



Policies, Procedures and Guidelines

GRIEVANCE POLICY

CSG019

BACKGROUND

A grievance is any work related disagreement, complaint or matter that someone thinks is unfair or unjustified and which is causing that person concern or distress. Grievances can relate to any aspect of employment, safety in the workplace, performance appraisal, discrimination or harassment.

OBJECTIVES

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

- All grievances will be handled confidentially and in a timely manner. Only the people directly involved will have access to information about the complaint.
- 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.
- Council is committed to ensure that no repercussions or victimisation occurs against anyone who makes a complaint.
- Seeking redress of a trivial, frivolous or vexatious issue through a grievance procedure will not be tolerated.

POLICY

This policy should be read in conjunction with the Code of Conduct and the Harassment Policy.

The General Manager and Directors are responsible for managing serious and complex grievances that could involve possible fraud, corruption, physical danger or serious misconduct of a senior staff member.

Managers / supervisors / team leaders are to be the first point of receipt and will be responsible for the investigation and resolution of staff grievances.

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The Manager People and Organisational Development will provide advice, assistance, and where necessary, receive and investigate the grievance, particularly if it relates to a discrimination, harassment, personnel or industrial matter.

Using the grievance procedure does not eliminate the right of a staff member, or Council as an employer in gaining advice or assistance from unions, professional associations or any other external body.

GRIEVANCE PROCEDURES

- In general the grievance should be first discussed with or put in writing to the supervisor / team leader for resolution. Where the issue directly relates to the activities of the immediate supervisor/ team leader the matter should be dealt with by the next tier of management.
- The relevant investigator should obtain the facts, clarify issues and then discuss findings with the staff member lodging the grievance.
- Where a contact officer or investigator believes they cannot handle the grievance objectively, or where they lack the power to resolve the particular complaint, they may refer the complaint to the Manager People and Organisational Development.
- A written record of the complaint should be taken by the officer responsible for investigating the complaint. This officer should also talk to the other person/people involved, separately and impartially. Where agreement as to resolution is reached, the officer should follow up the situation to ensure that what has been agreed upon actually occurs.
- If a grievance remains unresolved, it is to be taken to senior management or to a mutually agreeable third party for mediation / arbitration.
- Union, employee or human resource management assistance can be sought to assist resolution at any step in the procedure.
- Grievances should generally be resolved within four (4) weeks.

CONTACT OFFICERS

An independent contact officer shall be nominated in each department, using the following selection criteria:

- commitment to EEO principles

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- discretion and ability to maintain confidentiality
- sound listening skills, mediation, conflict resolution and interpersonal skills
- awareness of discrimination issues
- known integrity and support for principles of social justice
- investigative ability.

QUALIFIED PRIVILEGE

A staff member who raises a grievance is protected against any action for defamation by the defence of qualified privilege provided the grievance is raised in accordance with these procedures and does not intentionally make a malicious or substantially frivolous complaint.

A staff member who carries out grievance investigation and resolution in accordance with these procedures, or a staff member who is required to prepare a report concerning another staff member is protected against any action for defamation by the defence of qualified privilege provided that they:

- act in accordance with established procedures
- are not motivated by malice and
- do not publish such material to persons who have no legitimate interest in receiving it.

RIGHTS OF THE COMPLAINANT

A complainant has the right to:

- keep notes, copies of written documents or diary records of all incidents and any reports including dates, times, witnesses and other details
- advise his/her supervisor, human resources manager or other person at an appropriate level within the organisation
- contact their respect union for advice
- contact the NSW Anti-Discrimination Board where appropriate.

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RIGHTS OF THE PERSON SUBJECT TO COMPLAINT

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

- be informed verbally of what behaviour they are being accused of
- respond to the allegations and cite witnesses if appropriate
- fair treatment and procedures
- be heard by an unbiased person.

RESPONSIBILITIES OF PERSON RECEIVING THE REPORT/COMPLAINT

The person receiving the report/complaint should:

- advise the complainant that their complaint will be treated sensitively, confidentially and without victimisation
- in the case of harassment complaints, establish whether the complainant has advised the alleged harasser that their behaviour is unwelcome
- in the case of harassment complaints, advise the human resources manager that a complaint has been made
- ensure that a written report is obtained from the complainant, containing appropriate details, witness reports etc
- approach the subject of the complaint or alleged harasser to seek a response to the allegation made about their behaviour. This approach should be made either in the company of the person's supervisor/team leader or Manager People and Organisational Development
- conduct a confidential interview and seek reports from any identified witnesses.

DISCIPLINARY PROCEDURES

In the case of discrimination/harassment complaints, the following disciplinary procedures will apply:

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If the behaviour is admitted:

- where the behaviour is admitted and is of a singly visually or auditory offensive nature (eg sexist, racist, poster or language rather than a sexual proposition or a physically threatening approach), a first disciplinary interview should be conducted and written warning issued to the harasser together with a reinforcement of Council's policy
- if the behaviour is admitted and has consisted of repeated incidents of physical approaches or psychological bullying and/or harassment etc., a first and final warning should be issued
- the admitted harasser should be cautioned that they should take no action that could be construed as victimization, as this will lead to further disciplinary action
- if the harasser is the complainant's immediate supervisor, the harasser's supervisor must be consulted on any decisions regarding promotion, job rotation etc involving the complainant, and should be offered counseling to avoid further incidents
- a copy of any disciplinary letters shall be placed on the harasser's file.

If the behaviour is not admitted and there were witnesses and/or sufficient evidence supporting the claim, the following procedures apply:

- the alleged harasser is to be reminded of Council's policy, advised that their alleged behaviour has been perceived by the complainant as harassment and informed that their behaviour with the complainant will be monitored
- the alleged harasser is to be counselled and issued a warning in writing that they should take no action that could be construed as victimisation towards the complainant
- the complainant will be advised of the alleged harasser's denial and of their right to seek assistance from the Anti-Discrimination Board
- no notes of the allegation will be recorded on personnel files
- any notes/reports taken in respect of a harassment complaint and the actions taken as a result will be kept in a separate confidential file by People and Organisational Development staff.
- these notes/reports may be required should a complainant choose to go the Anti-Discrimination Board
- breaches of confidentiality of harassment complaints are unacceptable and may be subject to separate disciplinary action.

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If the behaviour is not admitted and there were no witnesses, the following procedures apply:

- in such cases the “balance of probability” needs to be taken into consideration
- the alleged harasser is to be reminded of Council’s policy, advised that their alleged behaviour has been perceived by the complainant as harassment and informed that their behaviour with the complainant will be monitored
- the alleged harasser is to be cautioned that they should take no action that could be construed as victimisation towards the complainant
- the complainant will be advised of the alleged harasser denial and of their right to seek assistance from the Anti-Discrimination Board
- no notes of the allegation will be recorded on personnel files
- any notes/reports taken in respect of a harassment complaint and the actions taken as a result will be kept in a separate confidential file by People and Organisational Development staff.
- these notes/reports may be required should a complainant choose to go the Anti-Discrimination Board
- breaches of confidentiality of harassment complaints are unacceptable and may be subject to separate disciplinary action.

Disciplinary action may be taken in accordance with the Local Government (State) Award at the General Manager’s discretion depending on the severity of the behaviour.

WORKPLACE DISPLAY MATERIAL

Lachlan Shire Council (LSC) is committed to ensuring that its workplaces present a positive public image and do not display material that is unlawfully discriminating and likely to cause offence. LSC is also required to comply with legislation that makes sexual harassment and racial vilification unlawful.

All material of a sexist, racist or otherwise offensive or discriminatory nature shall not be displayed in any LSC workplace. Material could include graphics such as pictures, posters, cartoons, picture calendars, graffiti or writing such as poems, quotes, notes or jokes. Examples of such material could be calendars or posters of almost nude females or males or material that portrays a stereotypical view of a person or another race.

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It is the responsibility of every supervisor and manager to ensure that their workplace does not display sexist, racist or otherwise offensive material and that any such material on display is removed. Any employee who displays such material will be asked to remove it as it is inappropriate in the workplace and against LSC policy. If the employee does not remove the material, the supervisor will take the responsibility to do so and the employee will be given a written warning advising them that any future breaches of policy will result in formal disciplinary action being taken against them.

All existing and future suppliers and contractors, who wish to make available such material, will be advised of LSC's policy regarding workplace display material.

RELATED DOCUMENTS

Code of Conduct

Harassment Policy

GENERAL MANAGER

/ /

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