



EMP16 GRIEVANCE INVESTIGATION AND RESOLUTION

Aim	To provide guidance on processes in relation to receiving and actioning internal employee grievances.
Application	All staff
Statutory Environment	<i>Local Government Act 1995</i> <i>(WA) State Records Act 2000</i> <i>(WA) Privacy Act 1988 (cth)</i> <i>Freedom of Information Act 1992</i> <i>(WA) Equal Opportunity Act 1984</i> <i>(WA) Public Interest Disclosure Act (2003)</i> <i>Occupational Safety & Health Act 1984</i> <i>(WA) Fair Work Act 2009 (cth)</i>
Principles	Strategic Community Plan 2017 – 2027 (2019 Desktop Review) Goal 05 Inspiring Governance Objective 4 Exemplary team and work environment
Approval Date	OMC 20 November 2018

INTRODUCTION

Objectives

All employees have a right to express any genuine grievances or complaints through an impartial internal process. All employees involved in a grievance process are expected to participate in good faith. For the purposes of this directive, the term “employee/s” will extend to cover contractors, volunteers and any person performing work for or with the Shire of Ashburton in any capacity.

Scope

This Policy applies to all workers performing work (paid and unpaid) for the Shire, including but not limited to direct hire, contractors, labour hire, project workers, volunteers and those performing work through a third party.

RESPONSIBILITIES

Complainant: An employee who raises a complaint about a matter regarding the workplace.

Respondent: An employee who is alleged to have acted in a manner which caused the complaint.



Support Person: A Complainant and/or a Respondent may choose to bring a Support Person with them to a meeting, where practicable. The role of a Support Person is not to advocate on behalf of anyone, but to simply provide emotional support.

Witness: A person (including an employee) who is requested by the Shire of Ashburton to assist the process by providing relevant information regarding the complaint.

Investigator: Appropriate Shire of Ashburton employee or a suitable person external to the Shire appointed to conduct investigations.

WHAT TO DO IF YOU HAVE A COMPLAINT

If a Complainant believes they are the victim of behaviour of a Respondent which is inconsistent with the Shire of Ashburton's policies, procedures or guidelines, the Complainant should, where reasonable or practicable, first approach the Respondent for an informal discussion. If the nature of the complaint is deemed to be sufficiently serious, the Complainant should contact his/her Manager or Human Resources directly, instead of approaching the Respondent.

If the alleged inappropriate behaviour continues, the Complainant is encouraged to make a formal complaint to his/her direct manager. If the direct manager is the Respondent in the matter or if the Complainant feels uncomfortable approaching his/her manager, the Complainant should approach Human Resources.

Where a complaint is received it must be forwarded in a timely manner to Human Resources for a decision upon the most appropriate way to take the matter forward, whether it is an informal discussion with the Complainant and/or the Respondent, or the commencement of a formal investigation of the complaint.

Any grievances lodged against the Chief Executive Officer are to be dealt with by the Shire President and Council under this policy. Grievances should be lodged with the Manager Human Resources or Director of Corporate Services.

INVESTIGATIONS

Shire Instigated Investigations

Where the Shire becomes aware of allegations of employee/s breaching Shire of Ashburton's policies, procedures or guidelines, an investigation may commence in accordance with this Policy. This is without the need of a formal complaint being lodged.

External Government Agencies

There may be times where the investigation of a complaint may be undertaken by an external government agency before or instead of being investigated by



the Shire. Circumstances include investigations being conducted by the Corruption and Crime Commission (CCC), Public Sector Commission (PSC) or the Police.

Stand Down

Where allegations of misconduct are considered by the Chief Executive Officer (or President) to be sufficiently serious or pose a threat to health and safety the Respondent may be stood down while the matter is being investigated.

KEY PRINCIPLES IN THE COMPLAINT PROCESS

The following principles are necessary for the fair investigation and resolution of a complaint:

Confidentiality

Only the employees directly investigating or addressing the complaint will have access to the information about the complaint. The Chief Executive Officer (President) may inform or appoint a third party to investigate and advise on the investigation. All parties involved in dealing with a complaint are required to keep the matter confidential. Only the outcome to the investigation will be placed on the employee's personal file. All documentation will otherwise be kept in a confidential file; and

Impartiality

Both parties will have an opportunity to put their cases forward. No assumptions are made and no action will be taken until available and relevant information practicable has been collected and considered. No employee who is a Witness or Respondent may be involved in any decision making capacity as to the outcome of the grievance; and

Sensitivity

The employees who assist in responding to complaints should be specifically trained or equipped to treat all complaints sensitively and ensure the process is free of coercion or intimidation; and

Timeliness

The Shire aims to deal with all complaints as quickly as possible and in accordance with any legislative requirements; and

Documented

All complaints and investigations must be documented. In formal grievance processes, records must be kept of all documents collected and/or drafted as part of that process. For more informal processes, a file note or note in a diary may be sufficient; and

Follow the Principles of Natural Justice

The principles of natural justice provide that:

- A Respondent against whom allegations are made as part of a grievance process has the right to respond to the allegations before any determination is made;
- A Respondent against whom an allegation is made has the right to be told



- (where possible and appropriate) who made the allegation;
- Anyone involved in the investigation must be unbiased and will declare any conflict of interest;
- Decisions must be based on the balance of probability arising from the
- objective considerations and substantiated facts; and
- The Complainant and the Respondent have the right to have a support person present at any meetings where practicable.

Procedurally Fair

The principles of procedural fairness provide that:

- The Respondent is advised of the details (as precisely and specifically as possible) of any allegations when reasonably practicable;
- A Respondent is entitled to receive verbal or written communication from the Shire of Ashburton of the potential consequences of given forms of conduct, as applicable to the situation;
- The Respondent is given an opportunity to respond to any allegations made against him/her by a Complainant;
- Any mitigating circumstances presented to the Chief Executive Officer (President) through the grievance process are investigated and considered;
- Any witnesses who can reasonably be expected to help with any inquiry or investigation process should be interviewed; and
- All interviews of witnesses are conducted separately and confidentially.

OUTCOMES OF MAKING A COMPLAINT

Where a complaint is substantiated, there are a number of possible outcomes:

- If the complaint involves a performance issue, the manager of the Respondent may commence a formal or informal performance management process with the Respondent or elect to discipline the Respondent in accordance with the applicable industrial instruments, policies, and management directives; or
- If the complaint involves a breach of a Policy or any other behaviour that is inconsistent with the employment relationship, the manager of the Respondent, in consultation with Human Resources, may elect to discipline the Respondent in accordance with the applicable industrial instruments, policies, and management directives.

Vexatious or Malicious Complaints

Where a Complainant has been found to have deliberately made a vexatious or malicious complaint that Complainant may be subject to disciplinary action, including but not limited to, termination of employment.



Victimisation of Complainant

A Complainant must not be victimised by the Respondent or any other employee of the Shire for making a complaint. Anyone responsible for victimising a Complainant may be subject to disciplinary action, including but not limited to, termination of employment.

Patterns of unsubstantiated Complaints

Where an abnormally strong pattern of separate unsubstantiated complaints about a given Respondent becomes apparent, the matter may be considered further from a performance management or disciplinary perspective.

VARIATION TO THIS POLICY

This Policy may be cancelled or varied by Council from time to time.

RELATED DOCUMENTS

- EMP22 Discrimination, Harassment, & Bullying Management Directive
- ELM04 Code of Conduct
- EMP01 Equity of Opportunity Policy and Procedure
- EMP16 Grievance Resolution Procedure
- CORP2 Misconduct Prevention Directive