

# Building Better Aged Care

What will 2022 hold for age services and older Australians?

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awards  
winners!**



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# MANAGING WORKPLACE CONFLICT

## BEST-PRACTICE ADVICE FOR THE PROPER HANDLING OF WORKPLACE ISSUES AND CONCERNS

**A**ny well-meaning aged care provider can run into risk if they fail (even unintentionally) to comply with their employer obligations when it comes to managing workplace conflict.

These obligations range from legal requirements as outlined in the *Fair Work Act 2009* and the *Workplace Health and Safety Act 2011*, to best-practice standards and procedures, which should be outlined in your workplace policies—your complaints and grievances policy, performance management policy, and code of conduct and ethics.

Employers who engage in poor workplace practices run the risk of much more than having to pay a penalty for unfair dismissal, along with the associated costs of defending the claim. The additional risks may include a compliance notice, discrimination claim or general protections claim, being flagged by Fair Work for ongoing audits, or a WorkCover claim for issues related to stress. There is also the risk of reputational damage.

Poor workplace practices to avoid include:

- Disciplining an employee for asking questions or voicing their concerns
- Launching straight into disciplinary action
- Pulling an employee into a meeting about a workplace issue without giving prior notice or warning
- Making allegations without collecting facts or evidence
- Conducting a biased, incomplete or unfair investigation
- Steamrolling or ganging up on an employee, or making them feel intimidated
- Not following (or not having) a complaints procedure
- Not following (or not having) a performance management procedure



- Failing to explicitly inform an employee that they are being performance managed
- Dismissing an employee on the spot

Procedural fairness is the best-practice way of handling workplace conflict.

Following procedural fairness is not only ethical, it also helps mitigate business risk. The courts, WorkCover and tribunals such as the Fair Work Commission will look more favourably upon an employer who has tried to follow best-practice standards, such as procedural fairness, when addressing workplace issues and employment matters.

Key elements of procedural fairness for workplace issues:

- **Take staff seriously.** Respect their questions, concerns, complaints, or feedback.
- **Respond in a timely manner.** Serious workplace issues such as claims of bullying, harassment or misconduct should always take urgent priority for a manager, from the



moment you become aware of the alleged issue. Not only are you legally obliged to respond, but your employees also expect you to put their safety first and take their feedback seriously. When workplace conflict occurs, a prompt response by management builds trust in your staff

- **Investigate any allegations, concerns or assumptions.** Do your due diligence, engage in fact-finding, collect evidence, and take notes.
- **Treat the investigation fairly and confidentially.** Follow the rules of evidence such as relevance, accuracy, and objectivity. In some cases, an independent investigator is the best option.
- **Schedule a meeting and give the employee a chance to prepare.** When planning to discuss an important matter, give plenty of prior notice and be transparent about the reason for meeting. Employees must be told about the issue or concern and be given enough information to be able to participate meaningfully in the discussion and decision-making process.
- **Offer the option of bringing a support person.** Employees have a right to bring a support person to the meeting (a friend, relative or colleague).

- **Explain any concerns to the employee.** Do not make accusations or assumptions.
- **Offer time to respond.** Employees have a right to respond and to voice their concerns, but they also have the right to take some time to consider their response.
- **Provide a timeframe for any decisions.** Discuss and agree on the next steps, which may include scheduling a follow up meeting, investigating further or explaining what's involved in a formal performance management process. If performance management is required, this should be explained explicitly to the employee ahead of time, both verbally and in writing.

It is important that aged care providers take care of their employees and comply with their own HR policies and processes.

Reviewing and revising the key elements of procedural fairness will help you make best-practice decisions when issues or concerns arise.

If you're not sure, please seek professional advice.

**Anna Pannuzzo is Director, WorkPlacePLUS.**

For more information visit [www.workplaceplus.com.au](http://www.workplaceplus.com.au)

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