

GRIEVANCES INVOLVING THE GENERAL MANAGER



PURPOSE

The purpose of this Policy is to set out the principles and procedures for dealing with a Formal Grievance where the position of General Manager is named as a Respondent.

SCOPE

This policy applies to all employees, including the General Manager.

This policy does not apply to a grievance made against the General Manager under the Public Interest Disclosures Act 2002.

STRATEGIC PLAN ALIGNMENT

Making Lives Better

Objective 1.1 Know our communities and what they value

Strategy 1.1.1 Guide decision making through continued community engagement based on our community plan

Leading Our Community

Objective 4.1 Govern in the best interests of our community

Strategy 4.1.1 Manage Council for maximum efficiency, accountability and transparency

Strategy 4.1.3 Maximise regulatory compliance in Council and the community through our systems and processes

Objective 4.2 Prioritise our resources to achieve our community's goals

Strategy 4.2.1 Deploy the Council's resources effectively to deliver value

STATUTORY REQUIREMENTS

<p>Acts</p>	<p>Anti-Discrimination Act 1998</p> <p>Work Health & Safety Act 2012</p> <p>Workers Rehabilitation Compensation Act 1988</p> <p>Local Government Act 1993</p> <p>Human Rights & Equal Opportunity Commission Act 1986 (Cth)</p> <p>Racial Discrimination Act 1975 (Cth)</p>
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	Sex Discrimination Act 1984 (Cth) Disability Discrimination Act 1992 (Cth) Age Discrimination Act 2004 (Cth) Fair Work Act 2009 (Cth)
Regulations	N/A
Australian/International Standards	N/A

DEFINITIONS

Complainant means the person making the complaint.

Grievance means a complaint made under this Policy. It is expected this may involve behaviour or action of the General Manager which has, or is likely to have, an unreasonable negative impact on the third party or creates an unsafe working environment.

Contact Officer means a trained employee whose role is to inform and support either the person making a complaint or a person who has a complaint made against them.

EAP means Employee Assistance Programme.

Formal Grievance means a complaint involving matters of a serious nature, or where the parties are unable to resolve the complaint through a discussion.

General Manager means the Glenorchy City Council General Manager or delegate.

Investigative body means an entity such as Tasmania Police, the Ombudsman, Integrity Commission, Fair Work Commission, Tasmanian Civil and Administrative Tribunal, Magistrates Court, Council Audit Panel, Auditor-General's Office, or local government Board of Inquiry.

Mayor includes the Mayor's delegate.

Respondent means the person or persons who have had a complaint made against them,.

POLICY STATEMENT

1. Objective

Council recognises its obligations under Commonwealth and State legislation as set out above and will comply with that legislation.

All formal Grievances where the position of General Manager is a named Respondent are to be managed in accordance with the processes and procedures set out in this Policy.

2. The Grievance Process

Making a Formal Grievance

A formal grievance:

- Must be in writing
- Should identify all of the parties involved
- Should include full details of the grounds of the complaint(s)
- Should include all relevant documents, and
- Should be addressed to the Mayor

Handling a Formal Grievance

- Staff, including the General Manager, must notify the Mayor of the receipt of any Grievance as soon as reasonably practicable.
- The Mayor will acknowledge receipt of a Formal Grievance within five (5) working days of receiving it.
- If the Complainant is an employee of Council, the Mayor will offer them the assistance of a Council Contact Officer.
- The Mayor will, as a first step, determine if the Grievance is of a sufficient gravity to constitute a Formal Grievance. The Complainant may be requested to provide further information.
- If it is determined that the Grievance is not of sufficient gravity to constitute a Formal Grievance, a direction will be made that it be dealt with informally in accordance with a process determined by the Mayor.
- If the subject matter of the Grievance is to be investigated by, or is to be under the direction of, an Investigative body, then the Mayor may suspend any action on the Grievance until that investigation is concluded.

Preliminary Investigation

The Mayor will conduct an initial assessment of the Formal Grievance. They will:

- advise the Complainant how the process will be managed. This may include interviewing the Complainant to clarify any matters. EAP will be offered and information on Council Contact Officers will be provided
- notify the Respondent and advise them of the substance of the complaint and obtain their response to it. EAP is offered
- decide whether further information is required from the Complainant
- decide whether the Formal Grievance warrants any further investigation and if so, how and by whom that investigation will be conducted (Full Investigation)

- decide whether it is appropriate to refer the parties to mediation, and
- decide if the grievance is frivolous or vexatious or without foundation and dismiss it.

Full Investigation

If a full investigation is necessary, the following principles and procedures will apply:

- the Mayor will appoint an independent person or organisation to undertake the investigation.
- the Respondent will be provided with full details of the grievance and given fourteen (14) calendar days to respond to it. This includes being given copies of all documents relied on by the Complainant where appropriate.
- the Complainant will be provided with full details of the Respondent's response to it and will be given seven (7) calendar days to respond to any new and relevant matters raised in response. This includes seeing copies of all documents relied on by the Respondent to the Formal Grievance where appropriate.
- time frames can be extended by the Mayor.
- both parties will be entitled to have a support person present during any meetings or discussions about the grievance.
- other persons who are witnesses or have relevant knowledge related to the grievance may be interviewed.
- all parties will be offered support through the EAP throughout the process.
- if the Formal Grievance involves credible allegations of serious criminal conduct, it will be referred to Tasmania Police for investigation. If the Formal Grievance becomes the subject of a criminal investigation by Police, the Formal Grievance handling process will be suspended until that investigation has been completed and Council has been notified of the outcome.

Resolution

The Mayor will consider all the evidence and make a decision in writing. The Complainant and Respondent will be provided with a copy of the written decision as soon as reasonably practicable following the investigation of the grievance.

The decision will specify:

- whether the Formal Grievance is substantiated
- what further action will be taken, and
- whether the Formal Grievance has not been substantiated and is dismissed.
- In some cases, the parties may be required to participate in mediation even though the Formal Grievance has not been substantiated.

Natural Justice and Procedural Fairness

Natural justice, procedural and substantive fairness will be afforded at all stages of the process. Both parties will be kept informed of progress throughout the process.

Respondents will be treated in accordance with the following principles of procedural fairness:

- they will be fully informed of any allegations against them
- they will be given the opportunity to respond, and
- they will be afforded fair decision making that is without bias.

Natural justice will be afforded to all persons whose rights or interests may be affected. Natural justice means the person affected must have the opportunity to:

- show cause why a particular action should not be taken
- put forward arguments supporting their position
- deny any adverse allegations and provide evidence in support
- present alternative explanations for particular matters, and
- request that a decision or determination is reviewed.

The standard of proof adopted in this area will be based on the civil standard (the balance of probabilities).

Outcomes

If the grievance is substantiated the following may occur:

- the parties may be required to attend mediation
- the Respondent may be required to apologise
- the Respondent may be counselled
- the Respondent may be given a written or verbal warning
- the Respondent may be required to undertake training, or
- the Respondent's employment may be terminated.

If a Grievance is Withdrawn

If a grievance is withdrawn the Mayor may do any of the following:

- conduct a meeting with the Complainant to ascertain why the grievance has been withdrawn
- ask that the Complainant apologise for lodging a grievance against the Respondent
- require the parties to attend mediation
- continue to investigate if deemed to be in the public interest, or
- conclude that the complaint was vexatious, frivolous or malicious.

DOCUMENT CONTROL

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Previous Versions:	V 1.0 adopted 26 February 2018 (Council meeting item 15)				
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ECM Document No.:	Policies by Directorate				