



Grievance Procedure Manual

1. Grievance Resolution

The Council has a formal Performance Management System included in its [Salary Policy](#), including a formal annual Performance Review.

1.1 Steps in the process

Resolving a grievance may involve up to 5 stages. Lack of resolution at one stage becomes the trigger for referral to the next stage.

At any stage of the process the complainant may have the support of a union representative, legal representative, or support person. Similarly, the Local Government association (LGNSW) may represent Council.

Procedure		What happens	When
Contact	Step 1	Discussion between the parties. In some cases, the grievance may be resolved at this stage. You may find that the person didn't mean to do what they did.	As soon as possible. The grievance may be resolved at this stage.

Procedure		What happens	When
	Step 2	<p>The complainant discusses the grievance with a Contact Officer, supervisor, manager, or human resources officer.</p> <p>This may occur if the person is not sure how to handle the problem or wants information and advice about their options or assistance to prepare a written grievance.</p>	<p>The person contacted about the grievance must discuss it as soon as they can and preferably on the same day that they are contacted.</p>
Stage 1	Step 3	<p>Complete Stage 1 Form</p> <p>The complainant raises their grievance with their supervisor, another supervisor or manager.</p>	<p>As soon as possible.</p>
	Step 4	<p>The person who receives the written grievance decides whether to take responsibility for handling it themselves, or refers it to another person, having considered conflict of interest. This is preferred to be someone more senior. (See 7.2).</p>	<p>The person with whom the grievance is lodged or referred to should meet with the complainant within 2 working days. This will include checking if the informant has attempted to undertake Step 1 above.</p> <p>Action to resolve the grievance should begin immediately.</p>
	Step 5	<p>The person taking responsibility for handling the grievance (Grievance Investigator) should interview the Respondent of allegations and decide what action to take. (See 7.3 and 7.4).</p> <p>The parties cooperate fully with whatever process has been put in place to resolve the grievance.</p>	<p>The Grievance Investigator should meet with the Respondent within 2 working days of meeting with the complainant.</p> <p>Resolving a grievance should be prioritised.</p>



Procedure		What happens	When
	Step 6	The Grievance Investigator actions a resolution. If required, the complaint is investigated further and witnesses interviewed. (See 7.6).	<p>Within 5 working days of meeting with the respondent or as soon as possible if further investigation is required (see 5.6).</p> <p>The investigation should be a priority and should not be delayed by other issues.</p>
	Step 7	Grievance is resolved and the Grievance Officer advises the parties of a decision. (See 7.7 and 7.8).	Parties are advised of the outcome of investigations within 2 working days of completion of investigations.
Stage 2	Step 8	<p>If any party is dissatisfied with the process or the outcome of Stage 1 they can lodge an appeal with the Department Director or other Grievance Investigator (preferably someone senior).</p> <p>Complete Stage 2 Form</p>	Within one week of the resolution.
	Step 9	Steps 4-8 repeated by Department Director or other Grievance Investigator. (See 7.9)	Within same timeframes as Steps 4-8.
Stage 3	Step 10	<p>If the matter remains unresolved the grievance should be referred to the Chief Executive Officer (CEO).</p> <p>Complete Stage 3 Form</p>	Within one week
	Step 11	The CEO should consider the matter in the light of previous attempts at resolution as well as through their own investigations. (See 7.9).	Within 5 working days



Procedure		What happens	When
	Step 12	<p>The CEO will provide a written response as to why remedial or corrective action has not been proposed or, if such action has been proposed, why it has not been implemented.</p> <p>If the CEO cannot resolve the grievance, it will be referred to the union and Associations.</p>	Within 2 working days of completion of investigation.
Stage 4	Step 13	<p>If either party is still dissatisfied, they can seek remedy from the appropriate external agency.</p> <p>Relevant external agencies are listed as an appendix.</p>	As soon as possible. Each external agency will have a time limit for making complaints.

1.2 Who should handle a grievance?

The complainant can raise their grievance with their immediate supervisor, or with another supervisor or manager or a human resources officer. If the grievance is about their supervisor, or they feel uncomfortable about discussing it with their supervisor, they should raise it with someone else.

The grievance may be handled by the person with whom it is first raised, or it may be referred to someone else to handle, such as an external, independent mediator. This may occur if:

- the person with whom it is first raised has a conflict of interest, or is perceived to have one;
- the grievance is complex or sensitive and should be handled by someone with more skills and experience; or
- the grievance is very serious or involves a senior member of staff and should be handled at a more senior level.

If the grievance involves the Chief Executive Officer, it should be handled by the Mayor in the first instance and then an external mediator if necessary.

The person handling the grievance may refer it to an external, independent person for investigation or conciliation. This may occur if it is the only way to ensure that the grievance is handled with absolute impartiality and/or the appropriate level of skill.

1.3 Record keeping



Each step of the grievance procedure except Step 1 must be documented. This is to avoid misunderstandings and provide a record of what has been done in case the grievance is not fully resolved or there is an appeal.

If the complainant decides not to pursue the grievance after Step 2, or it is resolved through informal discussion or negotiation, the person who was approached about the matter only needs to make a brief note of the discussion, including the names, date, and nature of the concern, and how the grievance was resolved. This can be recorded on the Contact Officer Form.

If the grievance proceeds beyond Step 2, a more detailed record must be kept using the Stage 1, 2 or 3 Grievance Notification Form.

The parties to the grievance are entitled to:

- see the record of any meeting or interview they attended, to correct inaccuracies and to ensure it is complete. They may choose to sign the record to acknowledge it is accurate;
- see and respond to a record of the relevant facts contained in the other party's statement and in witness statements;
- a record of how the grievance will be resolved and the reasons for that outcome.

The parties to a grievance are not entitled to see records that would breach a third person's privacy or contain facts that did not influence the outcome, if these could inflame hostilities, damage Council's reputation or pose a risk to someone's health, safety or wellbeing.

Records or notes about the grievance will not go on an employee's personnel file unless disciplinary action is taken against them. All other records will be filed in a secure, confidential place. Only the Chief Executive Officer, Directors, and Human Resources Coordinator will have access to this file.

1.4 Possible actions to resolve a grievance.

Options to resolve a grievance include:

- informal discussion between the parties;
- conciliation to reach an agreement between the parties; and
- full investigation followed by a decision based on the findings of the investigation.

1.5 Conciliation

Conciliation involves an impartial person assisting the parties to a grievance to reach an agreement about how it should be resolved. The conciliator does not take sides but is responsible for ensuring that the agreed outcome is fair and practical and in accordance with Council's policies and procedures. Conciliation differs from mediation, in which the mediator does not try to influence the content of the agreement in any way.

Conciliation is most likely to be used when:

- there is some basis for agreement, for example the parties may agree about what happened but have different interpretations;
- the parties show some willingness to cooperate; and/or
- both parties have equal bargaining power.



Conciliation is less likely to be used when:

- there is no agreement about what happened;
- one party is accusing the other of serious misconduct;
- one party is in a position of power or influence over the other; and/or
- one or both parties do not show willingness to cooperate.

Conciliators must have training or experience in this area. If necessary, an external conciliator may be used. Other forms of grievance or conflict resolution such as group conciliation may also be used in some cases.

The person handling the grievance may end the conciliation if:

- the process is not working; or
- it becomes clear that an investigation is required to achieve a fair outcome.

1.6 Investigation

An investigation is required when the grievance is more serious, or the parties do not agree about what happened. The aim of the investigation is to uncover facts which may inform the decision about how to resolve the grievance.

The grievance investigator will talk to the complainant, the respondent, and any witnesses. They will also gather any other relevant information such as records, documents, or emails.

The steps in an investigation are as follows:

Investigation	What will happen	When
Step 1	The investigator explains the grievance process and the rights of participants to the parties and witnesses involved.	Within 2-4 working days (where practical).
Step 2	The investigator interviews the complainant and respondent to get each party's version of what happened.	
Step 3	If necessary, the investigator interviews witnesses and collects other relevant information.	Ideally within 5 days but as soon as practicable. The time frame may be affected by the availability of the



Investigation	What will happen	When
Step 4	The investigator assesses whether they have all the necessary information to decide whether the situation described in the grievance is likely to be accurate. If required, they will consider what other witnesses or records they should consult.	parties or other witnesses and the complexity of the grievance. However, the investigation should be a priority and should not be delayed by other issues. Most grievances should be investigated within a maximum four weeks.
Step 5	The investigator prepares a report on the investigation, giving all the relevant facts that have been uncovered. It may also make recommendations on how the grievance should be resolved. (See 7.4, 7.5 and 75.7).	The time frame for writing the report will be affected by the complexity of the issues, but it should usually be completed within 2-5 days.

An investigation Report Template is provided as an appendix.

1.7 The decision to resolve the grievance.

If the parties to the grievance cannot agree on how to resolve it, the decision about how it will be resolved may be made by the person handling it, or by a more senior person. This will depend on:

- the type of grievance;
- how senior the parties are within the organisation;
- how serious the grievance is.

If dismissal from employment is a possible outcome, then the decision must be made by the CEO.

The person responsible for deciding on a resolution will:

- consider possible outcomes and decide on what is appropriate, based on the facts and anything that might partly explain or excuse the behaviour (mitigating circumstances);
- explain their decision to the parties and if required, provide a written statement of their reasons;
- explain the appeal process, the need for confidentiality and privacy to be continued after the resolution and the need to avoid victimisation;
- decide on and implement a process for monitoring the effectiveness of the resolution. If the resolution is not effective, it may need to be reconsidered.

1.8 Possible outcomes

1.8.1 Joint agreement



The parties reach agreement about how the grievance should be resolved through discussion or conciliation, without a decision being made about whether the grievance is justified or not.

The person responsible for resolving the grievance must be satisfied that the agreement is fair and in accordance with Council's policies and procedures.

1.8.2 The grievance is justified.

The person resolving the grievance is satisfied that the grievance is justified. This decision must be reasonable in view of the available information. They will then decide on a course of action that is fair and reasonable in all the circumstances.

Examples of possible outcomes include:

- an apology;
- training;
- changes in work practices;
- counselling; and/or
- disciplinary action.

A decision to take disciplinary action should take into account:

- the seriousness of the grievance;
- the attitude, intent and previous record of the respondent; and
- any mitigating circumstances.

Disciplinary action could include:

- an official warning;
- transfer to another work area;
- demotion; and/or
- dismissal.

If disciplinary action is taken, a record of the grievance and the outcome will be placed on the personnel file of the person who is disciplined.

1.8.3 The grievance is not supported.

It is determined that the grievance is not supported by the results of the investigation. In this case steps may be taken to restore good working relations and prevent any problems from recurring.

Examples of this could be training, improving communication channels, mediation or counselling.

1.8.4 The grievance is malicious or vexatious.

It is determined that the grievance is not supported and has been lodged deliberately to cause trouble for another person. In this case disciplinary action will be taken against the person lodging the grievance.

1.8.5 There is not enough information to make a decision.



If there is not enough information to decide whether or not the grievance is justified, neither party has been found “right” or “wrong”. This will be explained to the complainant and the respondent.

In this case steps may be taken to restore good working relationships and ensure everyone understands their rights and responsibilities. Examples of this could be training for the parties involved in the grievance or the entire team, or new procedures to improve supervision and monitoring.

1.9 Appeals

If either party to the grievance appeals, the decision can be reviewed in accordance with Stages 2, 3 and 4 of the Grievance Resolution Procedure.

The person who reviews a grievance may:

- check the process was conducted according to this procedure and the principles of procedural fairness;
- check the outcome was fair in view of all relevant evidence and any mitigating circumstances;
- consider particular aspects of the grievance process or the outcome;
- “rehear” the grievance if it appears there were defects in the process or the outcome; and/or
- interview more witnesses or seek other evidence where appropriate.

The person performing the review may confirm the original decision or make a different decision.

1.10 Withdrawing a complaint

A grievance can be withdrawn at any time unless management consider it to be too serious to be withdrawn. For example, it may be too serious if it involves a serious breach of Council’s Code of Conduct or a risk to workplace health and safety.

If a complaint is withdrawn it cannot be raised again, unless there is victimisation, the behaviour is repeated, or new facts come to light.

