

# Grievance and complaint resolution procedure

## Purpose and scope

The purpose of this Procedure is to set out the clear and fair process for all employees (“Workers”) of The Cheesecake Shop (“TCS”) Stores to raise and resolve their grievances and complaints against another Worker or Franchisee.

This procedure covers all TCS Workers and Franchisees in all stores and offices. TCS is committed to ensuring Workers have their rights to work in a safe environment and are treated with dignity and respect. This procedure aims to encourage and support Workers to:

- raise their grievance without fear of victimisation or disadvantage
- promote the timely resolution of complaints
- ensure there is a fair process in resolving complaints.

A grievance can arise many issues and behaviours. The most common and significant are:

- Bullying and inappropriate workplace behaviour
- Sexual & Gender Based Harassment
- Discrimination
- Fairness and Flexibility at Work

This list is not exhaustive.

## TCS and Franchisee Responsibilities

Under this procedure Franchisees have the duty to:

- manage hazards associated with grievances and complaints in the workplace
- implement control measures to manage these risks
- take a proactive approach in identifying unreasonable behaviour and situations that are likely to increase the risk of complaints or grievances occurring
- monitor and review the effectiveness of these measures.

Franchisees will follow the following principles in receiving, addressing and resolving Worker’s grievances:

- Privacy and confidentiality – only people directly involved in the grievance, or in managing or supporting those directly impacted should have access to information about the grievance. Workers involved within the grievance should avoid discussing the matter with any other staff. Staff directly involved in the grievance can involve a support person (parent, friend, representative etc) to assist them through the process.
- Fairness – all parties to the complaint will have the opportunity to present their side of the matter. No assumptions will be made or action taken until all relevant information has been collected and considered. All parties will have access to support if required.

This could include access to paid counselling or time off from work based on the requirements of all parties involved.

- Freedom of victimisation – all necessary steps are taken to ensure that those involved in a grievance are not victimised by anyone for coming forward with the grievance or for helping to manage it. Any victimisation will lead to disciplinary action.
- Timely – all grievances are dealt with in a timely manner. We aim to manage all grievances within four weeks if possible, and if the process falls outside this time frame the participants will be advised of the reasoning behind this.

## Implementation

Workers have the right to raise either an informal complaint or a formal complaint. An informal complaint can be converted into a formal complaint.

Guidelines for responding to the different types of complaint are detailed below:

### 1. Informal complaints

A Worker may not wish to lodge a grievance or formal complaint personally. In such cases the Worker may confidentially discuss the matter with a manager. However if the Worker's immediate supervisor or manager is the subject of their grievance, then a neutral third party staff member will be made available as an alternative. To arrange a neutral third party please contact our Stopline service on **1300 30 45 50** or via [makeareport@stopline.com.au](mailto:makeareport@stopline.com.au). Further details about Stopline and other escalation options are available via <https://cheesecake.stoplinereport.com/>. In accordance with the Worker's wishes or relevant legislation, the manager / neutral third party is obliged to take some or all of the following measures

- discussing options and strategies with the Worker to informally resolve the situation. Set clear parameters and expectations of what can and cannot be achieved.
- ensuring all parties are aware of the relevant policies (Bullying and Inappropriate Behaviours Procedure, Code of Conduct, etc.)
- discussing the matter confidentially with the Worker(s) identified as causing the concern, informing them as a means to negotiate to a solution. Remind them of the relevant clause in this procedure regarding victimisation.
- reviewing any agreed follow-up actions to ensure adherence to commitments, resolution of grievance or any further required actions.
- monitoring the situation and following up with the complainant to ensure victimisation is not occurring
- Inform the Head of Operations about the matter

### 2. Formal complaints

- A Worker may not wish to lodge a grievance or formal complaint formally. Formal complaints should be accompanied with the **502 Grievance and Complaint Report Form**. This can be lodged with the Store Manager or Franchisee. If the Store Manager / Franchisee is implicated in the complaint then it can be lodged via a neutral third party. To arrange a neutral third party please contact our Stopline service on **1300 30 45 50** or via [makeareport@stopline.com.au](mailto:makeareport@stopline.com.au). Further details about Stopline and other escalation options are available via <https://cheesecake.stoplinereport.com/>
- The formal complaint should include in writing as much detail of the incident as possible including but not limited to:
  - Person(s) involved

- Date and time
- Place
- Details of the incident
- Impacts on the Worker

Note: It is important that as much information as possible is provided in the first instance, but further information can be provided during the course of any investigation.

- Franchisee (or TCS Head Office where complaint lodged directly through this channel) issuing a receipt for the written complaint to the Complainant within two (2) working days
- TCS (or TCS Head Office where complaint lodged directly through this channel) or Franchisees providing a letter of allegation to the Respondent within five (5) working days containing the specific details of the allegations
- Where the Franchisee or TCS identify that there is a serious and imminent risk level based on the allegations then immediate action must be taken to protect the wellbeing of all staff. This could involve requesting that the respondent cease attending the workplace whilst the investigation continues.
- Franchisees or TCS nominating a person to conduct an investigation (the Investigator), who must have Investigations experience or be trained in the investigative processes.
- the Investigator will interview the Complainant, any witnesses, the Respondent and any other relevant parties. Note that interviews should take place in a secure and confidential environment to ensure the integrity of the investigation.
- the Investigator must review any previous file notes or complaints from all parties
- any party can have a support person attend and ensure that enough time is allowed to arrange this if required (usually 24 to 48 hours)
- the Investigator must clearly identify the issues of the complaint, the type of evidence required and then gather and document this in a systematic manner. Full notes will be required from each interview and signed by the interviewee to ensure accuracy.

The investigation process will be conducted in a fair and impartial manner and include:

- preparation and information collection
- interviewing relevant parties
- findings
- documenting a report and recommendations to resolve the matter.

If the allegation relates to conduct allegedly conducted by the Franchisee then the TCS Head Office will appoint an Investigator and manage the process. Staff will be informed of how to contact head office as a part of their on-boarding training and ongoing compliance training.

### ***Outcome***

The Investigator will provide a report and recommendations to the Franchisee / TCS Corporate for decision making. There are three (3) possible outcomes:

- if the complaint was substantiated, the disciplinary process or performance management process will be followed. This decision to substantiate the complaint will be shared with the Complainant but not the details of the disciplinary process.
- if the allegation is unsubstantiated the Complainant and the Respondent will be advised of the reasoning behind the decision and any expectations of future actions.
- if the complaint is found to be consciously vexatious, appropriate action will be taken against the complainant. The decision to find the complaint vexatious and any information about appropriate actions will not be shared with the Respondent.

### ***Issues to be considered***

Franchisee (or TCS Head Office where complaint lodged directly through this channel) must:

- choose the appropriate person to conduct the investigation considering the skill set required
- ensure the complainant understands the process and limitations, and is aware of the relevant policies and options open to them
- check that representation or support has been offered to all parties prior to each meeting. Explain the role of a support person, being note taking and emotional support (unless they are there in a legal capacity)
- ensure there are no conflicts of interest or personal relationships between the investigator and the parties to the investigation
- take appropriate action against the complainant if the complaint is found to be consciously vexatious
- obtain background information including position descriptions, contracts of employment, previous complaints, and relevant policies
- keep records of all communication interviews and correspondence. This information must be kept confidential
- discuss providing access to an Employee Assistance Program (EAP), Peer Support Program and / or equivalent model of worker support, given the emotional toll that a matter of this type is likely to take on those involved.

## **Definitions**

*Grievance* – any problem, concern or complaint related to work or the work environment.

*Informal grievance* – a grievance made verbally.

*Formal grievance* – a grievance made in writing.

*Support person* – a person to assist the employee to prepare for an investigation interview and to be with them in the meetings to provide industrial advice (if attending in that capacity) and to take notes. They cannot speak on the person's behalf.

*Procedural fairness* – lack of bias, use of evidence to support decisions, process directed by procedures, investigation appropriate to the circumstances and history.

*Natural justice* – ensuring all parties affected by a grievance have a fair hearing prior to attempting a resolution.

*Investigation process* – standardised system of enquiries designed to discover the facts of a series of events. Repeatable, consistent process.

*Complainant* – a person who makes a complaint against another party, alleging harm by that person.

*Respondent* - a person called upon to issue a response to a communication made by another, such as a complaint.

*Stopline* – third party provider where complaints can be lodged if it is not appropriate to lodge with the Store Manager or Franchisee