KEMPSEY SHIRE COUNCIL

GRIEVANCES/DISPUTES HANDLING Procedure 5.5.8

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<th>5.5 Conditions of Employment Policy</th>
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<td>5.5.8 Grievances/Disputes Handling</td>
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1 OBJECTIVES

Council is committed to the resolution of workplace grievances wherever possible through mediation, consultation, co-operation and discussion.

To resolve problems that arise, as close to the source as possible, with graduated steps for further discussions and resolution at higher levels of authority as necessary.

To provide guidelines that details the rights, responsibilities and procedures pertaining to all parties to a grievance dispute.

2 APPLICABILITY

It is the responsibility of all Councillors, Council employees, contractors and volunteers to comply with Council’s Grievance Handling Procedures and to ensure that they uphold the values of Council within the workplace.

3 RESPONSIBILITIES

3.1 The General Manager will:

a) Ensure that all employees are aware of this procedure.

b) Be responsible for handling serious and complex grievances that are referred to him by Directors or directly reported to him by complainants.

3.2 Directors/Line Managers/Supervisors will:

a) Ensure that all employees are aware of this procedure.

b) Be the first point of contact to any employees who are lodging a grievance.

c) Undertake investigation and resolution of staff grievances in a timely manner wherever possible.

3.3 The Human Resources Team Leader will:

a) Ensure that all employees are aware of this procedure.

b) Provide advice and assistance to any person.

c) Where necessary undertake investigation and resolution of staff grievances particularly issues relating to personnel/industrial matters.

4 GRIEVANCE/DISPUTE HANDLING PROCEDURES

a) If there is a grievance or dispute pertaining to workplace harassment the Workplace Harassment and Bullying Prevention Procedure (5.5.27) is to be followed.

b) Council acknowledges that we choose to come to work for a variety of reasons and that we spend many hours a week in the company of other people. Developing appropriate workplace relationships can provide positive professional and personal outcomes for all.

c) An effective grievance/dispute procedure provides a peaceful method for conflict resolution and is likely to reduce industrial action thus providing greater stability within the workplace.
d) These grievance/dispute Handling Procedures are formal and agreed procedures to follow when dealing with or resolving workplace problems. They have been developed based on the principles of procedural fairness and it is recognised as good practice for Council to have formal grievance handling processes in place.

e) This procedure provides employees with an opportunity for quick and effective results when handling grievances through a series of graduated steps.

f) If necessary, further discussion and resolution at a higher level of authority is available if required.

g) Further advice is available from your next line Manager, Directors; Human Resources, or the Employee Assistance Provider on (p) 6652 2825 (McCombie Associates).

5 GENERAL PRINCIPLES

Wherever possible, complaints will be handled at the workplace level. General principles that will be applied to any grievance process are:

5.1 Confidentiality

Council will maintain confidentiality of complainants wherever possible and appropriate. Only those people directly involved in the complaint will have access, where appropriate, to information about the complaint.

5.2 Impartiality

All investigations will be impartial. No assumptions will be made and no action will be taken until all relevant information has been collected, investigated and considered.

5.3 Timeliness

Complaints will be considered in a timely manner and should be reported as soon as possible to commence the grievance handling process.

5.4 Natural justice

Any person whose rights, interests or legitimate expectations will be affected by a decision or finding will be entitled to an adequate opportunity of being heard. In order to properly present their case, the person will be entitled to know the grounds on which a decision or finding is to be taken.

5.5 Genuineness

Seeking redress of a trivial nature or vexatious issue through a grievance procedure will not be tolerated and may result in disciplinary action.

5.6 Honesty

Complaints must be made based on fact and actual occurrence.

5.7 Repercussions

Council is committed to ensuring that no repercussions or victimisation will occur against anyone who makes a complaint and if proven, may result in disciplinary action.
6 WHAT IS A GRIEVANCE?

A grievance is a formal expression of dissatisfaction about a work situation usually by an individual employee, but it may sometimes be initiated by a group of employees or a union acting on their behalf.

Grievances can relate to almost any aspect of employment, including but not limited to:

a) Transfer and promotion.
b) Rosters.
c) Leave applications.
d) Work environment.
e) Safety in the workplace (uniforms).
f) Performance appraisal.

A grievance must be fully described (verbally and/or in writing) by the person raising the complaint.

7 RIGHTS OF THE PERSON MAKING A COMPLAINT

All employees have the right to:

a) Make a complaint to his or her supervisor; line manager; director or Human Resources or any person at an appropriate level within the organisation.
b) Have their grievance considered fairly.
c) Keep notes; copies of written documents or diary record of all incidents and any responses; including dates, time’s witnesses or other details.
d) Seek advice or assistance from any trade union or other professional association.
e) Seek advice from or complain to any external body or oversight agency.

8 RIGHTS OF THE PERSON SUBJECT OF A COMPLAINT

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

a) Be verbally informed as to the accusation against them.
b) Respond to the allegations and site witnesses if appropriate.
c) Fair treatment and procedures.
d) Be heard by an unbiased person.
e) Seek advice or assistance from any trade union or other professional association.
9 RESOLUTION PROCESS

9.1 Informal Resolution

Informal options are designed to provide an avenue for resolution. In an informal situation, the employee may provide verbal advice of the grievance or the employee may choose to complete a grievance form (refer attachment A). This can assist the employee in ensuring they have all the information required to commence the grievance process.

As soon as possible (within 2 days) after the incident/grievance has occurred, the employee should ask the next level manager for a meeting to discuss the grievance issue and to advise the Manager of the remedy sought to resolve the grievance.

In an informal resolution:

a) Focus is placed on the grievance rather than on personalities or individuals involved in the grievance.

b) Both parties are encouraged to take responsibility for their own behaviour and discuss resolutions.

c) A non-blaming approach is used and no disciplinary action needs to arise as a result.

More formal procedures may be necessary if the informal procedures are unsuccessful or if the grievance is so serious that other approaches are inappropriate.

9.2 Investigation of a Formal Complaint

When investigating a formal complaint, it is important to:

a) Ensure the complaint is investigated and resolved without delay. The investigation should commence no later than seven days after receiving the complaint. Timeframes for investigation and resolution of complaints may be negotiated with parties concerned, however investigations should be resolved, wherever possible, and no later than four weeks after complaint has been lodged (dependent upon the seriousness of the issue.)

b) Ensure the person involved in assisting the complainant to lodge the original complaint is not responsible for investigating the complaint.

Investigations will need to be carried out by those persons delegated to do so, that is supervisors, managers, the Team Leader Human Resources, the General Manager or other person as deemed appropriate by the Team Leader Human Resources or the General Manager.

c) Conduct an interview with the complainant allowing a support person, if desired, such as a union/employee representative, a professional (qualified) interpreter, or another employee to be present. In the interview:

i) Clarify the role of support person/union representative.

ii) Clarify the events or behaviours leading to the complaint including dates, times and any witnesses of the behaviour or
event. Detailed notes should accurately reflect the perceptions of the person lodging the complaint.

iii) Advise the complainant that a full investigation will be carried out and explain procedure that will be followed.

iv) Provide the complainant with the full range of options as outlined in this Procedure.

d) Conduct an interview with the alleged offender, advising of the complaint lodged against him or her. In the interview:

i) Allow a support person, if desired, such as a union/employee representative, a professional (qualified) interpreter, or another employee to be present and clarify their role at the commencement of the interview.

ii) In this interview emphasise the impartiality of person conducting the investigation and stress the importance of confidentiality.

iii) Advise the alleged offender of the kind of investigative process that has been decided on and their rights of representation or advice, that is, a union/employee representative or a professional interpreter, if desired.

iv) Provide the alleged offender with the opportunity to respond fully to the allegations within a negotiated time frame.

v) Advise the alleged offender not to approach the complainant directly or indirectly about the allegations.

e) Ensure a thorough investigation. It may be necessary to conduct interviews with those persons named as witnesses by the complainant or alleged offender, ensuring confidentiality is maintained and involvement is kept to the minimum necessary to establish facts.

f) Ensure the person conducting the investigation remains impartial and not prejudicial of the matter.

g) Maintain records throughout the investigation, including notes of discussions, meetings and interviews with the person lodging the complaint, the person subject of the complaint and any witnesses.

h) Ensure that all parties involved in the making and investigation of a complaint are aware they are bound by law to observe strict confidentiality, any breach may be regarded as misconduct and the offender may be subjected to disciplinary action.

i) During the period of investigation, temporary alternative work arrangements may be made at the direction of the Team Leader Human Resources or the General Manager, in consultation with the Manager concerned, or will be considered at the request of the complainant or the person subject of the complaint. No employee will be disadvantaged in their employment conditions or opportunities should this occur.
9.3 Resolving a Formal Complaint

If the allegations are substantiated or admitted, a decision will be made on the most appropriate course of action. This may involve:

a) Counselling of both the complainant and/or the person subject of the complaint.

b) Mediation through conflict resolution or educational strategies.

c) Disciplinary action which may result in summary dismissal.

If the allegations are not substantiated, the reasons for the decision should be explained to all parties. However it may be necessary to:

d) Consider alternative work arrangements at the request of the complainant or person subject of the complaint.

e) Ensure that the complainant and the person subject of the complaint do not suffer any consequences as a result of a complaint being lodged.

f) Be explicit about, and ensure understanding of, acceptable and unacceptable work behaviour with all concerned.

If the allegations are found to be frivolous, vexatious, malicious or contrived, the complainant may:

g) Be required to undergo counselling.

h) Be subject to disciplinary action.

10 APPEALS PROCESS

If the complainant or the alleged offender feels the Grievance Handling Procedures have not been followed properly or the outcome is inappropriate, an appeal may be submitted to the General Manager.

The General Manager will look at the way the complaint was handled and the action taken. If the General Manager is of the opinion that the complaint has been handled properly and the final decision was fair, Council will take no further action. However, if it was felt the complaint was not handled properly, the General Manager will conduct further investigations or will arrange for someone, other than the person who conducted the initial investigations, to carry out the review.

If the General Manager has been a party to the complaint then the individual may find resolution through an external agency such as the Anti-Discrimination Board or the Commonwealth Human rights and Equal Opportunity Commission.

11 OTHER SUPPORT AVAILABLE

Counselling is available to all employees by contacting Council’s provider of the Employee Assistance Program (5.5.42). The professional counsellors are qualified in dealing with a range of work related and personal issues, and will handle the matter in a confidential manner.

The contact number for Council’s Employee Assistance Program is 6652 2825 (McCombie Associates).
12 FEEDBACK AFTER FORMAL INVESTIGATION

The Team Leader Human Resources and/or Manager or Supervisor should follow-up after the formal investigation has concluded to ensure that neither party has been victimised. Retribution or “pay-back” by any staff member will not be tolerated and any allegations, if proven, will result in disciplinary action being taken.

VARIATION

Council reserves the right to renew, vary or revoke this procedure which will be reviewed periodically to ensure it is relevant and appropriate.
GRIEVANCE FLOWCHART

Informal Grievance Process

9.1 Employee notifies next level Manager (within 2 days) as to the substance of the grievance. Employee requests a meeting with management stating the remedy sought. See Grievance Reporting Form to ensure full details (whether verbal or in writing) can be provided to assist the grievance process.

Not resolved. If the informal procedures above are unsuccessful or if the grievance is so serious, a formal investigation should be undertaken. Refer to Formal Process at 9.2.

Formal Grievance Process

9.2 Investigations will need to be carried out by those persons delegated to do so, that is supervisors, managers, the Team Leader Human Resources, the General Manager or other person as deemed appropriate by the Team Leader Human Resources or the General Manager. Investigations should commence no later than 7 days of notification of an incident/grievance. The procedures as listed under Formal Process must be applied to all grievance investigations to ensure fairness to all parties. Please refer to 9.2 for relevant timelines for formal investigations.

Finalised
Resolution of the grievance has been achieved through management discussion and agreement amongst all parties. No further action is required.

9.3 Investigation of the grievance achieves outcomes that are communicated to all parties where appropriate.

Appeals Process
10 If the complainant or the alleged offender feels the Grievance Handling Policy and Associated Procedures have not been followed properly or the outcome is inappropriate, an appeal may be submitted to the General Manager.
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<th>Name of person reporting grievance</th>
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<tr>
<td>Position Title / Unit / Department</td>
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<td>Date of Grievance Report</td>
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<td>Name person(s) grievance is against</td>
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<td>Position Title / Unit / Department</td>
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**Report of Grievance**

- When (time/date)
- Where (place)
- What (describe what happened)
- Who (witnesses)

**Checklist**

- Provided factual information □
- Been genuine in your reporting □
- Maintained confidentiality □
- Referred to policy and procedures □

(Please continue detail on other side if required)

**Remedy sought:**

Please advise the outcome(s) that you believe would resolve this issue and finalise the matter.

**Signed by the complainant:**

**Date signed:**

**Signed by Next Level Manager:**

**Unit / Department**

**Date signed:**

**Action taken in this matter**

- Informal – resolution
- Proceed to formal investigation