



# POLICY REGISTER

## Grievance Policy

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Policy adopted: (Minute No. )

Reviewed:

File Ref: D22.66166

Document Control

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## **1. PURPOSE**

To ensure that the Council has a robust framework for managing and resolving grievances and complaints against employees in order to foster a safe and inclusive work environment where individuals feel supported, and are able to work effectively without fear of discrimination, harassment, bullying, vilification, victimisation and/or reprisal.

## **2. POLICY STATEMENT**

Council is committed to supporting the rights of individuals to achieve their full potential free from discrimination, harassment, bullying, vilification and victimisation, resolving grievances wherever possible through mediation, consultation, cooperation and discussion, within the organisation.

This policy sets out rights, responsibilities and procedures pertaining to all parties to a grievance dispute.

## **3. APPLICATION**

This policy applies to Council employees and volunteers and covers situations in the definition of "grievance" set out below.

Complainants should also refer to Council's *Equal Employment Opportunity Policy* and the *Local Government State Award* for additional guidance.

Complaints dealing with corruption or criminal activity are covered by Council's *Public Interest Disclosures Internal Reporting Policy*.

## **4. DEFINITIONS**

### **4.1 Grievance**

A grievance is any work-related disagreement, complaint or matter which someone thinks is unfair or unjustified and which is causing that person concern or distress. Grievances can relate to almost any aspect of employment including but not limited to:

- (a) discrimination
- (b) harassment
- (c) bullying
- (d) vilification
- (e) victimisation
- (f) leave application
- (g) work environment
- (h) safety in the workplace
- (i) performance appraisal

### **4.2 Discrimination**

Occurs when a person or group of people are treated less favourably than another person or group because of race, colour, language, age, ethnic origin, gender, marital status, sexual preference, disability, political or religious conviction or some other central characteristic.

#### **4.3 Harassment**

Any unwelcome, offensive comment or action concerning a person's race, colour, language, age, ethnic origin, gender, marital status, sexual preference, disability, political or religious conviction. It is behaviour towards another employee which is intimidating or embarrassing and adversely affects the work environment.

#### **4.4 Bullying**

Bullying occurs where an individual or group of individuals repeatedly behaves unreasonably towards a person or persons and that behaviour creates a risk to health and safety.

### **5. GENERAL PRINCIPLES**

Council is committed to resolving grievances wherever possible through mediation, consultation, cooperation and discussion. General principles are:

- (a) All grievances will be handled with utmost confidentiality. Only people directly involved will have access to information about the complaint
- (b) All procedures will be impartial. No assumptions will be made and no action will be taken until all relevant information has been collected, investigated and considered
- (c) Council is committed to ensuring that no repercussions or victimisation will occur against anyone who makes a complaint
- (d) Complaints will be dealt with in a timely manner
- (e) Seeking redress of a trivial or vexatious issue through a grievance procedure will not be tolerated

### **6. RIGHTS**

#### **6.1 Employees Making a Complaint**

All employees have the right:

- (a) to make a complaint to the General Manager, supervisor, or a person at an appropriate level within the organisation
- (b) to have their grievance considered fairly
- (c) to keep notes, copies of written documents or diary record of all incidents and any responses, including date, times, witnesses and other details
- (d) to seek advice or assistance from a trade union or professional association
- (e) to seek advice from, or complain to, an external body such as the Anti-Discrimination Board

#### **6.2 Employees Subject of a Complaint**

A person who is the subject of a complaint has the right:

- (a) to be informed in writing of what behaviour they are being accused of
- (b) to respond to the allegations and cite witnesses if appropriate
- (c) to fair treatment and procedures
- (d) to be heard by an unbiased person
- (e) to seek advice or assistance from a trade union or professional association

## **7. RESPONSIBILITIES**

### **7.1 General Manager**

The General Manager will:

- (a) ensure that all employees are aware of the procedures set out in this policy
- (b) be responsible for handling serious and complex grievances which are referred by supervisors or brought directly to them by employees

### **7.2 Supervisors**

Supervisors:

- (a) will ensure that all employees are aware of the procedures set out in this policy
- (b) are the first point of receipt and will be responsible for investigation and resolution of staff grievances wherever possible

### **7.3 Human Resources Consultant**

Should the need arise a Human Resources Consultant will be engaged and will:

- (a) provide advice and assistance and where necessary, investigate the grievance, particularly if the grievance relates to a discrimination, harassment, bullying or personnel / industrial matter.

## **8. GRIEVANCE PROCEDURE**

- (a) In general, the grievance should first be discussed with the appropriate supervisor for resolution. This would not apply where the issue directly relates to the activities of the supervisor
- (b) If the grievance cannot be resolved at the initial stage, then the employee should submit a written *Grievance Statement* (refer Appendix 1) to the Supervisor or to the General Manager where the issue directly relates to the activities of the supervisor
- (c) On receipt of the *Grievance Statement* the supervisor should obtain the facts, clarify issues and then discuss findings with the employee lodging the grievance
- (d) A written record of the complaint should be taken by the supervisor. This Officer should also talk to the other person/ persons involved separately and impartially, and where agreement as to a resolution is reached, the Officer should follow up the situation to ensure what has been agreed actually occurs. The complainant should be advised of progress within 7 days of the receipt of the complaint
- (e) Where a supervisor believes they cannot handle the grievance objectively, or where they lack the authority to resolve the particular complaint, they may refer the matter to the General Manager
- (f) If a grievance remains unresolved, it will be referred to a mutually agreeable third party for mediation/arbitration
- (g) At any stage of the procedure, the employee may be represented by their Union or its local representative/delegate and the Council represented by Local Government NSW to assist resolution
- (h) During the course of a grievance being resolved, all work shall continue as normal
- (i) Grievance Statements, reports and results will be placed in the personnel file of the employee concerned. The employee has the right to sight and sign all such documents.

## **9. QUALIFIED PRIVILEGE**

- (a) An employee who raises a grievance is protected against defamation by the defence of qualified privilege, provided the grievance is raised in accordance with this policy and does not intentionally make a malicious, vexatious or substantially frivolous complaint.
- (b) An employee who carries out a grievance investigation and resolution in accordance with this policy, or an employee who is required to prepare a report concerning another employee is protected against any action for defamation by the defence of qualified privilege provided that:
  - (i) they act in accordance with established procedures;
  - (ii) they are not motivated by malice, and
  - (iii) they do not provide such material to persons who have no legitimate interest in receiving it.

## **10. NONCOMPLIANCE WITH THIS POLICY**

Failure to comply with the terms of this policy may result in disciplinary procedures and/or dismissal.

## **11. REVIEW**

This policy shall be reviewed annually to ensure that it meets the requirements of legislation and the needs of Council.

## **12. REFERENCE DOCUMENTS**

### **RELEVANT LEGISLATION AND COUNCIL POLICIES**

The following legislation (as amended) and Council policies that are relevant to this Policy include but not limited to:

- Anti-Discrimination Act
- Civil Liabilities Act
- Code of Conduct for Councilors and staff
- Crimes Act
- Equal Employment Opportunity Act
- Fair Work Act (Cwth)
- Government Information (Public Access) Act
- Independent Commission against Corruption Act (ICAC)
- Industrial Relations Act
- Internal Reporting Policy
- Local Government Act
- Local Government (State) Award
- Public Interest Disclosures Act
- BSC Community Strategic Plan, 4 Year Delivery Plan & Annual Operational Plan
- Workers Compensation Act
- Work Health & Safety Policy
- Work Health & Safety Act & Regulations
- Workplace Relations Act

## **13. VARIATION**

Council reserves the right to vary or revoke this policy.



## Grievance Statement

**Employee's Name:**

**Position:**

**Details of Grievance: (add additional pages as required)**

**Employee's Signature:**

**Date:**

**Actioned By:**

**Action Taken:**

**Action Officer Signature:**

**Date:**