

## Grievance Handling Policy and Procedure

### 1. Intent

The City of Albany promotes good relations amongst workers and between workers and management. It is acknowledged that the enjoyment people experience in their job is reflected in how well they work and how well they relate to work colleagues and customers.

The City of Albany also acknowledges that problems can arise at work that may sometimes cause workers to feel aggrieved. This policy aims to ensure that complaints and grievances are handled and resolved in an appropriate, fair, transparent and timely manner, and in accordance with the principles of natural justice.

This policy applies to behaviour that occurs in the workplace including work outside normal work hours and at work related events such as conferences, training events and social functions like after hours drinks, Christmas parties and at any other place where a worker is a representative of the city of Albany.

### 2. Objectives

- All workers have the right to work in a safe working environment and to be treated with dignity and respect;
- To ensure that issues raised are dealt with promptly and justly;
- To ensure fairness and consistency in the treatment of workers.

### 3. Scope

This policy applies to all workers at all City of Albany worksites, with breaches of this policy treated as misconduct or serious misconduct where deemed appropriate.

What constitutes a 'worker' within the business?

- Employee
- Contractor
- Subcontractor
- Outworker
- Apprentice
- Trainee
- Student gaining work experience
- Volunteer

### 4. What is a grievance?

A workplace grievance / complaint means a problem, concern, issue or incident raised by a worker. Examples may include but are not limited to: interpersonal conflicts between workers, the physical work environment or perceived unfairness in the workplace.

Please refer to the Grievance procedure at the bottom of this policy which gives advice about what to do if a worker has a grievance and what will happen if a formal complaint is made.

## **5. Responsibilities**

All City of Albany workers are responsible for ensuring that breaches of this policy do not occur.

All staff must:

- Be aware of this policy;
- Ensure their behaviour in the workplace complies with this policy;
- If an employee has any questions in relation to this policy then they can ask their supervisor / manager or Human Resources;
- They respect the confidentiality of any complaint made and avoid gossip in relation to any possible inappropriate conduct.

### **5.1. Additional responsibilities of managers and supervisors**

Managers and supervisors have a leadership role and must also:

- Investigate a complaint or refer it to Human Resources in accordance with this policy;
- Not allow, permit, assist or tolerate inappropriate actions occurring or continuing by their action or inaction;
- Not victimise a person for making a complaint;
- Ensure that confidentiality is maintained in relation to complaints including stopping gossip when they are aware of it.

## **6. Procedure**

### **6.1. Informal Stage**

#### **6.1.1. Address the issue directly**

If the worker feels comfortable doing so, she / he should attempt to resolve the issue by discussing it confidentially with the other person (the respondent) as soon as practicable after it arises. If assistance is required, please contact HR.

The worker can tell them that their behaviour, decision, actions, etc was unfair, offensive, discriminatory etc., and why they believe this to be so. This person may have been totally unaware of the effect of their behaviour or decision. By bringing this to their attention, they are given a chance to redress the situation.

This may not be appropriate in some cases, particularly if the complainant feels uncomfortable speaking to this person.

#### **6.1.2. Raise the matter with supervisor / manager**

Workers can settle most grievances informally with their supervisor or manager as many problems can be raised and settled during the course of everyday working relationships. This also allows for problems to be settled quickly, however workers can raise issues with Human Resources if the issue is related to their Supervisor or Manager.

An informal meeting is designed to be an initial attempt to resolve the matter quickly between the member of staff and their supervisor / manager without embarking on the formal stages.

A supervisor / manager will initially investigate the complaint and determine whether a more formal investigation is required. If the line manager is the subject of the complaint, or cannot be objective in an investigation, the matter must be referred to HR. Supervisors / Managers should keep a written record of the discussions and provide the worker with a note of the outcome of the informal stage (this can be done via email or file note).

If no resolution is achieved from the informal meeting, the worker(s) may choose to initiate the formal procedure. Each complaint will be dealt with in a timely and effective manner given all circumstances.

### **6.1.3. Mediation**

Mediation is voluntary and will only take place with agreement of both parties to support resolution. It is accepted that if used correctly, mediation can create an environment in which the individuals involved can jointly discuss the issues and find a mutually agreeable solution. Alternatively mediation can be held at the same time but with individuals in separate rooms.

The aim of mediation in this context is for an independent person to explore the issues with the two parties and seek to find a mutually acceptable way of resolving the matter. A desirable outcome may be an agreement and if necessary an action plan, which will set the standards of conduct required for a more harmonious working relationship in the future.

The overriding aim of workplace mediation is to restore and maintain the employment relationship wherever possible. This means the focus is on working together to go forward, not determining who was right or wrong in the past.

## **6.2. Formal Stage**

A formal investigation is appropriate where an informal resolution was not successful or the worker wishes to lodge a formal grievance. This can be because one or more of the factors exist:

- Where the complainant wants the matter to be dealt with formally.
- The matter is of a serious nature with significant ongoing consequences.
- The behaviours are repeated over an extended period of time.
- The impact on the complainant is significant psychologically and/or physically.
- The working relationship has broken down.

If somebody decides to go ahead and make a formal complaint, it will be taken seriously and investigated in an impartial manner. This may mean that the person that made the complaint, the person complained about, and any witnesses will be interviewed. Again, confidentiality will be assured and no decision will be made until the investigation is complete.

If somebody comes forward with a complaint, they will not be treated unfairly or victimised as a result. If a complaint is made against a worker, that worker will not be prejudged. They will have an opportunity to tell their side of the story.

### **6.2.1. Steps**

- A formal grievance should be put in writing and reported to the workers supervisor / manager, Grievance Officer or HR Department (refer to Appendix 1 Grievance Form which can, but doesn't need to, be used to do this).

- The written complaint should contain a description of the incident(s) / behaviour in question, the time and date of the incident(s) etc., the names of any witnesses, and any supporting evidence such as emails, photographs, texts etc.
- The Human Resources Manager will decide who to allocate the investigation to. It may be a grievance officer, member of HR, or external independent investigator.
- The person against whom the allegations are made will be provided with a letter of allegations that will be investigated.
- All parties will be informed in writing of the outcomes of any investigative process.

### **6.2.2. Investigation Process**

An investigation must have commenced within 10 business days of the written complaint been given to management. The time frames outlined can be varied either by agreement between the parties, at the Senior Manager's discretion for operational requirements or a justifiable reason for the delay can be substantiated; e.g. illness or leave, and all parties involved to be informed.

Typical steps in an investigation include:

- All parties involved will be invited to an interview. Workers are entitled to invite a support person to join them in an interview. Support people are there to observe and support, not to participate in the interview. They must also not be a witness to either party.
- The investigator interviews the complainant.
- The investigator interviews any witnesses identified and makes a written statement of all witnesses.
- The investigator checks the accuracy of the statements with the relevant witnesses and a final statement is completed within 5 business days of the draft statement being provided to the complainant/witness.
- The investigator interviews the respondent which will include outlining the grievance process, the principles that apply to the process and the procedure that will be followed.
- The investigator makes a written statement based on the interview with the respondent and any relevant witnesses and checks the accuracy of the statements with the relevant witnesses and a final statement is completed within 5 business days of the draft statement being provided to the respondent/witness.
- The Investigator provides a written report which contains all the relevant evidence and states whether the allegations are substantiated or not.
- The City of Albany will make a decision and both parties will be notified of the outcome.

If the complaint is substantiated, the appropriate disciplinary action may be taken.

If the complaint is unsubstantiated, the worker will be given an explanation as to why that finding was made. If the complaint is found to have been completely fabricated, appropriate disciplinary action may be taken against the complainant.

### **6.3. Temporary Transfers or Suspension**

During the investigation either person may request alternate working arrangements, the City of Albany will endeavour to accommodate the request. When an individual's grievance is of harassment or bullying nature, it may be appropriate to ensure that while the matter is under investigation, the complainant is not subjected to any further alleged harassment or bullying. One way to support the complainant is in one party being temporarily moved to a different business unit.

Good practice suggests that it is not appropriate to move the complainant and therefore it is usual to move the alleged harasser / bully temporarily. The necessity to move one party to a complaint will depend upon the severity of the allegations that have been made.

The grievance should be handled confidentially so that no one, other than the parties involved and line management, are aware that a complaint has been made and the subsequent reason for the temporary move.

In instances where the alleged behaviour is considered serious or poses a threat to a worker, the City of Albany may suspend one or both parties from normal working duties. Suspension is a holding action and does not imply guilt. The employee(s) will continue to receive full pay whilst suspended.

## **7. Disciplinary Action**

A worker who engages in any conduct that constitutes discrimination, harassment, bullying, victimisation or breach of confidentiality, will be subject to disciplinary action, which can include instant dismissal. If the investigation reveals that the complaint is valid a number of actions may be taken depending on the nature of the complaint. The outcome may include but is not limited to:

- Apology
- Counselling
- Training
- Warning – verbal or written
- Dismissal

If the investigation is inconclusive, i.e. the complaint cannot be proved due to lack of evidence; the City of Albany may nevertheless take a number of actions. These may include training of all employees and monitoring behaviour of all employees.

Any manager who is made aware of any behaviour that could be discrimination, harassment, bullying, victimisation or breach of confidentiality and who does not deal with the conduct appropriately or report the conduct to Human Resources can also be subject to appropriate disciplinary action.

## **8. Confidentiality and Victimisation**

The parties to a grievance / complaint are required to maintain confidentiality in relation to the concern or complaint. The parties must not disclose, by any form of communication, either the fact or the substance of the allegations or issues to anyone other than a support person, Human Resources or a qualified counsellor.

The victimisation of people making complaints is unlawful and will not be tolerated. A person must not victimise or otherwise subject another person to detrimental action as a consequence of that person raising, providing information about, or otherwise being involved in the resolution of a complaint under City policies and procedures.

Any breach of either the confidentiality or non-victimisation requirements will be treated seriously by the City, and may result in disciplinary action. Any such breach will be dealt with according to the City of Albany disciplinary proceedings.

## **9. Vexatious claims and claims made without reasonable cause**

Workers should not raise allegations which are vexatious or without reasonable cause. Any allegations which are later shown to be vexatious or made without reasonable cause will be dealt with according to the City of Albany disciplinary proceedings.

'Without reasonable cause' means that a claim is made without there being any real reason, basis in fact(s) or purpose.

Vexatious means that:

- the main purpose of a claim is to harass, annoy or embarrass the other party; or
- there is another purpose for the grievance other than the settlement of the issues arising in the claim (or response).

## **10. Employee Assistance Program (EAP)**

Employees may wish to receive impartial advice, support and guidance by utilising the Employee Assistance Programme (EAP). Details of which can be found on the intranet, the monthly staff newsletter or by contacting the HR Department.

EAP is also valuable for individuals against whom an allegation of harassment is being made. They may be unaware of, or insensitive to, the impact of their actions and counselling can help.

## **11. Further Support**

For more information please contact:

- For policy queries, support or training please contact the Human Resources Department;
- For policy queries please contact a Grievance Officer / OSH Representative;
- For personal support please consider the Employee Assistance Program (EAP);
- At any time the complainant may make a complaint to the Equal Opportunity Commission (ph:1800 198 149) The Australian Human Rights Commission (ph:1300 656 419) or bring a claim before Fair Work Australia (ph: 1300 799 675).

## **12. Associated Documents**

- Occupational Safety & Health Policy
- Bullying and Harassment Policy
- Managing and Improving Performance and Workplace Procedure
- Equal Employment Opportunity and Discrimination Policy
- Employee Code of Conduct
- Council Policy: Code of Conduct (Council Member's, Committee Members, Staff and Volunteers)

## **13. References:**

- Fair Work Act 2009
- WA Equal Employment Opportunity Act (1984)
- Local Government Act 1995 which is also complimented by guidelines and handbooks, produce by the Department of Local Government (WA).
- State Records Act 2000 (WA)
- Privacy Act 1988 (C'th)

- Freedom of information Act 1992 (WA)
- Equal Employment Opportunity Act 1984
- Public Interest Disclosure Act (2003)
- Occupational Health and Safety Act 1984 (WA)
- Occupational Safety and Health Regulations, 1996
- Sex Discrimination Act 1984 (Cth)
- Racial Discrimination Act 1975 (Cth)
- Disability Discrimination Act 1992 (Cth)
- Age Discrimination Act 2004 (Cth)
- Australian Human Rights Commission Act 1986 (Cth)

## Appendix 1 - Grievance Form

<b>Name of Employee</b>		<i>Synergy Number (HR)</i>	
<b>Position Title</b>		Supervisor / Manager	
<b>Contact Number</b>		Supervisor / Manager Title	
<b>Work Location</b>		Date	

**Checklist for lodging a complaint**

If you have decided to lodge a grievance / complaint you need to:

- Put it in writing to a Grievance Officer / HR Department.
- Make sure that ALL details are a true and correct interpretation of the events.
- Attach any relevant documentation.

If you require any assistance, or if you have any queries relating to this form, please contact a Grievance Officer / HR.

**After receiving your claim:**

- HR will invite you to an investigation interview;
- The claim and any relevant information from those involved in the process will be investigated;
- A report will determine if the course of action was either:
  - Substantiated; or,
  - Unsubstantiated.
- You will then be told the outcome of the investigation.

**Confidentiality Clause:**

Any information that is disclosed in the course of any dealing with this claim is highly confidential. You understand and agree that no part of this claim is to be discussed with any other person, except a counsellor, support person or HR, whether they be involved in the investigation or not.

Complainant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Summary of your grievance:**

Please give a brief outline of your complaint, we need to know:

- What is the nature of your grievance;
- What is the process/outcome/communication/policy in which you believe to be unjust;
- Who was involved in this process, and how was their approach inappropriate;
- How do you believe this could have been handled more appropriately;
- Why do you feel that the outcome was unfair, and what do you think would have been a fair outcome.

You may also choose to attach photocopies of any documents that you think might help us investigate your complaint.

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