



George Town Council

GRIEVANCE RESOLUTION POLICY & PROCEDURES

Policy No. 43 – Version 1

Adopted	16 th April 2014	Minute Ref: 107/14
Amended		
New Review Date	As required	
Statutory Authority	Anti-Discrimination Act 1998	

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Authority and Other Information

Date of approval	16 th April 2014
Source of approval	Executive Management Team
Date of commencement	
Source of authority	General Manager
Related Legislation Council and Workers have legal obligations to comply with the requirements of the related Legislation. Breaches of the related Legislation are unlawful and may subject the infringing individual entity to fines, penalties, requirements for specific performance, and imprisonment depending on the circumstances. Breaches also make Council vicariously liable for some conduct of some persons.	<ul style="list-style-type: none"> • <i>Local Government Act 1993</i> (Tasmania) • <i>Fair Work Australia Act 2009</i> (Commonwealth) • <i>Industrial Relations Act 1984</i> (Tasmania) • <i>Anti-Discrimination Act 1998</i> (Tasmania) • <i>Equal Employment Opportunity Act 1984</i> (Commonwealth) • <i>Sex Discrimination Act 1984</i> (Commonwealth) • <i>Racial Discrimination Act 1975</i> (Commonwealth) • <i>Human Rights and Equal Opportunity Commission Act 1986</i> (Commonwealth) • <i>Workplace Health & Safety Act 2012</i> (Tasmania) • <i>Workplace Relations Act 1996</i> (Commonwealth) • <i>Disability Discrimination Act 1992</i>(Commonwealth) • <i>Age Discrimination Act 2004</i> (Commonwealth) • <i>Equal Opportunity for Women in the Workplace Act 1999</i> (Commonwealth) • <i>Workers Rehabilitation and Compensation Act 1988</i> (Tasmania) • Associated Regulations (if any of the above) • Successors of any of above
Related Council Documents	<ul style="list-style-type: none"> • George Town Council Workplace Behaviour Policy • George Town Council Employment and Recruitment Policy No. 1 • George Town Council Work Health & Safety Policy No. 6 • George Town Council Customer Service Charter Policy No. 8 • George Town Council Risk Management Policy No. 33 • George Town Council Code of Conduct - Councillors • George Town Council Enterprise Bargaining Agreement (current)
Delegations	General Manager, Directors
Strategic Plan Reference	Goal 1 – Organisational Accountability
Date of review	January 2016
Previous policies withdrawn or amended	George Town Council – Anti Discrimination Harassment Policy No. 37
Department responsible for implementation	Governance
Department responsible for Policy	Governance
Publication of Policy	Available on Council intranet and in hard copy form at sites where Workers do not have internet access.

<p>Definitions</p>	<p>Officers means:</p> <p>(a) an officer within the meaning of section 9 of the <i>Corporations Act</i> 2001 of the Commonwealth other than a partner in a partnership;</p> <p>(b) an officer of the Crown within the meaning of section 247; or</p> <p>(c) an officer of a public authority other than an elected member of a local authority acting in that capacity.</p> <p>Others at the Workplace means any person who is not a Worker and includes visitors and job applicants.</p> <p>Policy/ies means approved policies of Council.</p> <p>Procedure/s means approved Procedures of Council.</p> <p>Workers means a worker if the person carries out work in any capacity for a person conducting a business or undertaking, including work as:</p> <p>(a) an employee;</p> <p>(b) a contractor or subcontractor;</p> <p>(c) an employee of a contractor or subcontractor;</p> <p>(d) an employee of a labour hire company who has been assigned to work in the person's business or undertaking;</p> <p>(e) an outworker;</p> <p>(f) an apprentice or trainee;</p> <p>(g) a student gaining work experience;</p> <p>(h) a volunteer; or</p> <p>(i) a person of a prescribed class.</p> <p>Workplace means a place where work is carried out for a business or undertaking and includes any place where a worker goes, or is likely to be, while at work (may include conferences, social media, Christmas parties etc)</p>
<p>Amendments</p>	<p>Council retains the sole discretion to reasonably terminate, replace or vary this Policy from time to time</p>

1: Purpose and background

This Policy seeks to:

- a) communicate Council's commitment to the provision of a fair and supportive working environment for all Workers; and
- b) establishes and outlines the Procedure for resolving Workers' grievances, disputes, issues or concerns in respect of their work and/or Workplace.

2: Application

This Policy applies to:

- a) all Workers, and Others at the Workplace; and
- b) operates in conjunction with the legal and regulatory requirements of federal and state laws, and the Council's Policies, Procedures and rules.

3: Principles to be Applied

Handling Grievances

Treat all matters seriously	Take all complaints seriously. Assess all reports on their merits and facts.
Act promptly	Reports should be dealt with quickly, with courtesy, fairly and within established timelines. All relevant parties should be provided reasonable estimates of how long it will take to deal with the report and should be kept reasonably informed of the progress. If additional time beyond the initial estimate is required to address the issues, all relevant parties should be advised of the additional time required and the reasons for the delay.
Do not victimise	It is important to ensure anyone who legitimately raises a grievance is not victimised for doing so. The person accused of an alleged breach in infringing behaviour any other witnesses should also be protected from victimisation.
Support all parties	Once a complaint has been made the Workers involved should be told what support is available and allowed to have a support person present at interviews or meetings.
Be Neutral	Impartiality towards everyone involved is critical. This includes the way people are treated in any process. The person in charge of an investigation or resolution process <u>should never</u> have been directly involved in the incident they are investigating or attempting to

	address. They should also avoid any personal or professional bias.
Provide Natural Justice	<p>Principles of natural justice should be followed in all formal processes. These principles are designed to protect all parties:</p> <ul style="list-style-type: none"> a) the person who is alleged to have committed the offending behavioural/conduct should be treated as innocent unless the allegations are proved to be true; b) allegations should be investigated promptly; c) allegations need to be put to the person they are made against; d) the person the allegation are made against must be given a chance to explain his or her version of events; e) if the complaint is upheld, any disciplinary action that is taken needs to reflect the seriousness if the matter f) mitigating factors should be taken into account when assessing if disciplinary action is necessary; and g) rights of appeal (if any) are explained.
Communicate process and outcomes	All parties should be informed of the process and what they can expect will happen during the process and at the end. Provide all parties with clear reasons for any actions that have been taken and, in some circumstances, not taken.
Maintain confidentiality	The process should ensure confidentiality for all parties involved. Details of the matter should only be known by those directly concerned.
Keep records	Documentation is important to any formal investigation. Even if the matter is not normally investigated, a record should be made of all meetings and interviews detailing who was present and the agreed outcomes.

4: Policy

The following Procedure shall be observed in the management, progression and satisfactory resolution of any grievances relating to bullying, harassment, discrimination, prohibited conduct & health and safety issues, management practice, Worker to Worker conflict or any other issues that arise in the Workplace.

4.1 Procedure

- a. If practical to do so, the grievance should first be raised informally with the person involved. Advising the person of the matter may give them a chance to consider their actions or behaviour and reduces the possibility of grievances progressing past this stage.
- b. The informal options open to a worker who believes they are experiencing offending or infringing behaviour/conduct at work includes:
 - i. reporting it to their immediate Manager/Supervisor but doing nothing themselves. The immediate Manager/Supervisor is then responsible for identifying and minimising any risk without implicating the person;
 - ii. speaking to a Contact Officer, union representative, immediate Manager/Supervisor or Human Resources Officer for advice, direction and support; or
 - iii. speaking to the person engaging in offending or infringing behaviour/conduct behaviour directly, being mindful of personal safety and the possibility of reprisals.
 - iv. if a Worker chooses to speak directly to the person engaging in offending or infringing;
 - v. behaviour/conduct behaviour, the Procedures should advise them to keep a record of that conversation. If a Worker chooses to resolve the issue themselves their immediate Manager/Supervisor is responsible for ensuring they are protected from any reprisals;
 - vi. although a Worker has the right to make either a formal or an informal complaint, the Procedure should encourage them to consider the informal process first, as this can often achieve a better result for both parties;
 - vii. the informal approach should not include an investigation or disciplinary action. Instead a “no blame” approach should be used. The main focus in an informal process is to return the individuals to productive work as soon as possible without further offending or infringing behaviour/conduct behaviour;
 - viii. a record of the incident should be made for use in the risk management process and when the control measures are next reviewed. The information recorded should cover the nature of the incident, its impact on the work area and the outcome of the informal process. The parties to the incident do not need to be identified in these records. There is no need to include details of the incident in the personnel files of those involved, as this is only necessary once a formal process is initiated;
 - ix. if the Worker doesn't feel they can approach the person directly and/or, they should explain the situation to their immediate Manager/Supervisor;

- x. if the grievance is not resolved through those discussions or relates to the Workers immediate Manager/Supervisor, the issue should be raised informally with the relevant Department Manager. At this point the Department Manager will suggest remedies to resolve the grievance and attempt to resolve informally;
- xi. if the grievance is unable to be resolved informally, the matter may be raised formally to the General Manager (*or in the case that the complaint is against the General Manager, the matter is to be raised with the Mayor*). In either case, the Worker must complete a Grievance Resolution Form; and
- xii. the General Manager (*or Mayor, if the complaint is against the General Manager*) will undertake a review of the complaint and, if required, direct a formal investigation to commence to reach a final decision as to the outcome of the grievance. This is the final step in the process although it is recognised that, if not satisfied with any step in this Procedure, the Worker may refer the matter to an external agency for assistance in resolving the issue.

PROCEDURES IN LODGING A GRIEVANCE

STEP 1 – Formally Lodging the Grievance

Complete the attached template form.

STEP 2 – Initial Response

The General Manager (*or Mayor, if the complaint is against the General Manager*) or person directed by the General Manager (*or Mayor*) a suitable person to meet separately with both parties as soon as possible and explain the formal process and their rights and responsibilities.

STEP 3 – The Investigation

An investigator appointed by the General Manager (*or Mayor, if the complaint is against the General Manager*) should investigate the complaint in a manner deemed appropriate for the circumstances. The investigator may be an immediate Manager/Supervisor or other suitable person from another work area or someone external to the business.

STEP 4 – Investigation Findings and Report

The investigator should provide a report on the outcomes of the investigation. The findings should be communicated to the parties in writing.

STEP 5 – Outcomes

The General Manager (*or Mayor, if the complaint is against the General Manager*) makes a decision to implement outcomes. This may involve adopting one or more of the following strategies for resolution that may have contributed to the circumstances of the grievance and is considered appropriate for the circumstances:

- I. gain commitment to cease the behaviour (e.g. undertaking);
- II. run an awareness update;
- III. provide training (e.g. communication skills, diversity awareness, interpersonal skills);
- IV. workgroup training;
- V. remedial Actions for any person adversely affected (e.g. re-crediting leave or specialist training or counselling);
- VI. organisation-wide training;
- VII. providing coaching, counselling support and/or mentoring;
- VIII. review the Workplace Policy with all Workers and Managers;
- IX. provide mediation;
- X. structured program to reintegrate a person into the Workplace;
- XI. move the perpetrator away from the affected person;
- XII. request an apology;
- XIII. implement Disciplinary Action; and
- XIV. implement action in accordance with any other relevant Council Policy, Procedures, agreements.

STEP 6 – Post Outcome

There should also be a follow-up review to ensure the wellbeing of the parties involved and actions taken to stop the offending behaviour/conduct have been effective.

4.2 Principles to be applied by participants during Procedure

Seeking External Advice	External, expert advice may be sought at any state of discussions as considered necessary by any of the parties.
Representative Assistance	A Worker who is party to a grievance may appoint a representative.
No Unnecessary interruption to work	While in the process of resolving a grievance, every effort shall be made by the parties to ensure, as far as possible, that there is no interruption to work.
Diligent Application	The parties shall apply themselves diligently to the Procedure to ensure that any matter in dispute is dealt with expeditiously.
Not Vexatious	Workers will not suffer any detriment or disciplinary action simply by reason of having raised a grievance however, any complaints that are determined to be vexatious can result in disciplinary.

4.3 Complaints to External Agencies

Workers may make a complaint to, an external agency (i.e. Work Place Standards Tas, Fair Work Commission, Office of Anti-Discrimination etc) at any time. Prior to making that complaint the Worker should take all reasonable steps to:

- a) comply with the above Procedure;
- b) to resolve the matter internally; and
- c) confirm that a resolution of the matter has not be achieved.

4.4 Employee Assistance Program

Workers are encouraged to utilise the services of the Employee Assistance Program as and when required in accordance with the Council's service arrangements.

4.5 Reporting Grievances

- a) Grievances under this Policy will be reasonably reported by the appropriate Manager/Supervisor/HR Officer in a manner considered appropriate for the organisation.
- b) Any reporting must be provided to the General Manager for identifying trends which require further action (if any).

5: Breach of Policy

Breaches of the Policy, or any related legislation or other applicable law may result in a range of administrative actions which depending on the nature and extent of the breach may be subject to the Counselling, Disciplinary action and/or civil/criminal proceedings.

6: Review

This Policy is to be reviewed at least every two years. The next Policy review date is January 2016.



Grievance Resolution Form

This form should only be used once informal action to resolve a problem or grievance has been taken and failed. Informal action involves attempting to resolve the matter directly with the person involved, through your supervisor and/or through your Supervisor/Manager.

SECTION 1 – COMPLAINANT DETAILS (the person making the complaint)

Name:

Position Title:

Department:

SECTION 2 - TYPE OF GRIEVANCE (please tick)

Please take the time to read the definition provided to ensure the complaint is genuine. Please seek advice from Human Resources if you are unsure.

- Direct Discrimination:** When a person is treated less favourably than another in their employment because of a reason or ground which is prohibited by law. Discrimination can be on grounds of gender, race, age, sexual orientation etc.
- Indirect Discrimination:** When an employer imposes a Policy, requirement or condition which applies to everyone equally but it in fact operates to disadvantage particular group because of a characteristic of that group, such as their sex, age or race.
- Bullying:** Repeated, unreasonable behaviour directed towards an individual or a group of individuals that creates a risk to health and safety (WHS). Managerial actions such as disciplinary action, managing underperformance, work directions and orders, and allocation of work in compliance with business needs and systems do not constitute bullying.
- Victimisation:** Victimisation occurs where a person is retaliated against or subjected to a detriment because they have lodged a complaint, they intend to lodge a complaint or they are involved in a complaint of unlawful conduct.
- Harassment:** Behaviour that offends, humiliates or intimidates another person. Harassment can be on the grounds of age, industrial activity, political activity, religious belief or affiliation, irrelevant criminal/medical record.
- Sexual Harassment:** Unwelcome verbal or physical conduct of a sexual nature. Can also include harassment on the grounds of gender, marital or parental status, pregnancy or family responsibilities.
- Prohibited conduct:** which offends, humiliates, intimidates, insults, or ridicules another person based on the attributes of race, age, sexual orientation, lawful sexual activity, gender, gender identity, intersex, marital status, relationship status, pregnancy, breastfeeding, parental status, family responsibilities or disabilities in circumstances in which a reasonable person, having regard to the circumstances, would have anticipated that the other person would be offended, humiliated, intimidated, insulted or ridiculed.
- Inciting Hatred:** Display serious contempt for, or severely ridicule, another person or a group of persons on the grounds of race, disability, sexual orientation or lawful sexual activity or religious belief or affiliation.

Incident 2 (if applicable)

Date and Time of Incident / Behaviour:	
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Location of Incident / Behaviour:	
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Names of Witnesses (if any):	
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Incident Details (be precise and use facts)

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Incident 3 (if applicable)

Date and Time of Incident / Behaviour:	
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Location of Incident / Behaviour:	
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Names of Witnesses (if any):	
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SECTION 5: RESOLUTION

Have you raised the grievance informally with the person or your Manager / Supervisor?

Yes

No

If 'yes', please detail the nature of the action:

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What action would you like to see as a result of the complaint?

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SECTION 6: DECLARATION AND ACKNOWLEDGEMENT

I declare / understand that:

- The details I have provided in this form are correct to the best of my knowledge.
- The grievance must first be attempted to be resolved at the Workplace level before any external agencies are involved/notified.
- Disciplinary action can be brought against me for making false or frivolous claims against another Worker.

Signature: _____

Date: ___ / ___ / _____

This form and the subsequent process will be treated with the highest confidence. Please return completed form to the Executive Officer – HR/WHS/RISK