

POLICY NO LG25 GRIEVANCE POLICY

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| DEPARTMENT: | Governance |
| RESPONSIBLE OFFICER: | Human Resources Manager |
| LINK TO STRATEGIC PLAN: | To have access to quality services that are responsive to the changing needs of the community and lead to improved health, education and employment outcomes. |
| STATUTORY AUTHORITY: | Fair Work Act |
| OBJECTIVE: | To ensure that all grievances/concerns are handled effectively within the scope of Break O'Day Council. |
| POLICY INFORMATION: | Adopted 19 March 2012 – Minute No 03/12.15.4.069 Amended 18 May 2015 – Minute No 05/15.11.7.125 Amended 17 August 2020 – Minute No 08/20.12.6.140 |

POLICY

1. RESPONSIBILITIES

- The responsibility for ensuring that this policy and associated procedures are adhered to rests with all employees of Break O'Day Council, Break O'Day Council and Break O'Day Council's Management.
- Management will ensure that there will be a fair and systematic approach to the enforcement of standards required by the policy.
- Each department manager is responsible for adhering to this policy.

2. WHAT IS A GRIEVANCE?

A grievance can be defined as:

- Matters that cause concern or distress that are within the control of Break O'Day Council, which are not resolved through normal communication channels
- An issue arising from any decision, act or omission which is considered unjust, unfair, discriminatory, wrongful or at variance with any of the Break O'Day Council's policies or procedures
- Complaints regarding unacceptable or upsetting behaviour of an employee, or other personnel directly linked to the Council's activities, including but not limited to: discrimination, victimisation, harassment, and/or bullying

A grievance may arise if a particular group or individual associated with Break O'Day Council has, for example:

- Done something wrong
- Failed to do something that should have been done
- Acted unfairly or improperly

3. PARTIES TO A GRIEVANCE

Complainant: Person raising the grievance/dispute/concern/issue.

Respondent: Person identified by the complainant as responsible or the reason for the issue.

4. POSSIBLE RESOLUTION

Satisfaction from a complaint may come from any of the following:

- Knowing that Break O'Day Council is now alerted to a potential problem
- The concern has been considered seriously, and an outcome reached which may or may not be that initially sought, but is perceived as well-considered
- the complainant gains a better understanding by hearing the respondent's view of the incidents/issues, so that their concerns are addressed and they no longer feel aggrieved
- the issue or behaviour being complained about is modified so that it no longer upsets the complainant
- the complainant receives an apology
- the complainant and respondent reach a mutually acceptable resolution through conciliation

Actions that may be taken to help reach resolution include: Mediation, Conciliation, Arbitration, Counselling, Discipline, Referral, and/or Revision of Procedures.

5. THE NATURE OF COMPLAINTS

Grievances/concerns should start to be resolved at the frontline of management intervention; the first point of contact would normally be a member of staff (such as your direct Supervisor) other than the General Manager.

Anonymous complaints, or complaints from individuals that indicate that they do not wish to be identified, may still be considered from a system/process improvement point of view. However, anonymous complaints concerning other staff will be dealt with at the General Manager's discretion as to what action, if any, should be taken. The principle of natural justice shall apply to allegations made against an individual; procedural fairness requires that respondents be given full details of the allegation made against them in order for them to have a fair chance of reply, this is not possible where complainants request anonymity.

Anonymous allegations regarding illegal activities will be directed to the General Manager, they will be considered and monitored closely, but no other action taken until there is certainty about the veracity of the allegation.

6. PRINCIPLES FOR HANDLING GRIEVANCES

All individuals have equal access to the grievance process and are entitled to fair and consistent treatment. Complaints are received in a positive manner, and the person raising the grievance can expect to be taken seriously. The Break O'Day Council has a responsibility to protect an individual who raises a grievance in good faith from detrimental action, including victimisation or unfair treatment; however, if a complaint is deemed to be malicious or vexatious in nature, then appropriate action may be invoked against individuals at the Break O'Day Council's discretion.

The principles of natural justice and procedural fairness apply to the resolution of grievances and the grievance process.

- Individuals must be fully informed of any allegation(s) made against them, including but not limited to the nature of the allegation(s) and the individual(s) making the allegation(s)

- Individuals must be given the opportunity to state their case, provide an explanation or put forward a defence
- There must be a proper investigation of the allegation(s), ensuring that all parties are heard and that all relevant submissions are considered
- The decision-maker must act fairly, impartially and without bias

Parties are encouraged to resolve grievances at their source or at the lowest level of management/intervention necessary with emphasis on conciliation. While the informal resolution of a grievance is the preferred option, it may not always be successful or practical, and in such cases the aggrieved party may initiate formal process as outlined in this document. Confidentiality will be respected, only those involved in the resolution process will have access to relevant information regarding the grievance. However, if allegations of criminal behaviour such as corruption or abuse of children emerge during the investigation of a grievance, such allegations must, by law, be reported to external authorities.

The grievance process does not limit the right of any person to use other available agencies and processes, such as the Anti-Discrimination Board, the courts or the Ombudsman or Fair Work Australia for employment related matters.

7. GRIEVANCE PROCESS

| ACTIONS | PROCESS | RESPONSIBILITY |
|--------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| Informal Grievance Process | | |
| Self-Resolution (approach the other party) | The issue is raised by the complainant directly with the other party concerned, clearly outlining the reasons they feel aggrieved and what action or options they believe are necessary to resolve the issue. The complainant should prepare for the discussion and aim to create an environment for resolution through conciliation and possible compromise. They may also consider using email or other media prior to face-to-face discussion to raise the respondent's (other party) awareness of the issue and the impact it has/had on them. Discussion with another supportive person prior to arranging a meeting may also be considered, as well as accompanying them to the meeting with the respondent. | Complainant |
| Raise concern with member of staff | If an approach to the respondent does not lead to a resolution of the problem or if the complainant does not feel comfortable about approaching the respondent, they may choose to approach a neutral staff member or their direct Supervisor. Every reasonable effort should be made by the staff member and the complainant to resolve the issue with the respondent. It is expected that in most circumstances, resolution of the grievance should be achieved within two weeks from the date the grievance was first brought to the attention of the staff member. If the matter is unresolved to the complainant's satisfaction within two weeks and the staff member is unable to appease concerns, then they may commence a formal grievance/complaint process by presenting their concerns to the General Manager. This must be done in writing. Where the grievance directly relates to the General Manager, formally stating the issues in writing to the same is still the best approach. | Complainant |

| ACTIONS | PROCESS | RESPONSIBILITY |
|----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|
| Formal Grievance Process | | |
| Formal Investigation of Concerns | <p>The General Manager having first been satisfied that reasonable efforts have been made to resolve the matter informally by using the steps outlined in the informal process, may meet with all parties concerned (individually or together) and/or may require that either or all parties provide written comments. The General Manager will investigate the concerns fully and take action to resolve the issue.</p> <p>The actions taken by the General Manager (or by the employee's direct Supervisor) may include any or a combination of the following:</p> <p><i>Mediation, Conciliation, Counselling, Discipline, Arbitration, Referral, Revision of Procedures.</i></p> | General Manager (or direct Supervisor) |
| Grievance Determination | <p>The outcome of the General Manager's (or the employee's direct Supervisor's) decision and action(s) will be forwarded to the complainant raising the grievance, in writing within one (1) month of first contact with the General Manager on the issue.</p> <ul style="list-style-type: none"> • The General Manager's outcome will state whether the grievance has been substantiated and what further action is recommended; <p>OR</p> <ul style="list-style-type: none"> • The grievance has not been substantiated and that no further action is recommended; <p>OR</p> <ul style="list-style-type: none"> • The grievance has not been substantiated but actions such as changes to policy or procedures are nevertheless recommended. <p>The outcome will outline the reasons for the decision and a follow-up meeting can be arranged to clarify any aspects the complainant is unclear about.</p> <p>If a final decision has not been arrived at by the allotted time, the General Manager will write stating the reason for the delay, and the expected timeframe for a final conclusion/resolution.</p> | General Manager (or direct Supervisor) |
| External Appeal | Although the principles of natural justice (procedural fairness) apply to the resolution of grievances and the grievance process, no one can be guaranteed of obtaining the outcome they want. A complainant may decide to pursue their grievance through avenues that are external to Break O'Day Council. | Complainant |
| Records | Any person raising a grievance should keep a record of all meetings, (times, dates, discussion summary etc), the Break O'Day Council shall keep a note of all informal meetings, and any formal correspondence generated as a result of the process. | Complainant/ Break O'Day Council Administration |

8. MONITORING AND REVIEW

This Policy will be reviewed every three (3) years in line with the Council's Policy Framework or earlier in the event of major changes to legislation or related policies, procedures or if deemed necessary by the General Manager.