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Policy Name: **Grievance and Disciplinary Policy**

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Name of Council	District Council of Cooper Pedy
File reference	
Responsibility:	Governance
Version:	1
Effective date:	
Last revised date:	
Minutes reference:	
Next review date:	
Applicable Legislation:	<i>Local Government Act 1999, s270</i>
Related Policies:	Customer Complaint Policy Whistleblowers Protection Policy Fraud & Corruption Prevention Policy Social Media Policy Workplace Relations Policy Employee Code of Conduct

### **Purpose**

The Council believes it has a social responsibility towards all members of the community and to creating a work environment which reflects the values and the needs of the community.

As an employee you will be treated fairly without direct, indirect or systematic discrimination. You will have equal access to employment, career and development opportunities and the change to progress to the full extent of your ability.

Council is committed to a workplace that encourages representation from all sectors of the region's demographic profile. This is supported by legal obligations under the SA Equal Opportunity Act 1984 and the Local Government Act 1999. The law protects you from being discriminated against on the grounds of sex, sexuality, marital status, pregnancy, race, disability or age.

Subsequently your selection as an employee will have been based solely on your skills, qualifications, experience, knowledge and overall suitability for the position. Equal opportunity issues or grievances can be raised with the relevant Manager. Confidentiality will be respected.

## **Grievances and Disputes**

The objective of the grievance procedures is to promote the resolution of the dispute and avoid interruption to performance and productivity. You should also raise and discuss any grievance you may have with your manager and such discussions will never be held against you, regardless of the outcome.

### **Making a Complaint:**

If you believe you are being, or have been harassed; follow the procedure below:

- o inform the offender the behaviour is offensive, unwelcome, and against council policy and should stop (only if you feel comfortable enough to approach them directly)
- o keep a record of the incident(s)
- o if the unwelcome behaviour continues, contact your supervisor or manager for support
- o if this is inappropriate, you feel uncomfortable, or the behaviour still persists, contact another relevant senior manager

### **Receiving a Complaint:**

When a manager receives a complaint, he/she should follow the procedure below:

- o listen to the complaint seriously
- o treat the complaint confidentially
- o allow the complainant to bring another person to the interview if he/she chooses to ask the complainant for the full story, including what happened step by step
- o take notes, using the complainant's own words
- o ask the complainant to check your notes to ensure your record of the conversation is accurate
- o explain and agree the next action with the complainant

#### **If investigation is not requested:-**

- o maintain confidentiality
- o File your notes in the employees' HR personnel file
- o Check-in with the employee within 7 days to see how the situation is developing and if any further action needs to occur.
- o If investigation is requested, or is appropriate, follow the procedure outlined below.

## **Investigating a Complaint:**

When a manager investigates a complaint, he/she should follow the procedure below:

- o interview those directly concerned, separately
- o interview witnesses, separately
- o keep records of interviews and investigation
- o do not assume guilt
- o interview the alleged harasser, separately and confidentially
- o let the alleged harasser know exactly what he/she is being accused of
- o give him/her a chance to respond to the accusation
- o listen carefully and record details
- o ensure confidentiality, minimise disclosure
- o determine appropriate action based on investigation and evidence collected
- o check to ensure the action meets the needs of the complainant and council

If resolution is not immediately possible, the complainant should be referred to more senior management.

If the resolution requires the authority of a more senior manager, the complainant should be referred to the appropriate level.

Outcomes as they affect the complainant should be discussed with the complainant to ensure that needs are met, where appropriate.

Potential Outcomes:

If the complaint is found to be justified, the complainant may be entitled to any or all of the following:

The complainant may receive:

- o commitment the behaviour will cease
- o private apology (verbal or written)

## **Disciplinary Procedures**

Where an employee has deliberately breached a Council policy or procedure, or engaged in misconduct, disciplinary procedures will be initiated. Discipline will only be engaged with an employee on a performance issue if all other corrective action has failed to achieve the desired result.

Employees should be treated fairly and the proper procedures should be followed. Employees must be made aware of their responsibilities, counselled and given the opportunity to reach the standards

expected of them and the chance to defend themselves before action is taken.

It is a requirement to have a third party attend a disciplinary meeting, and notes taken be signed as a true record of discussions.

The expected standard must be clearly defined and the measurement criteria understood. A reasonable date for achievement of standards must be agreed. This should be shown as a minimum time, e.g. within one month.

For serious issues, employees must be advised in writing and such advice should be recorded on the employee's personnel file.

### **Gross or Serious Misconduct**

Summary (instant) dismissal for gross or very serious misconduct is possible (depending on the facts involved) for the following: insubordination, drunkenness, dishonesty, assault, deliberately endangering the safety of others, commission of a criminal offence on our site, objectionable language and not acting in the best interests of the Council<sup>1</sup>. Managers must, however, consult with senior management prior to taking this action<sup>2</sup>.

The following procedure applies:

- o investigate the alleged offence thoroughly, including talking to witnesses, if any
- o ask the employee for his/her response to the allegation (taking notes of this discussion)
- o consult with the next most senior manager regarding possible action
- o if still appropriate, following a thorough investigation, terminate/dismiss the employee
- o keep a file on all evidence collected and action taken in these circumstances

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<sup>1</sup>**Note:** For some offences the organisation retains the right to report the matter to the police where charges may be laid. The police will be notified with regard to any criminal act against the Council or another member of staff. Management has a duty of care to shareholders and staff and at all times will be subordinate to legal process.

<sup>2</sup>**Note:** In all such cases 'procedural fairness' guidelines will apply. This means the warning and dismissal process must allow the employee to offer their view of the events concerned. The employee must have every chance to defend himself/herself and has the right to appeal a decision made. If this process is not followed the dismissal may be overturned by an Industrial Relations authority.

All procedures must be followed in accordance with employment equal opportunity/anti-discrimination legislation.

A summary of discussions must be kept by the manager concerned and a copy placed on the employee's personnel file. This should include date, location and time of discussion.

### **Disciplinary Appeal**

During all stages of the disciplinary process employees have the right to appeal against any disciplinary action taken against them. An employee, who believes the disciplinary action taken against them is unfair, is able to appeal the process.

Procedure:

An employee is entitled to lodge a written appeal to their supervisor's manager detailing his/her objections to the disciplinary action within three working days of notification. Managers should:

- i. acknowledge receipt of the employee's objection
- ii. investigate the matter thoroughly
- iii. report back to the employee within seven days

If the appeal is disallowed an employee is entitled to appeal to the next most senior manager.

The next most senior manager should investigate the matter and report back to the employee within 10 working days.

The employee has no further right of appeal under this process if the second appeal is disallowed.

All procedures must be followed in accordance with employment equal opportunity/anti-discrimination legislation.

### **Availability of the Policy**

The Policy is available for inspection at Council's principal office and on the website [www.cooberpedy.sa.gov.au](http://www.cooberpedy.sa.gov.au) during ordinary business hours.