
Grievance Resolution Policy

CONTROL:

Policy Type:	Corporate
Authorised by:	Council
Head of Power:	Local Government Act 2009
Responsible Officer:	Governance and Compliance Manager
Adopted / Approved:	13 December 2021, Minute No. 2021.12.13-OM-9
Last Reviewed:	December 2021
Review:	December 2022
Version	5

1. INTRODUCTION

1.1 PURPOSE:

To provide clear guidance to staff and contractors in dealing with and resolving grievances.

1.2 POLICY OBJECTIVES:

Council is committed to ensuring its employees work in a harmonious and equitable working environment where grievances are dealt with sensitively and promptly. Council's Code of Conduct is based on the corporate values and four fundamental ethical principles, which are:

- Integrity and impartiality;
- Promoting the public good;
- Commitment to the system of government;
- Accountability and transparency.

Given these strong values and the organisations commitment to ensure complaints and grievances do not grow into major problems causing tension, lowering morale and reducing performance and productivity, procedures have been developed to provide an avenue for employees to raise and resolve work-related grievances in a fair and equitable manner.

Discussion, negotiation, informal facilitation and mediation outlined in this policy are the guiding principles used to lead to prompt resolution of grievances and with the aim of resolving each grievance at the lowest possible level.

1.3 COMMENCEMENT OF POLICY:

This Policy will commence on adoption. It replaces all other specific grievance policies of Council (whether written or not).

1.4 SCOPE:

Applies to all Council staff and contractors

2. POLICY

2.1 CONTEXT:

A grievance is any type of problem, concern or complaint related to an employee's work or the work environment. A grievance can be about anything done, or not done by management or another employee or employees, which affects someone unfairly or unjustly.

A grievance can also be about discrimination; harassment or any other employment related decision or behaviour, which an employee thinks, is unfair, unjust or upsetting.

A grievance can relate to any aspect of employment.

A grievance may be raised by an employee in the following circumstances:

- (a) Where the employee feels a decision adversely affects them and is unfair or unreasonable; or
- (b) Where the conduct of another employee adversely affects them and is unfair or unreasonable; or
- (c) Where an employee feels they have been bullied (this is also a workplace health and safety issue);
or
- (d) Where an employee feels intimidated; or
- (e) Where an employee feels they have been harassed or discriminated against including:
 - sexual and racial harassment in terms of unwelcomed remarks about a person's private life or cultural background;
 - touching or propositioning in a sexual way;
 - displays or sexually explicit material including computer screens, pictures, and drawings and graffiti; and
 - sending offensive messages electronically, including via, email, fax or Internet, or telling offensive jokes.

This Grievance Resolution Policy provides advice about what to do if an employee has a grievance and what will happen when a grievance is raised.

Note:

A Grievance cannot be raised through the Grievance Resolution Policy in the following circumstances:

- (a) Where an appeal or review of a decision or outcome has been undertaken in accordance with the Council's Code of Conduct or another policy of Council.
- (b) Where there is fraud or official misconduct.

Vexatious (Malicious) and Frivolous Grievances

While the great majority of grievances are motivated by genuine concern about perceived inappropriate or unfair behaviour or actions, on some occasions a grievance may be vexatious (malicious) or frivolous. If a grievance is investigated and found to be vexatious (malicious) or frivolous, disciplinary action may result.

2.2 POLICY STATEMENT:

Council recognises that an employee may not perform to the best of their ability if they feel they are being treated unfairly or are feeling aggrieved. Accordingly, Council will endeavour to provide a fair and just working environment, by aiming to ensure that employees have access to processes for the resolution of genuine personal grievances related to the workplace.

As such Council will use its reasonable endeavours to:

- (a) Encourage staff to come forward with personal grievances;
- (b) Deal with personal grievances in a supportive way, without victimisation or intimidation of any person connected with the grievance.

3. STANDARDS AND PROCEDURES

3.1 KEY PRINCIPLES

- The following principles apply to the resolution of grievances:
 - **Confidentiality** - details of any grievance will be kept confidential. Only those employees who are required to know of the matter as part of their duties and obligations will have access to this information in order to avoid idle gossip and the possibility of defamation proceedings.
 - **Impartiality** - the process will treat both parties equally with both being given an opportunity to provide explanation and detail without any assumptions being made until full details are available. There will be no victimisation.
 - **Timeliness** - all allegations will be dealt with as quickly as possible without compromising the effectiveness or integrity of the process.
 - **No prejudgment** - if a complaint is made against an employee, the employee will not be prejudged and will have the opportunity to respond and have a support person present if required.
 - **Fairness** - every allegation will be taken seriously and the people involved will be treated fairly.
- Although the majority of grievances can and should be resolved in an informal way, without conducting an investigation, there will be occasional instances where a more formal process should be followed.

3.2 SPECIFIC AND STANDARD

The following procedures have been developed as an effective tool to ensure workplace grievances are addressed as early as possible and at the local level, before they become a major issue that requires a formal investigation.

It is only after every effort is made to resolve the grievance locally that consideration should be given to a more formal process and an investigation is conducted.

Level 1

The first level of this policy is therefore the most important if early resolution is to be achieved.

Definition: one-on-one informal discussion/facilitation (between employees)

- When an employee wishes to raise a grievance the employee should initially attempt to resolve the grievance through informal discussions with the other party or parties involved, stating the nature of the offensive behaviour and requesting that it ceases. Employees may wish to speak to a manager if they are unsure how to raise the grievance with the other party. Indigenous employees may also wish to speak with a respected community member.
- The employee against whom the grievance is made, should make a full verbal response to the employee who has raised the grievance, within a period of five working days. This response should include the action that will be taken to address the grievance.
- If the employee does not feel they can raise the matter with the other party or if they are not satisfied with the outcome of the discussion with the other party, they should verbally advise the

Complaints Contact Person of the situation and may request assistance in resolving the complaint.

- The contact person should review carefully the individual circumstances of the grievance and determine which is the best way to proceed:
 - Discuss the issue with the person against whom the complaint is made;
 - Facilitate a meeting between the parties in an attempt to resolve the issue and move forward.
- The contact person should ensure the matter is proceeding according to the time frames contained in this policy (5 working days).
- However, where an employee claims to have been aggrieved by a manager, the employee should instead inform the next level of management.

Level 2

Raise with Manager

(Grievance should be raised to this level only if every effort has been made to address the issue at Level 1)

- If the employee raising the grievance is dissatisfied with the response they have received, or if there is no response, the employee should raise the matter with the next level of management. Every effort should be made by management to resolve the issue within five working days of receiving the complaint.
- If agreement has not been reached within the timeframe and the employee is concerned about the lack of progress with the complaint, they should contact the Manager Governance and Compliance
- At any level in the process a professional mediator may be engaged, if all parties agree to assist in talking through the issues and resolving the conflict.
- Where it is deemed to be inappropriate for the parties to meet face-to-face, consideration should be given to allow the parties to meet with the mediator separately throughout the process.

Level 3

Formal Complaint

(A grievance should only be raised to this level as a last resort or when the issue is so serious that an independent investigation is warranted in the first instance).

- If satisfaction is not reached at level 1 or level 2 of the process a formal complaint can then be made by forwarding a written letter to the Manager Governance and Compliance or CEO.
- At any level in this process there is the option for an employee who has union membership to contact their Union Delegate for assistance or advice in resolving the grievance.
- On completion of the discussions and investigation the relevant Manager will advise all parties of the outcome. Aside from a more formal outcome, the parties may also be reminded of the expected standards of conduct or be directed to undertake further relevant training. Managers should also closely monitor the situation.

GRIEVANCE RESOLUTION POLICY GUIDELINES

Type of Grievance	Example	How to Manage the Grievance
Interpersonal Conflict	Where there is a disagreement between employees, which is not considered serious but is affecting the employee and others in the workplace.	The Grievance Resolution Policy should be followed and in the first instant discussion should occur between employees.
Bullying/ Harassment/ Victimization	Repeated unwelcome treatment that offends, intimidates, humiliates or threatens another person.	<p>The Grievance Resolution Policy should be followed and in the first instant discussion should occur between employees.</p> <p>However where the allegation represents a possible breach of trust (i.e. manager and employee) it should be reported to the Manager Governance and Compliance or CEO.</p>
Misconduct	<ul style="list-style-type: none"> • Minor assault where there is no injury or a minor injury • Inappropriate behaviour e.g. consuming alcohol, drugs etc. • Verbal abuse • Failing to disclose criminal history if required to do so • Damage to Council property • Traffic offences in a Council vehicle • Breach of the Code of Conduct 	These matters are to be reported to the Manager Governance and Compliance or CEO.
Official Misconduct	<p>Official misconduct is defined as conduct that is a breach of trust and is either a criminal offence or serious enough to consider dismissal:</p> <ul style="list-style-type: none"> • Fraud (e.g. falsifying time sheets or submitting false documentation) • Falsely obtaining financial benefit from travel allowances • Stealing • Unlawful assault • Accepting money to win a contract • Misuse of Council vehicles • Misuse of Corporate Credit Cards • Disclosing confidential information to an outside party 	External investigators may be engaged at the discretion of the CEO.
Sexual Harassment	<ul style="list-style-type: none"> • Unwelcome conduct of a sexual nature where a person would feel offended, intimidated or humiliated by the conduct. • Unwelcomed and uncalled for remarks about a person's sex life or private life • Offensive telephone calls • Indecent exposure • Suggestive comments or jokes of a sexual nature • Posters, cartoons or emails 	<p>If the issue is considered to be minor (e.g. unwelcome remarks about an employee's private life) then it should be dealt with through the Grievance Resolution Policy and in the first instance a one-on-one informal discussion should occur advising the other party of their behaviour.</p> <p>However if there are repeated occurrences such as suggestive comments or jokes, these should</p>

Type of Grievance	Example	How to Manage the Grievance
		<p>immediately be reported to the Manager Governance and Compliance or CEO.</p> <p>External investigators may be engaged at the discretion of the CEO.</p>
Discrimination	<p>Where an employee feels they have been treated less favourably because of one of the following attributes:</p> <ul style="list-style-type: none"> • Sex • Relationship status • Pregnancy • Breast feeding • Age • Race • Impairment • Religious belief • Political belief • Family responsibilities 	<p>The Grievance Resolution Policy should be followed and in the first instance discussion should occur between employees.</p> <p>If the behaviour persists or is of a serious nature it should be reported to the Manager Governance and Compliance or CEO.</p>

RESPONSIBILITIES

Managers

- Managers have a key role to play because of their responsibility for maintaining proper standards of conduct within the workplace.
- They are responsible for:
 - Providing a role model for employees.
 - Setting, promoting and monitoring acceptable standards of workplace behaviour.
 - Monitoring the progress of cases with a view to resolution.
 - Educating employees about the Grievance Resolution Policy.
 - Dealing with complaints promptly and confidentially in accordance with the timeframes outlined in the Grievance Resolution Policy. This will include instigating informal or formal action, keeping the parties informed on what is happening and keeping case notes.
 - Observing the principles of Natural Justice and ensuring that no employee is victimized.
 - Natural Justice means procedural fairness must be applied in dealing with complaints. Where the Natural Justice process adversely takes action against someone the person in question should first be heard and their views also considered. This is called the Hearing Rule. There is also a rule that the decision maker in a Natural Justice process should not be biased against either party or be suspected of bias by a fair-minded observer. This is called the "Rule Against Bias".

Employees

- Employees have a responsibility to bring a grievance to the attention of a Manager or supervisor and not to allow the dissatisfaction associated with the grievance to fester outside the normal policy and process and to disrupt daily operations.
- There is also a responsibility to present the grievance factually and to provide supporting evidence where required.

OTHER PROCEDURAL ISSUES

- **Work to continue**
 - Work will continue as normal while a personal grievance is being dealt with under this Policy. All persons affected by the grievance are expected to co-operate with Council to ensure the efficient and fair resolution of the grievance.
- **Victimisation**
 - Disciplinary action will be taken against any person who victimises or retaliates against a person who has lodged or is involved in a personal grievance issue under this Policy. Such action may include termination of employment.
- **Confidentiality**
 - The contact person will endeavour to maintain confidentiality as far as possible. However it may be necessary to speak with other employees or workplace participants in order to determine what happened, to afford fairness to those against whom the complaint has been made and to resolve the grievance.
 - All employees and workplace participants involved in the grievance must also maintain confidentiality, including the employee who lodges the complaint. The complainant may discuss the grievance with a designated support person or representative (who is not an employee employed or engaged by Council). However, the support person or representative must also maintain confidentiality.
 - If a person breaches confidentiality they may be disciplined.
- **Documentation**
 - Where considered appropriate, agreed resolutions of personal grievances arising from the informal procedure may be recorded and signed by all parties. Generally, it will not be necessary to put records of a personal grievance on an employee's personnel file, unless there is some disciplinary action taken as a result of the grievance. A record of any disciplinary action that is taken arising from a formal investigation will be placed on the personnel file of any person who is disciplined.
- **Access to support and representation**
 - The employee can seek advice from their manager, supervisor or a support person at any stage during the grievance process. The employee can bring a support person to a grievance meeting if so desired.
- **Possible Outcomes**
 - The outcomes will depend on the nature of the grievance and the procedure followed to address the grievance. Where an investigation results in a finding that a person has engaged in conduct in breach of a Council Policy, that person may be disciplined. The type and severity of disciplinary action will depend on the nature of the grievance and other relevant factors.
 - Where the investigation results in a finding that the person complained against has engaged in serious misconduct, this may result in instant dismissal. Any disciplinary action is a confidential matter between the affected person(s) and Council.
 - Council may take a range of other non-disciplinary measures to resolve a grievance. Examples include but are not limited to
 - (a) training to assist in addressing the problems underpinning the grievance;
 - (b) monitoring to ensure that there are not further problems;
 - (c) implementing a new policy;
 - (d) requiring an apology or an undertaking that certain behaviour stop; and/or

- (e) changing work arrangements.

4. REFERENCE AND SUPPORTING INFORMATION

4.1 DEFINITIONS:

To assist in interpretation, the following definitions shall apply:

Word / Term	Definition
Affected Person	An affected person for possible outcomes is a person who is directly affected by any proposed disciplinary action.
Council	Means Diamantina Shire Council.
Complainant	A complainant is a person or entity who makes a complaint.
Complaints Contact Person	The complaints contact person is the Manager Governance and Compliance or if this position is vacant the person acting in this role.
Council Staff	Includes all Council staff including Trainees, Apprentices and Volunteers
Employee	An employee includes: <ul style="list-style-type: none"> • a person employed by Diamantina Shire Council (DSC) or its controlled entities • a person who provides services to the Council under contract • a volunteer of the DSC
External Investigator	An external investigator is a person who may be appointed to investigate a complaint or undertaking an internal review.
Frivolous Matter	A frivolous matter is one which is viewed as trivial, lacking in substance, or unworthy of serious attention. Considerations include whether: <ul style="list-style-type: none"> • the complainant has a history of making false or unsubstantiated complaints. • there is no information to support the allegation in any way. • the allegation is not serious or sensible, and is of such a nature that a reasonable person could not treat it as being bona fide. • the allegation is without any foundation and appears to be designed to harass, annoy or embarrass the subject officer. • the allegation is inherently improbable and there is no information that in any way supports it.
Natural Justice	Natural justice is the process used to ensure just and fair processes are used in proceedings, including: <ul style="list-style-type: none"> • The right to be heard; • The right to be made aware of any allegations that are made against a person; • The opportunity to respond to any allegations; and • The rule against bias.
Support Person	A support person is a person who is requested by a person being interviewed to provide personal support to a witness, complainant or the subject officer, as part of an investigation process. A support person could include a union representative, work colleague, family member, etc.

Word / Term	Definition
Vexatious or Malicious Complaint	A vexatious or malicious complaint is one which is intended to, or perceived to intend to cause distress, embarrassment, or to harass the subject of the complaint (may also relate to Frivolous complaints).

4.2 RELATED POLICIES, LEGISLATION AND DOCUMENTS:

Links to supporting documentation
Code of Conduct
Confidentiality Policy

4.3 VERSION CONTROL:

Previous Version Number	Adopted/Approved Date
1 (Original)	March 16 2015, Minute No. 2015.03.16-OM-18.
2	January 16 2017; Minute No. 2017.01.16-OM-7
3	January 15 2018; Minute No. 2018.01.15-OM-6
4	December 16 2019; Minute No. 2019.12.16-OM-18