

# Shire of Wiluna Policy Manual

## GRIEVANCES, INVESTIGATIONS AND RESOLUTION (ADDENDUM)

### Policy 7.3

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## SHIRE OF WILUNA

### Grievances, Investigations & Resolution Procedure

#### Procedure

The following procedure, based on the principles outlined in the Grievances, Investigations & Resolution Policy, is to be used in the resolution of any complaint. A complaint should be dealt with internally in the first instance where reasonable and practicable. The aim of this procedure is to resolve the complaint as quickly and confidentially as possible.

#### *First step – Self Resolution*

A Complainant should attempt to resolve the issue directly with the person(s) concerned in the first instance. The Complainant should identify the specific conduct which has caused offence, explain the impact of that conduct on them, and request that the conduct stops. In some circumstances, the Respondent may be unaware that their behaviour offends the Complainant. These actions should be taken as soon as possible.

If the Complainant is not comfortable attempting to resolve the issue directly with the Respondent, if their attempts to resolve the issue are unsuccessful or if the issue is deemed sufficiently serious, the Complainant should seek guidance from Human Resources on the options available to the Complainant. The Complainant has the choice whether to proceed with their complaint at that stage and the complaint can be withdrawn at any stage. If a complaint is withdrawn and the Shire of Wiluna deems that matter to be sufficiently serious, it may continue to investigate the complaint even if it has been withdrawn.

#### *Informal Complaint Procedure*

A complaint can be dealt with on an informal basis where:

- the allegations are not deemed sufficiently serious, for example interpersonal conflict or potentially amount to a minor breach of some Local Government policies, procedures and guidelines (Policies);
- the Complainant is reluctant to lodge a formal complaint; or
- the Complainant and the Respondent work together closely on a regular basis and the preservation of the employment relationship is paramount.

The informal complaint procedure may be approached as follows:

- The Complainant should approach their line manager to outline their concerns, the desired outcome and any ideas for resolution of the complaint.
- The Complainant's manager will explain the various options open to the Complainant for the resolution of the complaint.

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- If the Complainant chooses to proceed with the complaint, the Shire can either:
  - arrange for a mediation between the Complainant and the Respondent; and/or
  - meet with the Complainant and the Respondent separately to discuss the issues and explore possible solutions; and/or
  - write to the Complainant and the Respondent to obtain further information about the complaint and to explore potential solutions.

If the matter is resolved to the satisfaction of all parties, the matter will be concluded. If the matter is not resolved, the manager will determine whether any further action is required. All meetings with the Complainant and the Respondent should be documented and any correspondence between the parties should be retained on a confidential basis by the Shire.

### *Formal Complaint Procedure*

A complaint should be dealt with through the formal complaint procedure where:

- the complaint involves sufficiently serious allegations, including but not limited to, sexual harassment, discrimination, criminal conduct, breaches of Local Government policies or breach of *the Local Government Act 1995 (WA)*;
- the complaint involves a particularly sensitive or personal matter; or
- a formal complaint procedure is deemed appropriate in the circumstances by the manager and Chief Executive Officer.

### *Submitting a Formal Complaint*

A formal complaint should be made in writing and include the following information:

- the Complainant's name and contact details;
- details of the specific incident or issue being complained about;
- if the complaint is about a person(s), the identity of the Respondent / Respondents and their relationship to the Complainant;
- the names of any witnesses who were present during the specific incident or who have first-hand knowledge of the issue being complained about;
- the outcome the Complainant is seeking; and
- any action that has already been taken in an effort to resolve the issue.

### *Preliminary Inquiry*

Before commencing a formal investigation, the relevant Manager are able to conduct a preliminary inquiry if further information about the complaint is required to determine the level of seriousness involved. The purpose of a preliminary inquiry is to:

- obtain details about the complaint and assess the seriousness of the allegations;

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- determine the level of factual dispute;
- assess whether there is sufficient evidence to proceed to a formal investigation; and
- determine whether the Shire of Wiluna should proceed with an investigation or refer the matter to an external authority. It may be appropriate to refer a matter to an external authority where the alleged conduct is potentially of a criminal nature, potentially breaches the *Local Government Act 1995* or may need to be dealt with by the Corruption and Crime Commission.

### *Full Investigation*

If deemed necessary, the relevant Manager may require a formal investigation to be conducted. The Shire of Wiluna can elect to appoint a person from outside the Shire of Wiluna to conduct the formal investigation or an appropriate Shire of Wiluna employee may conduct the investigation (the Investigator).

The role of the Investigator is to collect information about the complaint and make findings about whether any allegations are able to be substantiated. The Investigator is responsible for ascertaining facts, reviewing documentation, interviewing parties and making a determination about whether any further action against the Respondent is warranted. The depth and scope of the investigation will depend on the nature of the complaint, however, as a general guide the following should be covered by the investigation report:

- the circumstances of any allegations made;
- a list of allegations made by the Complainant, the Respondent's response to the allegations and whether any of the allegations are substantiated;
- outline where any policies or legislation have been breached;
- evidence stemming from the complaint include any documentation such as emails; letters and signed witness statements; and
- any mitigating circumstances that have been presented through the investigation on behalf of the Respondent.

### *Outcome and Action*

The outcome of the investigation will dictate whether any disciplinary action may be warranted. Whether any disciplinary action is required will be at the discretion of the relevant manager in consultation with Chief Executive Officer. Any disciplinary action will be taken in accordance with the Disciplinary Policy.

### *Substantiated Complaints and Potential Outcomes*

Outlined below are some examples of actions that may be taken after a formal complaint is investigated and outcomes have been substantiated.

- apology from the Respondent to the Complainant (written or oral/verbal);
- agreement from the Respondent that the behaviour will not be repeated;

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- a Respondent can be issued with a verbal or written warning;
- transfer, demotion or termination of the Respondent's employment;
- counselling of the Complainant and/or Respondent;
- implementation of a training program; or
- changes to the Shire of Wiluna's Policies.

### *Frivolous or Vexatious Complaint*

If a complaint is found to be deliberately vexatious or malicious after an investigation, the employee making that complaint may be subject to disciplinary action, including but not limited to, termination of employment.

### *Other Resources*

An investigation into a complaint may require the Shire of Wiluna to utilise resources from outside the organisation to help resolve the situation, including:

- an Employee Assistance Program (EAP);
- use of an independent investigator; or
- use of an independent mediator.

### *Variation to this Procedure*

This procedure may be amended from time to time. All the Shire of Wiluna 's employees will be notified of any variation to this policy by the normal correspondence method.

Document Control	
Responsible Directorate	Office of the CEO
Relevant Section	Human Resources
Legislative Requirement	
Council Meeting Held & Adopted, Resolution #	22 Feb 2017 028/17
Amendments, Date & Resolution #	
Review Dates & Resolution #	
Next Review Date	