

3.16 DISPUTE RESOLUTION

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INTRODUCTION

The Coomalie Community Government Council may consider issues of staff misconduct and unacceptable performance levels require disciplinary action. Any disciplinary procedure shall be applied in a consistent, fair and objective manner.

OBJECTIVE

To inform staff of the grievance process and ensure that the award/agreement dispute resolutions clauses are applied consistently.

POLICY STATEMENT

Council is committed to ensuring that staff have access to an appropriate grievance resolution process to ensure a fair and equitable process is followed and actively encourages employees to follow the process in order to resolve workplace grievances.

Council acknowledges that all dispute resolution processes outlined in the award or agreement must be exhausted prior to considering the reference of a matter to an external party for resolution assistance.

PROCEDURE

Self-resolution

A complainant should attempt to resolve the issue directly with the person(s) concerned. The complainant should identify the specific conduct which has caused offence, explain the impact of that conduct on them, and request that the conduct stops. This attempt should be made as soon as possible.

If the complainant is not comfortable attempting to resolve the issue directly with the person(s) concerned, or if their attempts to resolve the issue are unsuccessful, they should make a complaint.

Making a Complaint

Complaints should be made to the complainant's immediate supervisor. If the complaint is about the supervisor, the complaint should be made to the next most senior manager, who will handle the complaint or refer it to another manager at an appropriate level. If the complaint is to be made about the Chief Executive Officer of Council, the complaint is to be made to the President of the Council. The complaint should be made as soon as possible.

Complaints can be made verbally or in writing and should include the following information:

- the complainant's name and contact details;
- details of the specific incident or issue being complained about;
- if the complaint is about a person(s), the identity of the person(s) being complained about and their relationship to the complainant;
- the remedy/outcome the complainant is seeking; and
- any action already taken in an effort to resolve the issue.

Complainants should be aware that the supervisor handling their complaint will generally need to disclose details of the complaint to the respondent (if there is one) in order to afford them procedural fairness.

Complainants should consider how they would like their complaint to be handled and indicate their preference. There are two options: informal and formal.

Informal: The informal complaint procedure is more appropriate for less serious issues, such as interpersonal conflict or the application of Local Government policies and procedures. The informal procedure may also be appropriate where the parties are likely to continue working together.

Formal: The formal complaint procedure is suited to serious issues, such as sexual harassment, discrimination or other similar conduct. It may also be appropriate for sensitive matters or where there is a high level of factual dispute. If the complainant would like their complaint handled under the formal complaint procedure, the complaint must be made in writing and copied to the Chief Executive Officer.

The Chief Executive Officer may still take action without a written complaint if it considers a staff member's health, safety or wellbeing is in jeopardy or if the Chief Executive Officer considers that misconduct or serious misconduct may have occurred.

Whilst the Chief Executive Officer will take into account the complainants preferred option for handling the dispute, the Chief Executive Officer is ultimately responsible for determining which process will be used.

Informal Complaint Procedure

The complainant's supervisor is responsible for conducting the informal complaint procedure. Under the informal complaint procedure there is a broad range of options for resolving the complaint to the satisfaction of all parties. The supervisor should take action to resolve the complaint within 14 days.

The following list provides possible options for resolving the dispute in accordance with the informal complaint procedure.

- the supervisor meeting with the complainant and respondent (either separately or together) to discuss the issues and explore possible solutions;
- the supervisor writing to the complainant and respondent to obtain further information about the complaint and explore possible solutions;
- the supervisor arranging a mediation or conciliation; or
- the supervisor exploring an issue on behalf of the complainant and options to address the issue.

If the matter is resolved to the satisfaction of all parties, the matter will be concluded. If the matter is not resolved, the supervisor handling the complaint will determine whether any further action is required. The complainant may also make a formal complaint.

Information collected during the informal complaint procedure may be provided to the person handling the formal complaint.

Formal Complaint Procedure

The person responsible for conducting the formal complaint procedure is the complainant's supervisor. If the complaint is serious or complex, the matter can be referred directly to the Chief Executive Officer. The request can be made by the complainant or by the supervisor handling the complaint.

Part A: Preliminary Inquiry

Before commencing a formal investigation, the supervisor will normally conduct a preliminary inquiry. The purpose of a preliminary inquiry is to:

- obtain details about the complaint and assess the seriousness of the allegations;
- determine the level of factual dispute; and
- assess whether there is sufficient evidence to proceed to a formal investigation.

A preliminary inquiry normally involves collecting information from the complainant and the respondent about the complaint. It does not normally involve interviewing witnesses. Where this information has already been collected through the informal complaint procedure, it may not be necessary to conduct a preliminary inquiry. A preliminary inquiry should be conducted within 21 days of the complaint having been made.

The supervisor will consider the information and determine the next steps. A matter should not proceed to a formal investigation or misconduct proceeding if there is insufficient evidence, the matter is not serious enough to warrant a formal investigation or misconduct proceeding or if there is no (or little) factual dispute. The supervisor should notify the complainant and respondent of their decision and reasons for their decision.

Part B: Formal Investigation

If deemed necessary, the supervisor is to conduct a formal investigation. The Local Government can elect to appoint a person from outside Council to conduct the formal investigation.

The role of the supervisor is to collect information about the complaint and make findings about whether the factual allegations are substantiated. The supervisor should focus on determining the facts. The supervisor should not determine outcomes, as this role is allocated to the Chief Executive Officer. A formal investigation should be conducted within 6 weeks of the complaint having been made.

Determination of outcomes

The outcomes of the informal or formal complaint procedure will vary depending on the circumstances.

Some possible outcomes include:

- the parties getting a better understanding of the issue;
- an apology;
- a change in working arrangements;
- a commitment to change behaviour;
- guidance, counselling or warnings being issued; or
- disciplinary action.

Under the informal complaint procedure, the supervisor handling the complaint is responsible for determining outcomes through discussion and consultation with the parties. Under the formal complaint procedure, the Chief Executive Officer is responsible for determining outcomes and advising the complainant and the respondent. It may also be appropriate for the supervisor handling the complaint to consult with the Chief Executive Officer about any outcomes which affect the respondent.

A determination of outcomes should occur within 7 days after the conclusion of the complaint procedure.

Variation to Policy

This policy may be varied or cancelled from time to time.

All employees will be notified by the normal correspondence method of any variation to this policy.