

PROCEDURES FOR HANDLING GRIEVANCES AND COMPLAINTS

INTRODUCTION

1.1 Preamble

Yalga-binbi Institute aims to create training and work environments which are safe, healthy, harmonious, free from harassment, and responsive to the community that it serves. In order to further these aims, the procedures set out in this policy statement have been developed as a means of resolving grievances and complaints. The procedures take account of confidentiality, natural justice, procedural fairness, and equal opportunity principles. They are designed to:

- resolve grievances as quickly and as fairly as possible and at the least formal level possible;
- respond to, investigate, and resolve complaints from members of the community, including from host employers;
- maintain confidentiality with respect to any grievance procedures.

Both complainants and respondents will be fully informed about the grievance resolution process, and encouraged, in the first instance, to attempt resolution through internal informal procedures.

1.2 Application

These procedures apply to simple complaints, more complex complaints, and grievances, including to claims of discrimination and harassment (including racial and sexual harassment). They do not apply to complaints or appeals concerning student assessments, nor do they apply to staff appeals against appointments to positions within the Institute's staff. These procedures may be used by external applicants for positions who wish to complain about the procedures followed in lodging an application and in processing it.

1.2 Definitions

A simple complaint

For the purposes of these procedures, a simple complaint is one that is usually not directed against an individual member of staff, but rather is a general complaint about some aspect of the Institute's operations, rules, policies, or procedures. A simple complaint may be made by a student, a staff member, or a member of the general public. It can normally be resolved to the satisfaction of both the complainant and the Institute through discussion between the complainant and a staff member or other official of the Institute. If it can not be resolved in this way, it will be regarded as a complex complaint and resolved according to the grievance procedures set out in this document, with the Training Co-ordinator as the respondent.

Grievance or more complex complaint

A grievance or more complex complaint is deemed to exist when one or more staff members within the Institute allege that they have been treated unfairly, inconsistently or inappropriately in the workplace through the action, decision or omission of one or more of the employees of the Institute. It may also exist when one or more members of the general public allege that they have been treated unfairly, inconsistently, or inappropriately through the action, decision or omission of one or more of the employees of the Institute while acting on behalf of the Institute. The aim of the grievance procedures is to determine whether the grievance has substance, and to determine the appropriate course of action to be taken. Throughout this document, references to grievances are to be interpreted as also applying to more complex complaints.

Third Party Mediation

Third Party Mediation is the process whereby a mediator assists the complainant and the respondent to come together to attempt to find a mutually acceptable resolution to the grievance. The mediator's role is not to suggest possible outcomes, but rather to facilitate a resolution negotiated by the parties involved.

Conciliation

Conciliation is the process whereby an appropriate senior officer of the Institute, or a person external to the Institute designated by the Director, directly assists the complainant and the respondent to attempt to find a mutually acceptable resolution to the grievance. In so doing, the conciliator may be evaluative and may suggest possible resolutions to the problem.

Procedural Fairness

Procedural fairness refers to a process that displays fairness to all sides. It includes the right to be heard, the right to be treated fairly, the right to be informed of allegations made and by whom, and the right to respond to allegations.

Contact Officer

The Contact Officer is any member of staff (including a Senior Officer, a Course Co-ordinator, or the Training Co-ordinator) who is first contacted by a complainant. All members of staff should be conversant with these procedures and act in accordance with them if they should receive a complaint or a grievance. If for any reason they are not conversant with these procedures, then they must not serve as the Contact Officer. The role of the Contact Officer is to provide any complainant with a copy of the Institute's Grievance Resolution Procedures, and to explain the processes and options available and the rights of all parties involved. A Contact Officer cannot also act in any other designated role in relation to the same dispute.

Supervisor or Senior Officer of the Institute

A Supervisor or a Senior Officer of the Institute is a person in a position with direct responsibility for overseeing the work of other staff.

Mediator

Mediators are people who have normally received appropriate training in mediation skills and techniques; they may be members of staff or from outside the Institute. The role of the mediator is to assist the complainant and the respondent to come together with the aim of negotiating a mutually acceptable resolution to the complaint.

Conciliator

A Conciliator is a Senior Officer or a person external to the Institute who has been designated by the Director to serve as a Conciliator for a particular grievance. A Conciliator would normally have received appropriate training in conciliation skills and techniques. The Conciliator's role is to assist the complainant and the respondent to come together with the aim of negotiating a mutually acceptable agreement as resolution of a grievance.

Investigating Officer

An Investigating Officer is any person recommended by a Grievance Committee and appointed by the Director to carry out investigations on behalf of a Grievance Committee into a grievance. Such person may be a Senior Officer in the Institute or may be a specially designated person external to the Institute.

1.3 Application

These procedures shall apply to all staff of Yalga-binbi Institute within the context of the workplace regardless of employment terms and conditions, and shall also be used to resolve complex complaints or grievances from students or from members of the general public against the Institute or against one or more staff of the Institute.

Where the Director is a complainant or respondent to a grievance, or is a witness in a Stage Four grievance, the Director's responsibilities under these procedures will be assumed by the Chair of the Institute's Committee of Management.

2. OVERVIEW OF GRIEVANCE PROCEDURES

2.1 Internal Procedures

These procedures are based on the premise that:

- most complaints can be resolved informally without the implementation of complex or drawn-out procedures;
- most other complaints or grievances should be resolved through Third Party Mediation or through Conciliation;
- each stage of the procedures is aimed at achieving resolution. Movement through the stages will occur only if resolution is not achieved and the complainant, or in some cases the respondent, wishes to proceed to the next stage;
- all parties are encouraged to seek resolution at the least formal stage possible;
- both complainants and respondents have rights within these procedures as to how, once raised, the grievance can be resolved.

The majority of grievances can and should be resolved using procedures which are internal to the Institute. The procedures are organised into four stages; however, resolution can be achieved at any level.

Resolution of Simple Complaints

The complainant makes contact and discusses his or her complaint with a member of staff (Contact Officer), and the issue is resolved to the satisfaction of both the complainant and the Contact Officer. The Contact Officer will make a note of the complaint on the prescribed form (see Attachments), forward it to the Training Co-ordinator, who will file it in the confidential Complaints and Grievances file.

Resolution of Grievances and More Complex Complaints

Stage One: Informal: Establishing if a Grievance Exists

The complainant makes contact, is given information about the procedures, and decides whether or not to proceed with the grievance.

Stage Two: Informal: Resolution Through Third Party Mediation

The respondent is informed of the existence of a grievance, and resolution is offered through a process of Third Party Mediation.

Stage Three: Formal: Resolution Through Conciliation

The grievance and the response are put in writing and resolution is attempted through a process of Conciliation.

Stage Four: Formal: Resolution Through Grievance Committee

The grievance is referred by the Director to a Grievance Committee for formal investigation, recommendation, and final resolution by the Director.

2.2 External Procedures

There are a variety of legislative mechanisms external to the Institute available to complainants. They include utilisation of relevant Queensland or Commonwealth legislation, appeals to the Commonwealth Human Rights and Equal Opportunity Commission or the Queensland Anti-Discrimination Commission for cases of alleged discrimination, and appeals under the terms of particular awards to the Industrial Relations Commission. Complainants have the right to take their grievance to an appropriate external body at any stage of this process. However, complainants are strongly encouraged to seek resolution through the Institute's internal procedures first and to take independent advice before proceeding to external procedures for resolution.

3. RESOLUTION OF SIMPLE COMPLAINTS

The complainant makes contact and discusses his or her complaint with a member of staff (Contact Officer), and the issue is resolved to the satisfaction of both the complainant and the Contact Officer. The Contact Officer will make a note of the complaint on the prescribed form, forward it to the Training Co-ordinator, who will note on it any further action to be taken and file it in the confidential Complaints and Grievances file. If the Training Co-ordinator considers it desirable, the Director may be informed of the complaint and its resolution.

The Training Co-ordinator and/ or Director should consider the nature and validity of the complaint, its implications for the operations of the Institute, and, if appropriate, take action to address the complainant's concerns and ensure, if possible, that any problems in the operations of the Institute are rectified.

4. INTERNAL INSTITUTE GRIEVANCE RESOLUTION PROCEDURES

4.1 Stage One: Informal - Establishing If A Grievance Exists

4.1.1 Any member of staff who believes they have a grievance and who wishes to seek resolution of the grievance, or any student or member of the general public who believes that they have a grievance against the Institute or any member or members of the staff of the Institute which can not be resolved by the procedures for a simple complaint, should report the matter to the Training Co-ordinator, to a Senior Officer, or to another Contact Officer. At this stage the grievance does not have to be put in writing. The Contact Officer will provide the complainant with a copy of the Yalga-binbi Institute Procedures for Handling Grievances and Complaints, and explain the processes and options available, and the rights of all parties involved.

4.1.2 If a complainant establishes contact with a member of staff who is unable to act as a Contact Officer, that person will refer the complainant to another Contact Officer, Supervisor, an appropriate Senior Officer, or to the Training Co-ordinator.

4.1.3 Once the complainant has received a copy of these grievance procedures, had them explained, and had time to reflect on the procedures, the Contact Officer, Senior Officer, or Training Co-ordinator will ascertain whether or not the complainant wishes to proceed with their grievance, on the understanding that to do so necessitates the respondent being made aware of the complaint and the name of the complainant.

4.1.4 The complainant should be encouraged to proceed, in the first instance, through the internal informal procedures (Stage Two).

4.2 Stage Two: Informal - Resolution Through Third Party Mediation

4.2.1 Once the complainant has established that they wish to proceed with a grievance, it is the complainant's responsibility to inform the respondent of the existence and nature of the grievance. The complainant may do so orally or in writing, and may choose to do so in the presence of the Contact Officer. If the Contact Officer is not present, the complainant is expected to advise the respondent of the identity of the Contact Officer. If the Contact Officer is not able, for any reason, to participate in the resolution of the grievance, another Senior Officer may be requested by the Contact Officer to take his/ her place in carrying out the following procedures.

The Contact Officer will provide the respondent with a copy of the Grievance Resolution Procedures, and explain the processes and options available, and the rights of all parties involved.

4.2.2 If both parties agree to participate, the Contact Officer, in liaison with the Training Co-ordinator, will arrange for the matter to be dealt with, in the first instance, by Third Party Mediation. If the Training Co-ordinator is the respondent to the grievance or complaint, then the Contact officer will liaise with the Director.

4.2.3 A designated Mediator, acceptable to the parties to the grievance and formally appointed by the Director after discussion with the Contact Officer, will assist the complainant and the respondent to come together with the aim of negotiating a mutually acceptable resolution to the complaint.

4.2.4 No record will be kept of the details of the discussions during the mediation process; however, the outcome will be recorded on the prescribed form (see the Attachments) and placed on the confidential Complaints and Grievances file.

4.2.5 If either the complainant or the respondent refuses to participate in mediation, or if a mutually acceptable resolution to the complaint is not achieved through mediation, either party can take the proceedings to the next stage.

4.3 Stage Three: Formal - Resolution Through Conciliation

4.3.1 To be considered at this stage, the complainant must detail the grievance in writing and present this, within the allowable timeframe (see 5.1.3), to the Training Co-ordinator or to the Director (if the Training Co-ordinator is the respondent).

4.3.2 The Training Co-ordinator (or the Director if the Training Co-ordinator is the respondent) will provide the respondent with a copy of the grievance in writing and, if not already provided, a copy of the Grievance Resolution Procedures, establish that either the complainant does not wish to seek resolution through mediation or that such an attempt has failed, and seek to have the matter dealt with through conciliation.

4.3.3 Both parties will be informed by the Training Co-ordinator (or the Director if the Training Co-ordinator is the respondent) that, if there is no agreement to proceed at the Stage Three level or if these procedures fail, Stage Four of the procedures may be implemented. This involves witnesses and written statements.

4.3.4 If both parties agree to participate, the Training Co-ordinator, in consultation with appropriate Senior Officers, will arrange for the matter to be dealt with by conciliation.

4.3.5 A designated Conciliator, appointed by the Training Co-ordinator in consultation with appropriate Senior Officers, will assist the complainant and the respondent to come together with the aim of negotiating a mutually acceptable agreement as resolution of the grievance.

4.3.6 In preparing for the process of conciliation, the Conciliator should interview both parties separately before the conciliation meeting and consider any tendered documentation. A copy of all tendered documentation should be given to both parties.

4.3.7 In conducting the process of conciliation, the Conciliator will remain neutral but may make evaluative comment, and may be directive to the extent of asking both parties to consider possible resolutions advanced by the Conciliator.

4.3.8 If a resolution is reached, the agreement will be put in writing by the Conciliator and signed by all parties directly involved in the negotiation. A copy of the agreement will be given to each party and a copy placed on the personal file of the complainant and the respondent. A copy will also be placed on the Complaints and Grievances file. All other paperwork will be returned to the respective parties.

4.3.9 If a resolution is not achieved or if either party refuses to participate in conciliation and wants to pursue the matter further, the Training Co-ordinator, where necessary in consultation with the Conciliator or other Senior Officer, will collate all written documentation and prepare a report for the Director, summarising the grievance and the steps taken so far towards its resolution. The Director will confirm receipt of this documentation, and inform the complainant and respondent of the action the Director intends to take.

4.4 Stage Four: Formal - Resolution through Grievance Committee

4.4.1 The Stage Four process commences when the Director receives all documentation and a report from the Training Co-ordinator detailing the steps taken so far towards resolving the grievance.

4.4.2 The Director shall establish the Terms of Reference for an ad hoc Grievance Committee to consider this complaint or grievance, and appoint its membership as follows:

- a member nominated by the complainant or, in the case of a complainant who is a member of staff who is a member of a union, a member nominated by the union of which the complainant is a member;
- a member nominated by the respondent or, in the case of a respondent who is a member of a union, a member nominated by the union of which the respondent is a member;
- a nominee of the Director;
- an independent Chair who is agreed to by the Director, the respondent, and the complainant, or their respective union. The Chair may be from within the Institute or from outside.

In those cases where the grievance involves the complainant and the respondent being represented by different unions, each union will nominate a representative. In those cases where both the complainant and the respondent are members of the same union, there will be only one union nominee on the Committee. In those cases where only one of the parties belongs to a union, the Director may, at his/her discretion, appoint a second nominee in addition to the member nominated by the relevant union. In those cases where neither the complainant nor the respondent is a member of a union, the Director will appoint only three persons to be the Grievance Committee.

4.4.3 The Grievance Committee shall evaluate the grievance on the merits of both the information placed before it and that derived through investigation. All members of the Committee shall act impartially and shall not take up an advocacy position with respect to one of the parties in dispute.

4.4.4 The Grievance Committee will undertake an investigation into the grievance with the aims of determining whether or not the grievance has substance, and recommend an appropriate course of action to resolve the grievance. In so doing, the Committee will:

- examine all documentation;
- request the Director to appoint an Investigating Officer, and may recommend the appointment of a specified individual;
- carry out interviews considered relevant and necessary;
- call for written reports from other people; and
- provide opportunity before the closure of proceedings for both the complainant and respondent to comment upon all evidence placed before the Committee.

4.4.5 The Director will appoint as Investigating Officer a person who has not been directly involved in the issues which are the subject of the grievance, will not be a member of the Committee, and, when deemed necessary by the Director, may be from outside the Institute community. The Investigating Officer may exercise all of the investigatory functions of the Grievance Committee as set out in 4.4.4. The Investigating Officer shall be briefed by the Chair of the Grievance Committee, act on the direction of the Committee, carry out his/ her investigations independently and objectively, provide a written report on the investigations to the Committee within a time-frame set by the Committee, and shall be available for interview by the Committee.

4.4.6 After considering all material produced in evidence, including the findings of the Investigating Officer, the Grievance Committee shall provide a report to the Director which sets out:

- the background to the grievance;
- the complainant's statement of the grievance;

- the respondent's statement about the grievance;
- details of the investigation carried out by the Committee;
- a statement by the Committee as to whether or not the grievance has substance or whether, in the opinion of the Committee, the grievance is vexatious, frivolous, or without merit;
- recommendations for the resolution of the grievance. Such recommendations may include:
 - that the grievance be dismissed;
 - that the complainant and respondent participate in compulsory conciliation;
 - that disciplinary action be commenced against either or both parties;
 - that particular mechanisms, procedures, or changes, including staff movements and reassignment of duties, be put in place within the workplace to resolve the grievance and to prevent occurrence of a similar grievance.

4.4.7 The Director, after receiving the Grievance Committee report, will decide a course of action which may or may not follow the recommendations of the Committee. Both complainant and respondent will be formally advised in writing of the Director's decision, a copy of which will be placed on the Personal File of both parties (in the case of members of staff), and a copy will be placed on the Complaints and Grievances file.

4.4.8 The following material will be placed on the Complaints and Grievances file:

- the material forwarded to the Director from the conciliation process;
- the Grievance Committee's report;
- the Director's decision and the Director's advice to both parties.

All other paperwork will be returned to the respective parties.

4.4.9 The Grievance Committee is an ad hoc committee which is set up to consider a specific complaint or grievance which has gone to Stage Four without resolution. The Grievance Committee is disbanded after the Director has accepted its report.

4.4.10 The Director's decision is final and will be complied with. Parties to the grievance have the right to pursue the grievance through appropriate processes external to the Institute, but, in the case of members of staff, are obliged to comply with the Director's decision in the interim. Both parties should be informed by the Director of their right to pursue the grievance through appropriate processes external to the Institute.

5. PARAMETERS FOR INTERNAL PROCEDURES

5.1 Time-frame for Grievance Procedures

5.1.1 An informal grievance must be lodged within four weeks of the occurrence of events giving rise to the grievance.

5.1.2 A formal grievance must be lodged within four weeks of the occurrence of the event giving rise to the grievance or evidence must be shown that the complainant has been involved in Third Party Mediation or Conciliation processes which have not succeeded, leading to lodgement of the formal grievance. In the case of the formal grievance being lodged after the breakdown of the informal mediation procedures, this must be lodged within two weeks of the breakdown of mediation or of the refusal of either of the parties to take part in mediation.

5.1.3 All parties shall act to resolve grievances as quickly as possible and, within the limits imposed by work schedules, within the following time-frames:

Stage One: a maximum of 1 week from date of lodgement of grievance;

Stage Two: a maximum of 2 weeks to the time of the first mediation meeting;

Stage Three: a maximum of 2 weeks to the time of the first conciliation meeting, and a maximum of a further 3 weeks to resolution through conciliation.

Stage Four: a maximum of 2 weeks to appointment of the Grievance Committee, and a maximum of a further 2 weeks to production of the report for the Director. The Director should confirm his/ her decision on the outcome of the grievance within two weeks of receiving the report.

Both complainant and respondent will be kept informed of any unavoidable delays.

5.2 Support

5.2.1 At Stage One the complainant is entitled to be accompanied at any meeting by a third person. At Stages Two and Three, complainants and respondents are not entitled to be accompanied by third persons to mediation or conciliation meetings. At Stage Four the complainant and respondent may, if they so choose, be accompanied by a third person when appearing before the Grievance Committee or when being interviewed by the Investigating Officer.

5.2.2 The role of any support person shall be to assist the attainment of a resolution. If, in the view of the Chair, any such person acts in a manner that is disruptive or is not conducive to achieving a resolution, the Chair may, after an initial warning by the Chair, be excluded from the meeting.

5.2.3 Typically, a support person may be another member of staff who has no previous contact with the grievance in question, a work colleague, a friend, or a union official. While the individual is free to obtain legal advice, the Institute will not conduct any meeting in the presence of any person acting in a legal capacity. In those cases where the complainant insists on legal representation, the Institute will cease attempts to resolve the dispute, the Director will make a decision on the issue without further investigation, and advise the complainant, if he/ she wishes to take further action, to seek resolution through external procedures.

5.3 Confidentiality

5.3.1 All parties involved in grievance procedures, at whatever stage, are required to maintain strict confidentiality and to ensure the security of all documents in their possession that are produced or generated with respect to the grievance.

5.3.2 Information about the grievance will be restricted and given only to those who need to have access in the course of their official duties related to hearing or resolving the grievance.

5.3.3 Any person who breaches confidentiality with respect to grievance procedures runs the risk that defamation actions may be taken against him or her.

5.3.4 If, at any stage, any of the parties involved in the grievance seeks support, guidance, or counselling from a third party external to the proceedings, then the person seeking support, guidance, or counselling should remind their confidant that the communication is sensitive and, should that person breach confidentiality on the matter, they run the risk that defamation actions may be taken against them.

5.4 Procedural Fairness

5.4.1 The principles of procedural fairness must be adhered to by those involved in investigating a grievance.

5.5 Victimisation

5.5.1 Yalga-binbi Institute will take all reasonable steps to ensure that parties involved in grievance procedures are not victimised or harassed in any way.

5.6 Resolution

5.6.1 A grievance is deemed to be resolved if one of the following occurs:

- An agreement acceptable to both parties is negotiated. For simple complaints and at Stage Two such an agreement need only be verbal, though a note indicating resolution of the complaint or grievance should be placed on the Grievances and Complaints file. At Stage Three the agreement must be put in writing and signed by both parties.

- The Director, after the procedures of the Grievance Committee are complete, issues a directive. Parties to the grievance have the right to pursue the grievance through appropriate processes external to the Institute, but are obliged to comply with the Director's decision in the interim.
- The grievance is taken to an external body whose ruling, after all possible avenues for appeal are exhausted, is enacted.
- The complainant withdraws the grievance and the respondent accepts that the issue is resolved. However, the respondent has the right, once Stage Three or Four has commenced, to have the issues heard and brought to a formal resolution.

5.6.2 Once a grievance has been resolved it is not open for further action at some later date.

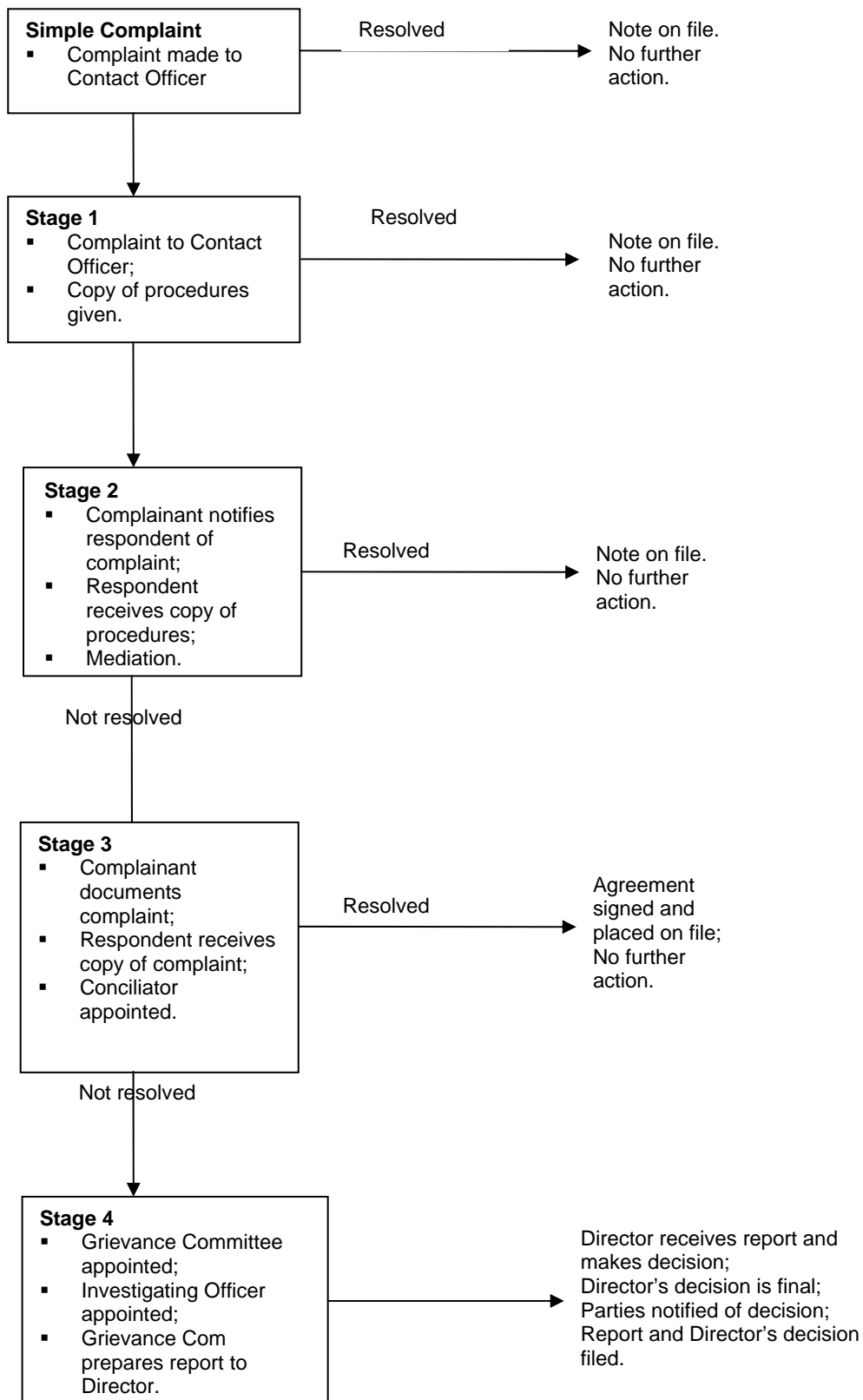
5.7 File Records

5.7.1 The material to be filed on the Complaints and Grievances file and on the personal file of the respective parties has been noted within the procedures above.

5.7.2 All complaints and grievances are to be noted in the Complaints and Grievances Register attached to the inside front cover of the Complaints and Grievances file, and this register progressively updated as additional material is added to the file.

5.7.3 All folios placed on the file are to be numbered in order from the back of the file upwards; i.e., the bottom folio is numbered 1, and each folio then numbered in order up to the top folio.

A FLOW CHART OF THE PROCESS FOR RESOLVING COMPLAINTS AND GRIEVANCES



PRESCRIBED FORMS

The following forms are prescribed for use in recording complaints and grievances:

- Complaints and Grievances Form YBI CG 1
- Complaints and Grievances Register YBI CG 2

COMPLAINTS AND GRIEVANCES FORM

Details of the Complaint : Name of Complainant: _____

Contact details of Complainant: _____

_____ Date : _____

Name of Contact Officer Signature of Contact Officer

ACTION TAKEN BY CONTACT OFFICER:

Recommendation for further action:

_____ Date: _____

Signature of Contact Officer

After completing the sections above, this form should be forwarded to the Training Co-ordinator (or, if the Training Co-ordinator is the respondent to the complaint or grievance, to the Director).

OUTCOMES:

Simple complaint: See action above.

Stage 2 (Mediation): Date: _____

Signature of Training Co-ordinator/ Director

Stage 3 (Conciliation): See report of Conciliator. Date: _____

Stage 4 (Grievance Committee): See report of Grievance Committee and Director's decision. Date: _____

COMPLAINANT NOTIFIED OF OUTCOME:

YES / NO Date: _____

COMPLAINT FINALISED Date : _____

Signature OF Training Co-ordinator/ Director

Yalga-binbi Institute for Community Development
 Aboriginal and Torres Strait Islander Corporation
 ABN 20 213 678 271

REGISTER OF COMPLAINTS AND GRIEVANCES

Date Complaint first made	Name and Contact Details of Complainant	Complaint or Grievance	Name of Contact Officer	Nature of Complaint	Date each Stage begun	Action Taken (The person recording the action taken must sign the entry)	Outcome, including changes to be made in operations to prevent future problems	List materials filed and folio reference	Date Finalised
				Simple Stage 1 Stage 2 Stage 3 Stage 4		Signature:			
				Simple Stage 1 Stage 2 Stage 3 Stage 4		Signature:			
				Simple Stage 1 Stage 2 Stage 3 Stage 4		Signature:			

