not achieved, contact ClubsNSW / CEM for further assistance

* Refer to supporting brochure

BEST PRACTICE

A GOOD DISPUTE RESOLUTION PROCESS SHOULD INCLUDE DOCUMENTING ALL DISCUSSIONS AND MEETINGS AS WELL AS:



- ✓ Be simple, quick and fair
- ✓ Be handled confidentially and sensitively
- ✓ Let the employee know in advance what the meeting will be about
- ✓ Offer the employee a support person for each formal meeting
- ✓ Allow the employee the opportunity to respond following each discussion/meeting

WHEN A CLAIM IS LODGED



WORKERS COMPENSATION

Potential psychological injury/claim

FAIR WORK COMMISSION

Possible unfair dismissal or industrial relations claim

- Review your policies and procedures
- Commence data collection process
- Always maintain clear records

CONTACT CEM*

Discuss claim details and strategies

CONTACT CLUBNSW

Discuss claim details and strategies

**Employers are required to notify their insurers of all workplace injuries within 48 hours*

HUMAN RESOURCES POLICIES & PROCEDURES



WHAT ARE WORKPLACE POLICIES AND PROCEDURES?

A POLICY IS A STATEMENT WHICH UNDERPINS HOW HUMAN RESOURCE ISSUES WILL BE DEALT WITH. THEY ARE CRUCIAL IN EDUCATING EMPLOYEES ON ACCEPTABLE STANDARDS AND BEHAVIOURS AT WORK AND PLAY A KEY ROLE IN HOW WORKPLACE ISSUES ARE DEALT WITH.

WHY ARE THEY IMPORTANT?

Aligned with the values of the organisation and current employment legislation, policies are an important tool in helping to defend a club against legal action from employees. They also promote harmony and productivity by ensuring consistency in decision making and operational procedures. However, they will not protect employers who do not follow their policies or apply them inconsistently.

Some common policies that may assist the Club:

- Anti-Bullying and Harassment
- Anti-Discrimination
- Drugs and Alcohol
- Email, Internet and Social Media

- Grievances and Dispute Resolution
- Workers Compensation and return to work program
- Leave
- Staff Gambling
- Work Health and Safety
- Workplace Surveillance
- Conduct at 'Work Related Events'

Policies do not need to be overly complex or cover every workplace issue. ClubsNSW can provide tips on successfully implementing policies; template policies; and policy reviews, to help meet your individual club needs and provide you with that competitive edge. Please contact ClubsNSW's Workplace Relations team on 1300 730 001.

Please Note - Any suggestions in this pack are for general guidance only. They may not be accurate in their application to the specific circumstances applying to your business and it is not intended that they be relied on as legal or professional advice.

Club Employers Mutual is a trading name of Hospitality Employers Mutual Limited (ACN 124 091 470), an APRA licensed specialised insurer providing workers compensation insurance to the hospitality industry in NSW. ClubsNSW is the peak body for registered clubs in NSW.

EMPLOYEE ASSISTANCE PROGRAM (EAP)

WHAT IS EAP?

EAP IS A SHORT TERM, INDEPENDENT AND CONFIDENTIAL COUNSELLING SERVICE FOR EMPLOYEES. THIS SERVICE IS RUN BY ACCREDITED COUNSELLORS/ PSYCHOLOGISTS AND CAN BE ACCESSED BY ALL EMPLOYEES FOR PERSONAL AND/OR WORK RELATED ISSUES.

WHEN TO OFFER EAP?

- Workplace and conflict issues
- Following a traumatic incident
- When a worker is showing signs of stress/pressure
- In preparation for workplace mediation

BENEFITS OF EAP

- Resolve any issues before it negatively impacts the workplace
- Increases workplace productivity
- Decreases workplace conflict and grievance
- Provide support and coping strategies to employees

These benefits have the potential to decrease the likelihood of Workers Compensation/Industrial Relations claims.

Please note: EAP services will incur a fee.

If you require assistance determining whether EAP is needed for your workplace, ClubsNSW's Workplace Relations team can support you with guidance. Please contact ClubsNSW's Workplace Relations team on 1300 730 001.

Club Employers Mutual can assist you if you feel an employee may be considering lodging a Workers Compensation claim.

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REHABILITATION PROVIDERS

WHAT IS A REHABILITATION PROVIDER?

A REHABILITATION PROVIDER IS TYPICALLY AN EXTERNAL SERVICE PROVIDER (OFTEN AN ORGANISATION OF ALLIED HEALTH PROFESSIONALS) TO HELP ADDRESS RISK FACTORS WHICH IMPACT A WORKER'S RECOVERY OR RETURN TO WORK.

REHABILITATION PROVIDER SERVICES OFFERED PRE- AND POST-CLAIM MAY INCLUDE:

- **Preventative health and wellness support; Resilience training:** One off services to provide information and support to workers.
- **Mediation:** Aims to resolve conflict within the workplace.
- **First response services:** Initial workplace assessment and doctor conference to facilitate an early return to work.
- **Functional assessment:** Assesses existing physical/psychological capabilities and/or limitations for work.

- **Workplace assessment:** Specialised on-site assessment of a worker's duties and potential suitable duties.
- **Developing return to work plans:** Outlines the goal as well as actions and steps all stakeholders will undertake to return to employment.

If you believe your business would benefit from the services of a Rehabilitation Provider, your Workers Compensation insurer Club Employers Mutual can assist in providing a list of providers, regardless of whether a claim has been lodged.

Please contact us on 8251 9069 or info@clubemployersmutual.com.au

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WORKERS COMPENSATION

WHAT IS WORKERS COMPENSATION?

WORKERS COMPENSATION IS A FORM OF INSURANCE FOR EMPLOYEES WHO ARE INJURED DURING THEIR COURSE OF EMPLOYMENT. EMPLOYEES MAY HAVE THEIR WAGES, MEDICAL EXPENSES AND REHABILITATION PAYMENTS COVERED, ALONG WITH RETURN TO WORK SUPPORT.

WHO IS CLUB EMPLOYERS MUTUAL (CEM)?

CEM is a specialised insurance company who specifically deal with claims for clubs in New South Wales. Our team is predominately qualified Allied Health professionals, including Exercise Physiologists, Occupational Therapists, Chiropractors and Psychologists who specialise in claims management.

WHY WOULD A CLAIM NEED TO BE LODGED?

A claim will need to be lodged when an employee is injured at work. All injuries must be notified and CEM will determine whether a claim is work related.

HOW TO NOTIFY CEM OF A WORKERS COMPENSATION INCIDENT OR CLAIM

Go to www.clubemployersmutual.com.au and complete the claim notification form. A case manager will then contact you within two business days to discuss the incident or claim and the Workers Compensation process.

CEM also have a series of short videos to supply employers with easy techniques to engage their employees and improve mental health in the workplace. The videos can be found at - <https://www.inappropriatecorp.com.au/>

If you do not have your Workers Compensation with CEM, please contact iCare on 02 8297 7500.

If you would like further information regarding Workers Compensation, please contact Club Employers Mutual on 8251 9069 or info@clubemployersmutual.com.au

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INDUSTRIAL RELATIONS

WHAT IS INDUSTRIAL RELATIONS?

THE INDUSTRIAL RELATIONS SYSTEM COVERS THE RULES, REGULATIONS AND INSTITUTIONS THAT GOVERN THE EMPLOYMENT RELATIONSHIP AND WHICH SET THE TERMS AND CONDITIONS OF WORK AND EMPLOYMENT. AUSTRALIA'S WORKPLACE RELATIONS SYSTEM IS REGULATED PRIMARILY BY THE FAIR WORK OMBUDSMAN AND THE FAIR WORK COMMISSION.

WHAT TYPE OF INDUSTRIAL RELATIONS CLAIMS CAN BE MADE?

- Underpayments
- Bullying
- Unfair dismissal
- Adverse action, including discrimination
- Dispute regarding the Award or an Enterprise Agreement

WHAT TO DO IF YOU EXPERIENCE AN INDUSTRIAL DISPUTE IN THE WORKPLACE

Consult your HR policies and procedures in the first instance, and contact ClubsNSW.

HOW CAN CLUBSNSW HELP?

The ClubsNSW Workplace Relations team is available to assist clubs in managing workplace relations through education, advice and advocacy.

The Workplace Relations advisors attempt to reduce the level of industrial disputation and to minimise the amount of time that clubs spend in the industrial tribunals.

For more information, relative to your specific circumstances, please contact ClubsNSW Workplace Relations Team on 1300 730 001.

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MEDIATION

WHAT IS WORKPLACE MEDIATION?

WORKPLACE MEDIATION IS THE VOLUNTARY MEETING BETWEEN TWO OR MORE PARTIES WHO ARE EXPERIENCING CONFLICT.

WHAT IS THE PURPOSE OF MEDIATION?

The aim of a mediation meeting is to lead open discussions with the assistance of a neutral mediator for the parties involved to find mutually satisfactory solutions.

Timing is important when resolving workplace conflict through mediation.

WHEN IS MEDIATION APPROPRIATE?

Following the determination of who are the key parties:

- Are both parties willing to participate voluntarily and openly? If so, mediation may be suitable.
- If one or both parties are displaying extreme distress, showing issues of safety or hostility (including threats of violence) or if there is a large power imbalance, mediation may not be suitable.

If you require assistance determining if mediation is needed for your workplace, ClubsNSW's Workplace Relations team can support you with guidance. Please contact ClubsNSW's Workplace Relations team on 1300 730 001.

Club Employers Mutual can assist you if you feel any employee may be considering lodging a Workers Compensation claim.

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Please note: services will incur a fee.

TERMINATION

WHAT IS TERMINATION?

TERMINATION IS WHEN AN EMPLOYEE'S EMPLOYMENT IS CEASED. TERMINATIONS MAY BE BROUGHT ABOUT BY THE EMPLOYER, THE EMPLOYEE, OR THROUGH REDUNDANCY.

Termination should be considered a last resort for managing an employee's performance or conduct, having taken prior steps to address the issues and procedural fairness for Workplace Relations. An employers' termination of employees may have financial implications, including if a stress-related workers compensation claim is submitted as a result.

WHY WOULD YOU NEED TO TERMINATE AN EMPLOYEE?

- Misconduct - in cases of serious misconduct, warnings may not be appropriate. Your HR policies and procedures would need to be followed and further specialised support should be sought.
- Poor performance over an extended period, where the employer has provided assistance such as re-training and warnings.
- Failure of behavioural changes following informal and formal discussions.
- Where the job is no longer required to be performed by anyone.

In any case where termination is being considered, the employee must be afforded procedural fairness. Procedural fairness includes allowing the employee to respond to the allegations and having a support person.

POSSIBLE CONSEQUENCES OF TERMINATION?

- Unfair dismissal claims through Fair Work Commission.
- A Workers Compensation claim may arise because of stress, with the potential for increased Workers Compensation premium.
- Poor workplace culture.

ClubsNSW can provide tips on performance management and discipline for misconduct. To reduce the risk of a claim being brought against the club, guidance should be sought from ClubsNSW prior to a termination and from Club Employers Mutual to help avoid a Workers Compensation claim.

Please contact ClubsNSW's Workplace Relations team on 1300 730 001 or Club Employers Mutual on 8251 9069.

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