



1. OBJECTIVE

To establish a fair, timely, equal and consistent process for dealing with employee grievances.

2. SCOPE

This Policy applies to all employees, contractors and volunteers, who perform work for or on behalf of Wujal Wujal Aboriginal Shire Council (Council). It applies to all employees in all their work-related interactions with each other, and with customers or contacts. Any reference to staff or employee is to be taken as a reference to a contractor or volunteer.

3. WHAT IS A GRIEVANCE

A grievance is any type of problem, concern or complaint related to an employee's work or the work environment which causes concern, distress and is believed by the person raising them to affect their work or progress. A grievance may arise from any act, behaviour, omission, situation or decision impacting on an employee, that the employee thinks is unfair or unjustified.

A grievance can relate to almost any aspect of employment, including, but not limited to:-

- Safety in the workplace
- Performance appraisal
- Development or training
- Transfer and promotion
- Rosters or hours of work
- Leave application
- Bullying, Harassment, Sexual Harassment or Discrimination

3.1 Burden of Proof

When a grievance is reported to Council, the burden of proof is the responsibility of the complainant. The complainant must provide particulars of the complaint, such as the who, when and where and any other supporting information.

3.2 Confidentiality

Council will take all reasonable steps to ensure confidentiality of employees involved in a grievance process. However, it may be necessary to speak with other employees or workplace participants, in order to determine what happened to afford fairness to those against whom a complaint has been made. All employees and workplace participants involved in the grievance, including support persons or representatives are also required to maintain confidentiality. Failure to maintain confidentiality may result in disciplinary action.

3.3 Continuity of Work

Work will continue as normal whilst a grievance is being dealt with under this Policy, and employees should continue to conduct themselves in accordance with Council's Code of Conduct. All persons involved in the grievance or investigation process are expected to co-operate with Council to ensure the efficient and fair resolution of the grievance.

3.4 Natural Justice

The grievance process must uphold the principles of natural justice, this means:

- Fully informing a person of any allegations made against them in writing;
- Providing an opportunity and a sufficient amount of time for them to respond to the allegations in full;
- Ensuring a proper investigation of the allegations occurs, and that all parties are heard and relevant submissions considered
- Ensuring the decision maker acts fairly and without bias.

3.5 Stand Down During Investigation

Stand down of employment may be required in circumstances involving serious misconduct and / or during which an investigation is required. Stand down from employment is on a paid basis.

3.6 The role of a Support Person / Union Representative

A support person is a person nominated by an employee to support the employee in meetings. A support person may be a friend, family member, a co-worker, or other nominated person. However, a support person cannot be a fellow employee whose involvement may result in an apparent or possible conflict of interest. A support person cannot speak on behalf of an employee.

Council recognises the important role that union representatives hold in the resolution of workplace issues and acknowledged an supports the right of their employees to be represented by a union. A union representative represents their members in accordance with industrial legislation, and may speak on behalf of an employee.

3.7 Victimisation

It is unlawful to threaten or punish a staff member, or to treat them less favourably, in response to an actual or possible harassment, sexual harassment, discrimination or bullying allegation or complaint. It is also unlawful to victimise someone who is a witness or support person. Any act of victimisation will be dealt with seriously and may result in disciplinary action.

3.8 Workplace Investigation

An investigation process is used to gather and evaluate evidence in order to make a finding based on fact. In the workplace, investigations are generally initiated when Council receives a complaint

or allegation relating to unfair or unlawful treatment (harassment, sexual harassment, discrimination or bullying) or serious misconduct in the workplace.

4. PROCEDURE

Council will endeavour to resolve any grievances in accordance with the following procedure:-

4.1 Attempt to resolve the grievance directly

If the employee feels comfortable doing so, they should attempt to address the issues directly with the person or persons involved in the grievance. The employee may find that the other person was not aware of their grievance and the matter can be resolved directly.

4.2 Report the grievance to Management and/or Human Resources

If the employee does not feel comfortable talking to the person involved, or they have tried to, and it was not effective, or there is no other person involved in the grievance, the employee should report the grievance to their direct Supervisor or Human Resources. In the event that the grievance is with their direct Supervisor, employees should report the grievance to their Manager.

A written record of the grievance should be taken or provided by the employee. On receipt of the grievance, the Supervisor/Manager/Human Resources will ensure that the aggrieved employee has the opportunity to present all aspects of the grievance, and should obtain facts, clarify issues, explain the grievance procedure and discuss actions for progress resolving the grievance.

If not already done so, the Supervisor / Manager should then inform Human Resources of the matter. Once a complaint or allegation has been received by Human Resources, a determination will be made in regard to the action required.

4.3 Resolve Informally

Depending on the circumstances of the grievance, a Supervisor/Manager/Human Resources may resolve grievances in an informal manner. Informal actions to resolve a grievance involve:

- Human Resources investigating the concerns.
- If the grievance is about another person or persons, the supervisor discussing the grievance with the person against whom the grievance is about; and/or
- The supervisor facilitating a meeting between the parties in an attempt to resolve the issue and move forward.

Many grievances are able to be resolved through the informal procedure. However, in the circumstances where the Supervisor/Manager/Human Resources considers the informal procedure is not appropriate, and the grievance is sufficiently serious, the grievance may be escalated to the formal procedure.

4.4 Resolve Formally

The formal procedure involves a formal investigation of the grievance and a decision about appropriate actions and outcomes being made based on available information. All grievances will be investigated in a thorough, fair and impartial manner.

Workplace investigations may be conducted internally, however in some instances it is more appropriate for a suitable external investigator to be appointed.

5. THE WORKPLACE INVESTIGATION PROCESS

5.1 The complainant will be advised of the following:-

- That their grievance is progressing to a formal investigation;
- That their grievance will be kept confidential to the maximum extent possible, but subject to the need to conduct a proper investigation;
- That it is essential for them to maintain confidentiality during the course of the investigation;
- If the allegations within their grievance are substantiated, that appropriate disciplinary action may be taken against the respondent;
- If the allegations are not substantiated, they will be given an explanation as to why the finding was made;
- If the complaint is found to be fabricated, or if they do not maintain confidentiality during the investigation, disciplinary action may be taken against them;
- If they are not satisfied with the way in which their complaint was handled they are entitled to take it to an external agency, such as the Anti-Discrimination Commission of Queensland.

5.2 At the commencement of the investigation process, the investigator will meet with the complainant to conduct an interview. The complainant will be given reasonable notice to attend a meeting and be advised of their entitlement to and given adequate opportunity to organise a support person to be present. The investigator will ask a series of questions in relation to the grievance and will compile a formal statement. The investigator may request the complainant to provide details of any witnesses, or relevant documentation. A copy of the formal statement will be provided to the complainant for review and signature.

5.3 The investigator will interview any relevant witnesses.

5.4 The investigator will contact the respondent and advise them of the investigation. In some instances where there are allegations of serious misconduct, and/or if there is a perceived workplace health and safety risk, the respondent may be stood down during the investigation.

The respondent will be advised of the following:

- No findings or decision have been made about any matter at this stage;
- In accordance with the principles of Natural Justice;
 - They have a right to know of any allegations made against them, and that these will be presented in writing
 - They have the right to defend themselves and provide a written response to Council regarding the allegations
 - They have the right to be represented, should they seek to be represented; and

- They are to be afforded due process without bias.
- That their grievance will be kept confidential to the maximum extent possible, but subject to the need to conduct a proper investigation;
- That it is essential for them to maintain confidentiality during the course of the investigation;
- If the allegations are substantiated, appropriate disciplinary action may be taken against them;
- If the complaint is found to have been fabricated, appropriate action may be taken against the complainant.

5.5 The respondent will be presented with a copy of particularised allegations and will be given an opportunity to respond, within a reasonable timeframe. The respondent may only be required to provide a written response; however, the investigator may request the respondent to attend an interview in order to provide a response. Should this occur, the respondent will be given adequate notice and encouraged to bring a support person.

5.6 The investigator will undertake any further interviews with additional witnesses as required.

5.7 Upon conclusion of the investigation, the investigator will present the findings and recommendations to the Chief Executive Officer.

5.8 The respondent and the complainant will be advised of the outcome of the investigation.

6. OUTCOME

The outcomes will depend on the nature of the grievance. If the allegations are found to be substantiated or there is a finding that a person has breached a Council policy, disciplinary action appropriate to the seriousness of the offence will be taken by Council.

If the investigation into the allegations are not substantiated the reasons for the decision will be explained to all parties. Council will consider whether other non-disciplinary outcomes such as; mediation, conflict resolution or training are required.

If the allegations are found to be frivolous, vexatious, malicious or contrived, the complainant may be subject to disciplinary action.

7. APPEAL

If either party is dissatisfied with the outcome of the formal investigation, they may appeal the process by lodging a grievance with Council's Chief Executive Officer.

8. BREACH OF THE POLICY

All suspected breaches of this Policy will be dealt with on a case by case basis. Depending on the severity of the breach, Council may take formal disciplinary action against the employee, up to and

including termination of employment. When investigating suspected breaches, the principles of natural justice will apply.

9. RELATED COUNCIL POLICIES

- Workplace Harassment, Sexual Harassment and Discrimination Policy
- Workplace Bullying Policy
- Employee Code of Conduct

This policy is to remain in force until otherwise determined by Council.

**Eileen Deemal-Hall
Chief Executive Officer**

DATE OF ADOPTION:	(insert)
TIME PERIOD OF REVIEW:	2 Years
DATE OF NEXT REVIEW:	(insert)