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# **THE GREENS (WA)**

## **CONFLICT RESOLUTION BY-LAWS**

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VERSION 2 | 2017

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## 1. PREAMBLE

- 1.1. The Greens (WA) is committed to providing a safe, healthy and inclusive environment where all Greens WA Members and volunteers have the opportunity to express and resolve grievances. The process outlined in this Conflict Resolution Bylaws has been developed to achieve those outcomes and is not intended to be used for any other purpose.
- 1.2. Although this document refers to Members of The Greens (WA), in circumstances where a non-Member is engaging in Party activities as a volunteer and has signed the Code of Conduct form (Appendix 1 – Code of Conduct) this conflict resolution procedure is available to them.
- 1.3. Members from Member Bodies of The Australian Greens other than The Greens (WA) may use this process to resolve a grievance with a Member of The Greens (WA).
- 1.4. All grievances will be dealt with fairly, promptly, sensitively, and confidentially.

## 2. PURPOSE OF THE CONFLICT RESOLUTION BY-LAW

- 2.1. To provide guidelines and formalised procedures to assist in the prompt resolution of conflicts.
- 2.2. To help the Grievance Coordinator Panel to negotiate resolutions fairly and impartially.
- 2.3. To help Greens (WA) members and volunteers to resolve conflicts.
- 2.4. To promote consistency in the way similar matters are handled.
- 2.5. This process is not intended to be a substitute for a legal process. Any matter that warrants a criminal investigation should not be addressed by this process, and should be referred without delay to the police.

## 3. DEFINITIONS

For the purposes of these By-laws and any referent documentation:

**“activities”** means the behaviour, conduct, or general participation of any Member or volunteer in their capacity as such, including but not limited to any meetings, events, or online spaces;

**“Advocate”** means the person appointed by either of the parties to assist that party during the determination of a Formal Grievance. To ensure the integrity of the process, they must be accepted by the Grievance Coordinator.

**“AGM”** means the Annual General Meeting of The Greens (WA) Inc.;



**“Aggrieved Person”** means the person or persons who has/have a conflict within the context of this By-law;

**“Agreement”** – Any agreement the Member has entered into with the Party;

**“Conflict”** means any type of problem, concern, or complaint related to any activities in a Greens (WA) space. This can be any act, behaviour, omission, situation that the Aggrieved Person perceives to be unfair or unjustified;

**“Formal Grievance”** means any grievance where the Aggrieved Person and the Grievance Coordinator considers the matter can only be resolved by a third person making a decision. A Formal Grievance must be made in writing;

**“Grievance Coordinator”** means that person tasked with the case management of a grievance. The role assists the Grievance Officer to resolve Informal Grievances; are the recipient of the Formal Grievance; take on the role of decision maker in determining a Formal Grievance; and are responsible for reporting to the relevant bodies;

**“Grievance Coordinator Panel”** means that body as constituted under clause 5.1 of these By-laws;

**“Grievance database”** means any archive system, confidential to The Greens (WA), that records statistics, summaries, and findings or any formal grievances in order to monitor grievance types, trends, and outcomes;

**“Grievance file”** means any file, confidential to The Greens (WA), holding appropriate documents generated, received collated or examined during the determination of a Formal Grievance;

**“Informal Grievance”** means any grievance where the Aggrieved Person or the Grievance Coordinator considers the matter should be resolved through the Informal Grievance Resolution Process. An Informal Grievance does not have to be submitted in writing;

**“Member”** means a Party member as defined in Part 3 of the GWA Inc. Constitution

**“Procedural Fairness”** means a process that is fair to all parties and free of bias. The principles underpinning this process include:



- a) The right of an affected person to be heard before any decision is made which has the potential to affect them;
- b) The right to be informed of allegations made;
- c) The right to respond to any allegation made;
- d) The right to a consistency of approach and application to all issues;
- e) The right to representation;
- f) The right to have a grievance fairly determined by an unbiased decision maker;
- g) The right to have all resolutions determined on the established and relevant facts;
- h) The right to an adequate appeal process.

**“Party”** means The Greens (WA) Inc.

**“parties”** means the Aggrieved Person and the Respondent

**“Resolution Officer”** means that officer bearer tasked with resolving Informal Grievances under the guidance of a Grievance Coordinator. The role assists an individual to resolve any conflict themselves, including organising meetings and taking on the role of mediator with respect to Informal Grievances;

**“Respondent”** means a Member identified by an Aggrieved Person whose alleged actions have been perceived to cause or contribute to a grievance.

**“Reps”** means the Representatives Council of The Greens (WA).

**“Reps QDMG”** means the Quick Decision-Making Group of the Representatives Council of The Greens (WA).

**“resolution”** means any outcome of the grievance process. A resolution may occur at any stage of this process. A grievance is resolved when:  
 the Aggrieved Person confirms the grievance has been addressed satisfactorily; or  
 the Grievance Coordinating Panel determines that a complaint is vexatious; or  
 the Aggrieved Person withdraws their complaint; or  
 this conflict resolution bylaws process has been exhausted; or  
 When the matter has been finally determined within a Formal Grievance process

**“Support person”** A trusted friend or colleague chosen by the respondent and/or aggrieved person. To ensure the integrity of the process, they must be accepted by the Grievance Coordinator.



## **4. GUIDING PRINCIPLES**

**4.1.** In dealing with conflict, the following principles must be observed:

- a) Conflict should be discussed and resolved within a general framework of cooperation that emphasizes prevention of further disputes;
- b) Conflict should be addressed as quickly as possible to avoid the negative effects of ongoing problems in the Party;
- c) Conflict and any correspondence or documentation associated with a conflict or formal grievance must be treated as strictly confidential and all parties involved must treat such information with appropriate and adequate security and confidentiality;
- d) Details of the conflict or formal grievance will only be available to parties involved in the resolution process; and,
- e) A formal grievance will be resolved in line with the principles of “Procedural Fairness”

## **5. GRIEVANCE COORDINATORS AND RESOLUTION OFFICERS**

### **5.1. Grievance Coordinator Panel**

A panel of no more than four (4) will form the Grievance Coordinator Panel. Only one (1) Grievance Coordinator (GC) will manage a formal grievance. A panel allows for choice, professional consultation, confidentiality, and transparency. The GC managing a case will oversee the process, assist, and provide support to the Resolution Officer (GO), and will determine the matter in a Formal Grievance.

### **5.2. Resolution Officer Group**

A group of no more than four will be trained as Resolution Officers (RO). The GC who manages any particular grievance will appoint a RO based on appropriate skills, training, experience and impartiality. RO's will conduct the process when an Informal process is undertaken.

### **5.3. Selection of Grievance Coordinators and Resolution Officers**

Grievance Coordinators and Resolution Officers shall be selected through the following process:

- a) Nominations for Resolution Officers (ROs) and Grievance Coordinators (GCs) are called for by Admin Working Group.
- b) Members wishing to nominate for either role shall include a short description of any qualifications or experience, in particular skills and training in mediation and/or dispute resolution.

- c) Names and descriptions of nominees (including any Members re-nominating from the previous year) shall be circulated eleven (11) days prior to the Reps Meeting.
- d) Objections may be sent in writing to the Co-Convenors of The Party to be received at least five (5) days before the Reps Meeting.
- e) Objections must be presented in confidence, to the nominating Member who may choose to withdraw or proceed with nomination.
- f) If the affected nominee does not withdraw, the objection (unless withdrawn) must be presented to the Reps Council Meeting while the nominee is present and they must be provided an opportunity to respond.
- g) All nominees will absent themselves from room when the selection is made.
- h) Selection is made by an optional preferential secret ballot with an option for seek-other candidate.

## **6. GROUNDS FOR BRINGING A CONFLICT OR FORMAL GRIEVANCE**

**6.1.** The following are valid grounds for a conflict or formal grievance. Any grievance must address one or more of these grounds. Grievances that do not address these grounds will not be accepted.

**6.2.** The only valid grounds are:

- a) The Respondent's actions have adversely affected the rights of the Aggrieved Person, or ability to exercise those rights as outlined under Part 4 of The Greens (WA) Constitution (Membership Rights) and/or;
- b) The Respondent has breached the Greens (WA) Constitution, or any other GWA By-law, Code of Conduct, or Agreement and this breach has adversely affected the Aggrieved Person.

**6.3.** Unacceptable grounds for a grievance include, but are not limited to:

- a) Breaches of criminal law that should be referred to the police;
- b) Issues relating to or arising from employment or prospective employment with the GWA office or with any Greens (WA) Member of Parliament - in such cases the relevant industrial or employment legislation applies;
- c) Actions or behaviours that have not occurred within GWA meetings, events or activities;
- d) Differences of opinion between two or more Members;
- e) Opposition to decisions made by a GWA body or group – the Conflict Resolution Procedure is not a decisions appeal process;
- f) Matters that are within the ambit of another dispute resolution procedure established under a GWA By-law or the GWA Constitution; and,
- g) Opposition to the result of a validly conducted preselection procedure.



## **7. CONFLICT RESOLUTION PROCESS**

Anyone wishing to undertake a conflict resolution process can choose to resolve it Informally or Formally.

### **7.1. Informal Conflict Resolution Process**

The informal process is overseen by Resolution Officers. The aim of an informal process is to assist an individual to resolve the conflict. To use an informal process, the complaint does not need to be submitted in writing. Either party may have a support person present during any stage of the informal conflict resolution process.

#### **7.1.1. Direct contact or negotiation**

In the first instance the Resolution Officer will assist an individual to resolve a conflict themselves. With assistance from the GO, parties are encouraged to meet with each other in an informal way to see if they can reach a resolution to the issue.

#### **7.1.2. Mediation**

In a mediation process, a Resolution Officer will contact the parties to discuss the substance of the conflict and to discuss strategies to seek a mutually agreed resolution. The Resolution Officer may take on the role of mediator.

- a) For mediation to occur, the parties must be willing to resolve the issues between them.
- b) If mediation proceeds, the parties must approach this in good faith.
- c) The Party is prepared to meet reasonable mediation costs if an outside mediator is used.

If the mediation does not result in resolution, the matter is then referred to the Grievance Coordinator Panel to consider further options for resolution. An Informal Conflict that is not resolved may be lodged as a Formal Grievance by the Aggrieved Person.

### **7.2. Formal Grievance Resolution Process**

The Formal Grievance Resolution Process is overseen by a Grievance Coordinator. The resolution of a Formal Grievance must adhere to the principles of Procedural Fairness. This formal process followed is up to the discretion of the responsible Grievance Coordinator. Either party may have a support person present during any stage of the informal conflict resolution process.

Sections 8 - 10 included below is the process for submitting a formal grievance. Outlined here includes;

## **8. SUBMISSION OF A FORMAL GRIEVANCE**

**8.1.** A formal grievance can be submitted by email or by letter

- Email: submit by emailing (email address TBC)
- Post: submit by posting to The Greens (WA) office.

Clearly mark the email, or the envelope, as “private & confidential” and addressed it to the Grievance Coordinator Panel.

The Formal Grievance should clearly state:

- a) Who the grievance refers to (the Respondent);
- b) The actions or behaviour of the Respondent to cause the grievance; and,
- c) Evidence, or description of evidence, that may be used to substantiate the grievance.

**8.2.** Upon receipt of a formal grievance:

- a) The Grievance Coordinator Panel will meet and consider the substance of the grievance.
- b) If the Grievance Coordinator Panel accepts the grievance, then they will acknowledge receipt of the grievance, provide a copy of the Conflict Resolution and Grievance Procedure to the Aggrieved Person.
- c) If the Panel forms a preliminary view that the complaint is vexatious (see Section 11) or does not meet the grounds for lodging a grievance (see Section 6) then the Panel will dismiss the grievance. If a grievance is not accepted the Grievance Coordinator must provide a response in writing to the Aggrieved Person.
- d) The Grievance Coordinator Panel will then appoint a Grievance Coordinator to handle the grievance. When selecting a coordinator, the Panel shall take into consideration the relevant Grievance Coordinator’s:
  - i. Relationship with the parties;
  - ii. Proximity to or knowledge of the complaint;
  - iii. Experience and training in dispute resolution and,
  - iv. Availability.
- e) The Grievance Coordinator will then meet with the Aggrieved Person and determine whether the grievance will proceed as a Formal Grievance, or if an Informal Process is to be followed first.



- f) If an informal process is pursued, The Grievance Coordinator will refer the Aggrieved Person to an appropriate Resolution Officer and the Informal Process (Section 7) will be undertaken.
- g) If, taking into consideration the seriousness of the alleged grievance, the Grievance Coordinator believes that it is appropriate to suspend a Respondent's membership while a grievance is considered, the Grievance Coordinator may recommend to the GWA Co-convenors that Reps suspend the Respondent's membership. Upon receiving such a recommendation, Reps QDMG may determine that a Respondent be directed to cease participating in all, or some, GWA activities until further notice; including being removed from an online or physical space.

### **Formal Resolution Process**

**8.3.** Upon a decision to pursue a Formal Process, the Grievance Coordinator will contact the Respondent and provide them with a copy of the Formal Grievance and a copy of the Conflict Resolution By-Law. The Respondent may make submissions as to whether the Formal Grievance meets the grounds set out in Section 6. The Grievance Coordinator will finally determine any objections on these grounds at this stage.

**8.4.** The Grievance Coordinator decides on the best process to use to resolve a formal grievance. The resolution of a Formal Grievance must adhere to the principles of Procedural Fairness. The Grievance Coordinator will make a decision on the process after talking to both parties about the process that ought to be followed to reach a resolution.

The Grievance Coordinator may inform themselves in relation to any grievance before them. They can consider any evidence put to them and can decide how much weight to give the evidence. This means they are not bound by the rules of evidence in relation to any matter before them.

**8.5.** During the formal resolution of a grievance, neither party can be required to be in the room with the other party. Not wanting to be in attendance with the other party will not prevent the grievance from being resolved.

**8.6.** Each of the parties may be represented by an Advocate at all stages of the Formal Grievance Resolution Process.

- 8.7.** Any person involved in a Formal Grievance Resolution Process who misleads the Grievance Coordinator as to a material fact or who threatens, intimidates, coerces or prejudices another person because that person has given or proposes to give information to the Grievance Coordinator commits misconduct. They may be referred by the Grievance Coordinator to Reps Council for discipline pursuant to Censure, Suspension and Expulsion By-law.

### **After undertaking a Formal Resolution Process**

- 8.8.** At the conclusion of the process, the Grievance Coordinator will write a report determining the matters in dispute. This report may include recommendations. If the Grievance Coordinator considers the circumstances warrant it may recommend initiation of censure, suspension or expulsion proceeding under Section 11 of the GWA Constitution.

The report is to be given to both parties. The reports shall be presented in person to the parties, with no copies of the report circulated via email. If there are ground to appeal, it is at this point that parties can choose to use the appeals process (See Section 9).

- 8.9.** The conclusion and recommendation from the report are to be presented by the Grievance Coordinator to Reps Council. Only members of Reps Council may be in attendance during the Grievance Coordinators report, observers may be included at the discretion of Grievance Coordinator and Co-Convenors.
- 8.10.** If the recommendations are considered urgent, and are not subject to appeal, it may be referred to Reps QDMG. The decision to go to Reps QDMG will be at the discretion of the Grievance Coordinator in consultation with the Co-Convenors.

## **9. APPEALS**

- 9.1.** Either party to a Formal Grievance has the right to appeal aspects of the determination.
- 9.2.** The only grounds for appeal are:
- a) Breach of procedures outlined in this document, in the GWA constitution or any applicable GWA by-laws or regulations; or
  - b) Breach of the principles of Procedural Fairness as referenced in Section 3.

- 9.3.** The appeal must be in writing to the Grievance Coordinator Panel, must fully outline the grounds for the appeal and must be made within 7 days of the receipt of the report determining the Formal Grievance
- 9.4.** After hearing submissions from the parties, the Panel may determine, by simple majority, whether to uphold or dismiss the appeal. The Grievance Coordinator who determined the grievance is not to participate in this process.
- 9.5.** The Panel must decide the appeal within two weeks, and cite any reasons for upholding or dismissing the appeal.
- 9.6.** If the appeal is upheld the Panel will take further steps as appropriate.

## **10. CONFIDENTIALITY**

- 10.1.** Regardless of the process used to seek resolution of a conflict or formal grievance, all aspects of any allegations remain confidential. Confidentiality is required from all those involved.
- 10.2.** The details of a conflict or formal grievance are not to be discussed by Reps, QDMG, Regional Groups or any other body except in the circumstances described in 8.9.
- 10.3.** Any breach of confidentiality by any of Member will be taken seriously. If any Member of the party breaches confidentiality they may be subject to GWA censure, suspension, or expulsion proceedings.

## **11. VEXATIOUS COMPLAINTS**

- 11.1.** A formal grievance will be considered to be vexatious if:
- a) It lacks reasonable grounds and is malicious or defamatory;
  - b) The Aggrieved Person's conduct is unreasonable, including but not limited to, a focus on minor or technical issues, or seeking a remedy to a repeat issue that has been examined or resolved in the past; or
  - c) the grievance is judged to be intended to waste time and resources, or cause stress and confusion to the respondent, GWA office bearers or staff, or anyone involved in investigating the grievance.
- 11.2.** Should the Grievance Coordinator find that a grievance is vexatious, they will clearly communicate this to the Aggrieved Person.

**11.3.** Should the Respondent believe the grievance to be vexatious, the Grievance Coordinator will make a determination based on their professional skills, education and training.

**11.4.** Vexatious complaints will be dismissed by the Grievance Coordinator.

**11.5.** A person whose grievance is found to be vexatious may be subject to GWA censure, suspension, or expulsion proceedings.

## **12. LIMITS OF LIABILITY**

**12.1.** Members participating in the conflict resolution process are expected to do so in good faith, and with the aim of reducing and/or resolving conflict. The process outlined in this document is not intended to be a legal process or a substitute for any legal processes. The Party and any of its members participating in the conflict resolution process are not to be considered liable for any adverse results arising from an investigation.

## APPENDIX 1 – CODE OF CONDUCT

As a Member or volunteer with The Greens (WA) you are part of a vibrant and diverse team that may experience periods of high stress and intensity. This Code of outlines expected behaviour of all Members and volunteers when they are involved in activities of The Greens (WA).

Code of Conduct while involved in Greens activities:

I will abide by all State and Federal laws while at The Greens (WA) office and while undertaking any Greens (WA) activity.

I will maintain at all times the confidentiality of all personal, privileged or proprietary information to which I am exposed whilst volunteering with The Greens (WA). This includes information relating to The Greens (WA), its staff, Members, other volunteers and all agency business.

I will abide by Greens WA policies, procedures, processes and by-laws. This includes the Greens (WA) media by-laws. If I am uncertain of my responsibilities I will ask for clarification.

I will follow Safe Meeting Practices including showing consideration and respect in all dealings with others, I will provide equal access and equity to all persons, and I will not vilify, verbally abuse, physically abuse, bully or harass another person.

I will contribute to maintaining a safe working environment, I will observe safe work practices and avoid unnecessary risks;

As a Member or volunteer with The Greens (WA) I agree that I will abide by this Code of Conduct. I understand that in the instance of breach of this code of conduct, the Party's Conflict Resolution Bylaw will be followed.

Signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_

