

POLICY REGISTER

GRIEVANCE AND DISPUTE RESOLUTION POLICY AND PROCEDURE

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PURPOSE

To provide employees of Warren Shire Council (Council) both informal and formal methods to deal with and/or resolve any workplace grievances or disputes. This Policy and Procedure is based on consultation, cooperation, and discussion.

The purpose of this document is to set out the Council's Policy and Procedure on resolving grievances.

Council is committed to providing a safe and supportive environment for its employees, free from unfair treatment, discrimination, harassment, vilification, bullying, and conflict.

Council is committed to providing a productive and harmonious work environment. This Policy and Procedure aims to maintain effective working relationships by ensuring that grievances are handled quickly, with minimum distress and maximum protection to all parties, thereby preventing the escalation of minor issues or grievances.

BACKGROUND AND RELATED LEGISLATION

- The Local Government (State) Award
- Staff Education and Training Policy
- Work Health and Safety Policy
- Managing Psychosocial Hazards Procedure
- *NSW Anti-Discrimination Act 1977*
- *Industrial Relations Act 1996*
- Local Government Industry Guidelines on Workplace Investigations ('Guidelines')
- Incident Reporting and Investigations Guideline
- Equal Employment Policy
- Code of Conduct

SCOPE

The Policy and Procedure applies to all Council employees. It is to be used to resolve grievances or disputes raised by employees on work-related matters and discrimination, bullying and harassment concerns and complaints.

DEFINITIONS

To assist in interpretation, the following definitions apply:

Term	Definition
Association	Means Local Government NSW (LGNSW).
Council	Warren Shire Council.

Term	Definition
Employee	A person who is employed by Council in a permanent, temporary or casual position and/or apprentice or trainee (including if they are employed through an agency).
Grievance	A formal expression of dissatisfaction raised by an employee regarding a work-related problem, concern, or complaint.
Support Person	Someone who has been requested to be present at an interview or meeting. The support person's role is to offer moral support to the employee or Council Official, not to represent them or speak on their behalf.
Representative (Union or other)	A representative may speak on behalf of the employee. A representative can be either from a Union, as defined under the Local Government (State) Award, including a local organiser or Delegate, or a legal representative such as a solicitor.
Workplace	Premises, or any other place, where employees work, or any part of such premises or place.
Aggrieved Employee	The individual who is lodging the grievance or complaint.
Grievance Receiver	The person who has received the grievance and will manage it (this should be the immediate Supervisor, unless not suitable then should be the next level of management).
Investigator	A person with the delegated authority to investigate grievances.
Mediation	A process that facilitates dispute resolution in which someone who has professional mediation skills (usually called a mediator) helps the aggrieved parties reach a joint agreement that suits everyone concerned. They are neutral, do not influence the outcome, and helps parties to consider all possible solutions.
Vexatious	An action or the action of a person that is brought forward without sufficient grounds purely to cause annoyance or harm to another person or persons.

POLICY

Council is committed to maintaining a harmonious working environment. It recognises the rights of its employees to express their concern about work-related issues and raise grievances. The procedures are designed to facilitate resolution, protect those involved, and to ensure these issues and grievances are managed promptly and impartially.

Employee grievances are to be handled in an unbiased and fair manner, taking into account the principles of procedural fairness. In the interest of procedural fairness, the employee raising the grievance may have to be identified when allegations are put to the person who is the alleged perpetrator of the unreasonable treatment.

Attempts should be made (where appropriate) to resolve a grievance or dispute informally. Informal resolution allows the individuals concerned to take positive action themselves to resolve the situation. The immediate Supervisor may be able to assist with resolving a grievance or dispute informally.

If however, the immediate Supervisor is the cause of the grievance or dispute then the next level of management within the Department may be able to assist with the informal process. File notes or diary entries should be kept during this process.

Council's Grievance and Dispute Resolution Policy and Procedure will also include ensuring relevant WHS matters are assessed in part with each grievance item received, more specifically psychosocial hazards at work are aspects of work and situations that may cause a stress response which in turn can lead to psychological or physical harm. Some common psychosocial hazards include:

- Job demands (including high and low workloads);
- Conflict and poor workplace relationships;
- Work environment including role clarity, organisational change, support and work recognition;
- Exposure to traumatic events;
- Remote or isolated work;
- Harassment, aggression and bullying, including sexual harassment; and
- Difficulty in returning to work after a significant injury or illness.

A psychosocial risk is a risk to the health and safety of a worker or other person arising from a psychosocial hazard.

If an employee feels that the grievance cannot, or has not been resolved informally, the following steps should be taken:

1. The grievance is put in writing using Council's Grievance Resolution Form (Appendix 1) and submitted to the aggrieved employees' immediate Supervisor, or if this is not suitable, the next level of management. The aggrieved employee must clearly and concisely describe the alleged grievance and the remedy sought.
2. The Supervisor (grievance receiver) must notify the relevant Manager, where practical, of the formal grievance on the same working day as it is received.
3. The grievance receiver must convene a meeting with the aggrieved employee within two (2) working days of notification. At the meeting the grievance receiver will:
 - Obtain full information from the aggrieved employee about the grievance; and
 - Ensure the aggrieved employee has read and understood the Grievance and Dispute Resolution Policy and Procedure.
4. After this meeting, the grievance receiver will determine in conjunction with the relevant Manager and the Local Government (State) Award, if an investigation needs to occur.

If an investigation is not deemed necessary, then the grievance receiver will organise a meeting with the employee/s identified in the grievance as soon as practicable. At the meeting, the grievance receiver will:

- Explain that a grievance has been lodged against or involving them;
- The nature of the grievance;
- The resolution sought by the aggrieved employee; and
- Explain the Grievance Resolution Policy and Procedure.

**If it is deemed an investigation is required the Local Government (State) Award and Local Government Industry Guidelines on Workplace Investigations ('Guidelines') should be followed.*

5. The grievance receiver will manage the grievance to a resolution, promptly and within agreed timeframes. Steps must be taken to ensure parties involved are not victimised and to ensure the confidentiality of all parties is maintained. The substance of the grievance will be thoroughly discussed as well as the options available for resolution. The aggrieved employee and identified employee/s may suggest resolutions to the grievance. These matters will be dealt with in a fair, impartial, and confidential manner.
6. The grievance receiver will follow up and monitor the situation when the grievance has been resolved. If the grievance remains unresolved, the aggrieved employee may request the matter be referred to the next level of management for discussion. A further meeting between all parties should be held as soon as practicable.
7. If the matter remains unresolved, the General Manager (GM) shall provide the aggrieved employee/s with a written response. The response shall include the reasons for not implementing any proposed remedy.
8. If after consultation with the GM the matter remains unresolved, it may be referred to the aggrieved employee(s) Union or representative, and by the GM to the Association or other nominated legal body for further discussions between parties.
9. Grievances concerning the General Manager are to be made in writing to the Mayor.

At any stage of the procedure, the aggrieved employee(s) may be represented by their Union or its local representative/Delegate, and the employer represented by the Association.

The Union Delegate shall have reasonable time, without loss of pay, to discuss a grievance, dispute, or concern regarding workplace bullying with management at the local level where prior approval is sought. Such approval shall not be unreasonably withheld.

The Industrial Registrar, as outlined in the *Industrial Relations Act 1996*, may be advised of the existence of a dispute at any stage of this process.

During this procedure and while the matter is in the course of negotiation, conciliation, and/or arbitration, the work practices existing prior to the dispute shall as far as practicable proceed as normal. However, Council may choose to temporarily adjust work practices, where appropriate, to eliminate or control work, health and safety risks.

An aggrieved employee may withdraw their grievance. If a grievance is withdrawn, no further action should be taken in relation to the grievance unless the grievance is related to possible physical danger, criminal investigation, disciplinary action, or employer liability.

GENERAL PRINCIPALS OF GRIEVANCE RESOLUTION

The prime objective of this Policy and Procedure is to achieve a resolution of a grievance in the context of the following principals:

- Grievances shall be handled within an appropriate timeframe and will be treated sensitively and impartially, having due regard to procedural fairness;
- Resolution of the grievance shall be as close as possible to the source, unless it is serious, unlawful, or not practical;

- It is expected that all parties involved will approach proceedings with a desire to resolve the grievance cooperatively and in good faith;
- Individuals shall not victimise or harass other parties involved in the matter;
- Confidentiality shall be strictly observed by all participants and at all stages of the grievance procedure; and
- Aggrieved Employee/s and respondents will be informed of the outcomes where appropriate.

ACTIONS THAT MAY BE TAKEN

Examples of actions that may be taken if the grievance is substantiated include:

- A written apology from the employee/s involved;
- Disciplinary counselling;
- Appropriate training for employee/s involved;
- A formal warning;
- Demotion; or
- Termination of employment.

Examples of actions that may be taken if the grievance is not substantiated include:

- Monitoring the conduct of the employee/s involved, by the Supervisor/ Manager;
- Appropriate training for employee/s involved;
- Counselling; or
- Mediation.

Examples of actions that may be taken if the grievance is found to be frivolous or vexatious include:

- A written apology from the employee/s who made the frivolous or vexatious complaint;
- Counselling for the employee/s who made the frivolous or vexatious complaint;
- Appropriate training for employee/s involved;
- A formal warning;
- Demotion; or
- Termination of employment.

RESPONSIBILITIES

EMPLOYEES

Employees are responsible for:

- Contributing to a workplace that is free of victimisation, intimidation, and harassment;
- Working constructively with all parties to restore harmony in the workplace;
- Taking prompt action on work-related concerns and grievances in accordance with these procedures;
- Participating in the grievance resolution process in good faith;
- Cooperating fully in the investigative process; and
- Avoiding making vexatious complaints or raising grievances with malicious intent.

GRIEVANCE RECEIVER

Grievance receivers are responsible for:

- Informing the employee/s of their right to procedural fairness and their right to have a support person attend meetings with them throughout the grievance process;
- Acting promptly to resolve the problem once a grievance/complaint is reported; and
- Working with all parties involved in a grievance to restore harmony in the workplace.

MANAGERS AND SUPERVISORS

Managers and Supervisors are responsible for:

- Responding appropriately to grievances and managing the process according to this Policy and Procedure;
- Take primary responsibility for facilitating the resolution of grievances;
- Actively promote and support the Council Policy and Procedure and strategies for harassment and bullying prevention;
- Take appropriate action in circumstances where they become aware of harassment and bullying without a complaint being lodged; and
- Ensure an effective, timely, impartial and just approach is undertaken in the resolution of workplace concerns and grievances.

SENIOR MANAGEMENT TEAM are responsible for:

- Assigning an Investigator when required and provide a Terms of Reference, as outlined in the Guidelines;
- The management of the system;
- Providing advice concerning the course of action to be taken in dealing with grievances; and
- Providing reports on the effectiveness of the grievance procedures and related issues.

GENERAL MANAGER

The General Manager is responsible for:

- Determining an outcome if the employee/s has exhausted all channels and the matter remains unresolved.

APPENDICES

Appendix 1 – Grievance Resolution Form

APPENDIX 1**Grievance Resolution Form**

AGGRIEVED EMPLOYEES' DETAILS	
Aggrieved Employees' Name:	
Position Title:	
Department and Section:	
Organisation Status	<input type="checkbox"/> Full-Time Employee <input type="checkbox"/> Temporary Employee <input type="checkbox"/> Part-Time Employee <input type="checkbox"/> Casual Employee
Commencement Date with Council	
Have you tried to resolve the grievance informally?	Yes / No (please circle)
If yes, what was the outcome?	
GRIEVANCE TYPE	
In the sections below select a box that best describes the grievance you would like to report. For procedural purposes, grievances are divided into two types, A and B.	
TYPE A	
<input type="checkbox"/> Disagreement in the Workplace <input type="checkbox"/> Excessive Workplace Stress <input type="checkbox"/> Wage or Overtime Grievance <input type="checkbox"/> Physical Working Conditions <input type="checkbox"/> Work Environment <input type="checkbox"/> Other _____ <input type="checkbox"/> Unreasonable Workload _____	

TYPE B

- ☐ Discrimination (on the grounds of race, including colour, nationality, descent and ethnic, ethno-religious or national origin, sex, including pregnancy and breastfeeding, marital or domestic status, disability, homosexuality, age, transgender status, and carer's responsibilities, political belief and Union membership / non-membership).
- ☐ Bullying (Workplace bullying is **repeated and unreasonable** behaviour directed towards an employee or a group of employees that creates a risk to health and safety. Reasonable management action carried out in a reasonable manner shall not constitute bullying behaviour).
- ☐ Harassment (behaviour that intimidates, insults or humiliates a person because of their race, sex, pregnancy, marital status, breastfeeding, age, disability, sexual orientation, gender identity or intersex status).
- ☐ Aggression/abuse in the workplace (includes but not limited to physical acts including punching, scratching, biting, grabbing, pushing, assault, spitting, throwing objects and/or verbal acts yelling, swearing, threats, belittling).
- ☐ Sexual Harassment (any unwanted, unwelcome or uninvited behaviour of a sexual nature, which makes a person feel humiliated, intimidated or offended - may include physical contact, verbal comments, jokes, propositions, the display of offensive material or other behaviour which creates a sexually hostile working environment).

GRIEVANCE DETAILS

In the section below please provide details of your grievance. Provide as much detail as possible, including specific examples, dates where possible. If you need more room, please attach a separate page.

[illegible]

RESOLUTION SOUGHT	
In the section below please outline the action you would like to see taken to resolve the issue.	
DECLARATION	
I confirm that the details provided above are true and accurate and that I have not provided any false or misleading information as part of lodging my formal grievance with Council.	
Print Name:	
Signature:	
Date:	