



NSW Wildlife Council
Conflict Management Guidelines

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1 Introduction

The NSW Wildlife Council (NWC) believes that it is possible for the standards of wildlife care to be affected when wildlife rehabilitators are distracted from their core purpose through internal disputes. Consequently, these Conflict Management Guidelines (the Guidelines) were developed to assist people in the wildlife rehabilitation sector to avoid conflicts and deal with disputes more effectively.

This document should be read in the context of NSW Wildlife Council's Code of Ethics and Volunteering Australia's "Principles of Volunteering". (See appendices B and C respectively).



These guidelines are produced to provide information for wildlife groups who do not have such detailed processes, and individuals who want more information. Groups that already have a successful conflict management process in place, are free to use their own process.

By agreeing to a standard approach, all wildlife carers should have a better understanding of where they stand, and what options are open to them when conflict arises.

Conflict Management in this document is the overall management of 'conflict' from options to improve harmony, through to the ultimate resolution of disputes.

Dispute Resolution in this document describes the processes and/or tools such as mediation and facilitation used to resolve a specific dispute between parties.

The best solution for everyone concerned is to avoid conflict in the first place, so section 3 has been included in this document to help people find ways of doing this. But if conflict can not be avoided, disputes should be resolved early, through negotiation or mediation.

These guidelines bring together information that is available from other sources into one place, and put it into the context of the volunteer wildlife rehabilitation community.

The Guidelines were developed to encourage consistency and fairness, and to ensure that people know and understand their rights and responsibilities. The Guidelines propose options for addressing conflict between members of an association and may assist the associations in developing or improving their own processes.

The NSW Wildlife Council encourages each association to maintain their own resolution processes, and to ensure that they meet the minimum requirements listed overleaf.

These Guidelines make no assumptions about the causes of disputes, or who is at fault.

2

Policy & Minimum Requirements

NWC Conflict Management Policy

The NSW Wildlife Council encourages all member associations to have fair and transparent processes that meet the minimum requirements documented below. These processes should be applied fairly and equitably.

The dispute resolution processes should be administered within the context of the association's rules, social norms, and applicable legislation.

Minimum Requirements

To help minimise conflict, *every association* should, at a minimum:

- Make their constitution, rules and regulations available to all members
- Treat members with respect and courtesy
- Give members reasonable and appropriate opportunity to have their say
- Treat all complaints, problems and issues equitably and appropriately
- Discourage gossip and negativity
- Encourage teamwork and commitment

In order to minimise conflict, *every volunteer* (that is, each individual rehabilitator or association member) should, at a minimum:

- Make themselves aware of their association's policies and standards
- Work within the policies, rules and regulations of the association, and all applicable legislative requirements
- Treat fellow volunteers with respect and courtesy

In managing conflict, every association should, at a minimum, have a documented dispute resolution process that:

- Is aimed at achieving a fair outcome
- Is administered fairly and equitably
- Ensures both sides of a dispute are heard
- Ensures that all discussions, issues, agreements and outcomes are documented and kept on file

Associations that are members of the NSW Wildlife Council are encouraged to ensure their dispute resolution process meets or exceeds these minimum requirements.

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Avoiding Disputes

There are things that can be done to help avoid disputes arising in the first place. For example, associations should ensure that:

1. Their constitution is up-to-date
2. Rules, policies & procedures are documented and accessible for all members;
3. Policies are reasonable and are developed with appropriate consultation;
4. The association's rules and regulations are administered fairly and equitably;
5. Members are given appropriate opportunity to raise valid concerns and issues, and to be heard without being harassed or victimised;
6. Decision making processes are fair and transparent.

Additionally, associations may wish to consider developing a 'Volunteer Policy' and/or Position Descriptions which clearly identify the rights and responsibilities of all volunteers and position holders.



Respect

Respect is a common denominator for prevention and resolution of conflict.

- Treat people with courtesy
- Listen to what others have to say before expressing your viewpoint
- Never put people down, disparage them, call them names or insult them
- It is OK to disagree with others, but stick to the point and remain calm
- Do not belittle, criticize little things, demean or patronize others. A series of small comments over time can amount to bullying
- Treat people equally
- Ensure that praise, recognition and appreciation is abundant

Authority

Volunteers in wildlife groups are adults, and expect a reasonable and appropriate amount of independence and authority within the context of the association's rules.

An overly strict authoritarian approach is almost certain to cause resentment and eventually lead to disputes. Associations must distinguish between those things which are not negotiable, and those where members should be able to use their own judgement, based on their experience.

A Worthwhile Investment

Proper disputes processes take time, but you can help avoid many of the conflicts that might otherwise occur. This means your experience in the association will be less stressful, more positive and more enjoyable. As a result, all members of the association will be able to focus their energies on wildlife rehabilitation activities.

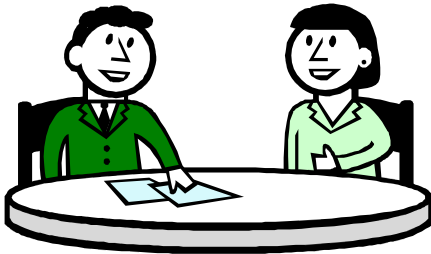
4 Nip It In The Bud

Once conflict arises, it is always best to deal with it as soon as possible. The longer a dispute is left unresolved, the more difficult it will be to address.

As a first step, consult the organisation's rules to reference details of the mechanism identified for resolving disputes. It is important to follow those procedures.

If rules do not include a dispute resolution mechanism, NSW law states that the 'Resolution of internal disputes' rule in the model rules is deemed to be included in the rules of your association. The Model Rules require that disputes between members of the association, in their capacity as members, and disputes between members and the association, are to be referred to a community justice centre for mediation in accordance with the Community Justice Centres Act 1983. More about this on the next page.

Negotiation



The first approach for two parties in disagreement should always be to attempt to discuss the issues openly and informally. Section 8 contains some suggestions as to how it might be possible to resolve disagreements at this stage, before they become serious disputes.

It may be useful to have a third person act as a 'mediator' to facilitate the discussion between the two parties. This person may be a member of the committee, or another person who is not involved in the dispute. Either way, the person playing the role of mediator must be trusted by both sides, and must not take sides during the process.

While it is not obligatory, it can be helpful for people involved in a dispute to complete the pre-mediation checklist on the following page. This is not shared with anyone else – it is used to help the people involved think through what outcome they want to achieve.

Many disagreements can be resolved at this stage if the action is taken swiftly and both sides enter into discussions in good faith.

Important: *If agreement is reached, it should be documented, and both sides should keep a signed copy of the agreement – in case the issue comes up again in the future. If no agreement is reached, it is very useful to document the discussion, areas of disagreement and any outcomes. Either way, a copy of the document should be retained on file by the association's secretary.*

5 Mediation

Limit the Damage

While it may be important to get the issue resolved, volunteers should be aware that as disputes become more serious, they can engage more people, and distract fellow volunteers from the core business of wildlife rehabilitation. It can reflect badly on the association, may upset other members and cause concern for *potential* members!

Once a dispute between two or more members starts to impact on the association, the management committee is obliged to take action. It is essential that the committee acts in a way which is objective, unbiased and equitable.

Introduction to mediation

Often, the most successful option to consider is external mediation.

Mediation has a success rate of over 80%, but can only help if both parties are prepared to enter into mediation in good faith. There is detailed information on how to go about this below.

In preparation for mediation, both sides might want to complete a checklist (*adapted from the Commonwealth Office of Small Business*). It is optional, and the checklist is not meant to be shared with others. It is just a tool to help the people involved think through all the issues, including what outcome they hope to achieve.



- List the events leading up to the dispute
- Has the dispute escalated? Why?
- Why hasn't the dispute been settled?
- Write down the most important issues to be resolved in order of priority
- Think about the issues from the perspective of the other party
- What do you want from the other side as a 'preferred outcome'
- Think in terms of your 'needs' rather than your 'rights'
- Are the impacts of your preferred outcome on other parties reasonable?
- What is the impact of your preferred ongoing relationships with others?
- Will the preferred outcome resolve the dispute in the long-term?
- Play devil's advocate – are you realistic about the strength of your position?
- Discuss the issue with a trusted advisor – do they agree with your position?
- Are you allowing anger or disappointment to cloud your perspective?

Mediation Process

Mediation sessions are generally conducted by impartial, trained mediators who help people to understand each other's point of view and to work together to reach an acceptable agreement.

Mediation through a Community Justice Centre (CJC) is a free service. Alternatively, professional mediation services can be obtained via such bodies as the Australian Commercial Dispute Centre or a lawyer engaged in Alternate Dispute Resolution, but they are not free. For information contact the NSW Law Society's Referrals Division.

When is the best time to try mediation?

The sooner the better, before matters have escalated and unnecessary expenses have been incurred.

Mediation typically takes between 2 and 4 hours, but may take longer where there are a number of people involved or complex issues involved. Usually one session is all that is needed, but additional sessions can be arranged if necessary.

Mediation sessions are arranged at times that suit everyone and are held at regional offices or a place near you.

Is the Agreement legally binding?

Agreements made in mediation are not legally binding. The agreements are made in good faith and it is up to the parties to keep the agreement.

Who can come to a mediation? Can my lawyer attend?

All people involved must agree on who is attending the mediation before the session is held. All people involved in the dispute should be encouraged to attend, to participate, and to see it through to resolution. "Support people" may attend if required, though they do not participate in the session.

Witnesses are not necessary as the mediators are not there to assess the situation and make decisions. Lawyers and solicitors are not required as mediation is not a legal process.

Can anything I say at mediation be used in court?

All contacts with Community Justice Centres are confidential. Evidence of anything said or of any admission made in mediation session is not admissible in any proceedings before any court, tribunal or body.



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Taking It To The Next Level

If, after attempting previous options, there is no resolution to the problem, the available options become very restricted. These are more costly and divisive than options suggested earlier. The NSW Wildlife Council does not encourage legal action, but recognises that there may be occasions where it may be appropriate.

Before escalating this to the next level, it is a good time to consider:

- if you want to continue to plug away at trying to fix the problem, or
- if you will live with the situation as it stands, or
- if you will leave the organisation / committee.

Engaging Legal Help

One or both parties may engage the services of a lawyer. This can be an expensive option, which can have repercussions for people on both sides of the disagreement.



The final option is legal action. It is divisive, and can draw on the resources of the individuals and the association. It will raise stress levels, can affect the health of those involved, and could stretch out for months or even years.

There is no guarantee of an outcome that will satisfy either side. Even the 'victor' may have to pay significant legal expenses and court costs.

Taking legal action may reflect negatively on the association, and could even lead to the dissolution of the association. While this may give some satisfaction to the person making the complaint, it is unlikely to be a good outcome for other members of the association, or the local wildlife.

Depending on the outcome, it even has the potential to impact on the wider wildlife sector, and the local community.

Where can I get legal advice?

Law Access provides a legal advice and referral service. Information regarding its services can be obtained from its website at www.lawaccess.nsw.gov.au. In limited circumstances, advice also may be available from your local Community Legal Centre. Alternatively, you may wish to seek advice from a legal practitioner.

7 Who Else Can Get Involved?

Legally, responsibility for resolving disputes rests with the parties in dispute. Experience has shown that some wildlife carers expect the NSW Wildlife Council, The Office of Fair Trading, or the National Parks and Wildlife Service (DECC) to assist in the resolution of conflicts. In fact, these organisations have limited responsibility or authority in such matters.

1. Role of the NSW Wildlife Council

NSW Wildlife Council representatives do not necessarily have the skills or experience to act as mediators. Further, the NSW Wildlife Council has no authority over affiliated associations, and taking on this role would distract Council representatives from being able to focus on their core objectives. Consequently, the role of the NSW Wildlife Council in disputes is limited to:

- Publishing these guidelines and encouraging members to adopt appropriate dispute resolution processes;
- Assisting associations to locate an objective facilitator / mediator; and
- If it is shown that an association is acting contrary to NWC objectives and standards, reconsidering the association's membership of the NWC.

2. Role of the National Parks and Wildlife Service

The National Parks and Wildlife Service (NPWS), part of the Department of Environment and Climate Change, is the body charged with the issuing of licences to rehabilitate wildlife. They have a role in ensuring that licence-holders comply with their licence conditions and applicable laws, but have no legislative responsibility regard to internal disputes. NPWS staff do not necessarily have the specific training, skills, or time to undertake disputes resolution activity.

In exceptional circumstances, NPWS have indicated that they may review unresolved conflicts, provided that they meet strict criteria:

- Neither side in the dispute has acted/is acting in a way that is illegal; or is in breach of applicable policies, guidelines or regulations
- Both sides can demonstrate that they have made genuine attempts to resolve the dispute as per these guidelines.
- Dispute resolution activity has followed due process, has been conducted in good faith, and has been managed fairly and equitably
- These efforts have been documented, and that documentation is provided in full to NPWS by both sides involved in the dispute

3. Role of the Registry (Office of Fair Trading)

The NSW Registry of Cooperatives and Associations (Part of the Office of Fair Trading) may only deal with complaints that amount to a breach of the provisions of the NSW Fair Trading Act or associated regulations.

Unless the issue involves a breach of the Act, the Registry will not become involved in any disputes.

8 Techniques

This is a brief description of some techniques that can be used to help resolve conflict. These may be useful if people within the association are selected to act as mediators.

- Try to get any conflicts resolved early. People have less time and effort invested in a short-term dispute and may be more willing to compromise.
- It is often useful to find a mediator – someone who is not associated with either side of the dispute, and who has a calm and reasonable manner.
- Both parties should be made aware that disputes takes up time and energy. It is in everyone’s interest to find a solution.

Whether in formal mediation, or an informal meeting, it is useful to lay down the rules of engagement before the process formally starts. These may include:

- No insults, bad language, or raised voices
- Both sides will be given equal time, and guided by the mediator
- Comments to be addressed through the mediator
- Stick to facts and not gossip, rumour, or hearsay
- Details of the discussion should remain confidential

During the mediation process:

- The mediator should listen to each side, not making any contribution other than indicating that he or she understands what has been said, without inferring agreement or disagreement with what is being said.
- Get all issues out in the open, no matter how controversial, in a calm way. Without this, people may feel that ‘not all the cards were on the table’.
- A mediator might ask questions that draw out the underlying causes, such as “Why do you think they would do that” or “What are they actually doing that is wrong”?
- Questions need to concentrate not only on why the actions of the other party cause upset, but whether the action is of itself is illegal, unethical or in breach of policies or social norms.
- Remember that people are more likely to keep to a decision that they helped form, rather than one that is ‘forced’ on them.
- Any agreement (or other outcome) should be documented and signed by both parties. It needs to lay out what has been agreed, what is going to be done, who is responsible for making it happen (people’s names) and when it is to be done by.

It is not to be expected that everyone will emerge from these discussions as best of friends. Even cordial relations may be difficult for some time. What is achievable is an agreement, with a commitment for both sides to play their part, in order that both sides can get on with their common objective of contributing to wildlife rehabilitation.

Appendix A - Volunteer Statement

Some associations have a volunteer statement; others such as the Australian Conservation Foundation have a full and detailed volunteer handbook. The following example was composed from several existing statements currently in place. Some disputes may be avoided if people know exactly what is expected of them.

Volunteer Statement Example

A volunteer in our association has the right to:

- Be treated with respect by their fellow volunteers
- Provide feedback about the association
- Expect their private details to be respected, and not divulged in any way that is improper, unethical, or illegal.
- Receive honest and constructive feedback about their contribution
- Have access to appropriate training so that they can continue to learn about, and improve their wildlife rehabilitation activities
- To receive help, advice and support from more experienced carers
- Have access to dispute resolution procedures
- Be protected by insurance when working on behalf of the association
- Have their contributions recognised
- Be treated fairly and equitably, and not subject to harassment or discrimination

A volunteer in our association has the responsibility to:

- Treat their fellow volunteers with respect
- Work within the association's policies, rules and regulations
- Understand and work within the NPWS licence conditions
- Actively contribute to the objectives of the association
- Maintain and enhance wildlife rehabilitation knowledge and skills
- Discuss any grievances or problems with a committee member
- Work in a safe and healthy way and not endanger the safety of others
- Act in a way that reflects well on the association
- Keep the association informed of any change of contact details
- Not incur expenses on behalf of the association without permission
- Not make public statements which may be interpreted as being on behalf of the association, without permission
- Show enthusiasm, loyalty, and belief in the work of the association
- Disclose any known or potential conflicts of interest
- Not use the association's property or facilities for any purpose other than those for which they are provided
- Not use their membership to gain private advantage

Appendix B – NWC Code of Ethics

Based on the International Wildlife Rehabilitation Council Code of Ethics

A wildlife rehabilitator should strive to achieve high standards of care for native fauna through knowledge and an understanding of the field. Continuing efforts must be made to keep informed of current rehabilitation information, methods, and regulations.

A wildlife rehabilitator should be responsible, conscientious, and dedicated, and should continuously work toward improving the quality of care given to native fauna undergoing rehabilitation.

A wildlife rehabilitator must abide by local, state, and federal laws concerning wildlife, wildlife rehabilitation and associated activities.

A wildlife rehabilitator should establish and maintain safe working habits and conditions

A wildlife rehabilitator should acknowledge limitations and enlist the assistance of a veterinarian or other trained professional when appropriate.

A wildlife rehabilitator should respect other rehabilitators and persons in related fields, sharing skills and knowledge in the spirit of cooperation for the welfare of native fauna.

A wildlife rehabilitator should place optimum animal care above personal gain.

A wildlife rehabilitator should strive to provide professional and humane care in all phases of wildlife rehabilitation, respecting the wildness and maintaining the dignity of each animal in life and in death. Releasable native fauna should be maintained in a wild condition and released as soon as appropriate. Non-releasable animals which are inappropriate for education, foster-parenting, or captive breeding have a right to euthanasia.

A wildlife rehabilitator should encourage community support and involvement through volunteer training and public education. The common goal should be to promote a responsible concern for living beings and the welfare of the environment.

A wildlife rehabilitator should work on the basis of sound ecological principles, incorporating appropriate conservation ethics and an attitude of stewardship. In particular, there must be a focus on the preservation of habitat for native fauna.

A wildlife rehabilitator should conduct all business and activities in a professional manner, with honesty, integrity, compassion, and commitment, realizing that an individual's conduct reflects on the entire field of wildlife rehabilitation.

Appendix C - Principles of Volunteering

The NWC supports the principles of volunteering as defined by Volunteering Australia:

Principles of Volunteering

- Volunteering benefits the community and the volunteer
- Volunteer work is unpaid
- Volunteering is always a matter of choice
- Volunteering is not compulsorily undertaken to receive pensions or government allowances.
- Volunteering is a legitimate way in which citizens can participate in the activities of their community
- Volunteering is a vehicle for individuals or groups to address human, environmental and social needs
- Volunteering is an activity performed in the not-for-profit sector only
- Volunteering is not a substitute for paid work
- Volunteers do not replace paid workers nor constitute a threat to the job security of paid workers
- Volunteering respects the rights, dignity and culture of others.
- Volunteering promotes human rights and equality.

Appendix D - Acknowledgements

Much of the information in this document was sourced from the following sources. We recommend visiting these sites for more information:

Australian Conservation Foundation	www.acfonline.org.au
Commonwealth Office of Small Business	www.industry.gov.au (<i>small business tag</i>)
Office of Fair Trading	www.fairtrading.nsw.gov.au
Our Community	www.ourcommunity.com.au
Community Justice Centres	www.cjc.nsw.gov.au
The Resolution Centre	www.resolutioncentre.com.au
Volunteering Australia	www.govolunteer.com.au

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