



Shire of Kent Grievance Procedure

1. Procedure

The Shire of Kent is committed to providing employees with a Grievance Procedure, which is based on the principle of fairness outlined in the Grievance Policy, to be used in the resolution of any complaint. The aim of this procedure is to resolve a complaint as quickly and confidentially as possible.

2. Application

This procedure applies to grievances raised by employees, contractors and volunteers engaged or appointed by the Shire of Kent in relation to employment or workplace related matters. This procedure does not apply to the Chief Executive Officer or Elected Members.

3. Definitions

Terms are defined in the Grievance Policy.

4. First step in making a complaint

4.1 Self-resolution or dealing with concern directly

A complainant should attempt to resolve the issue directly with the respondent concerned in the first instance. The complainant should identify the specific conduct of the complaint, explain the impact of that conduct on the complainant, 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.

4.2 Complainant is uncomfortable with direct approach

If a 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 serious, the complainant should seek guidance from Human Resources on the options available to the complainant.

The complainant will have the choice whether to proceed with or withdraw their complaint. If the Shire of Kent deems the complaint to be sufficiently serious, it may continue to investigate the complaint even if it has been withdrawn, to ensure the Shire of Kent complies with its legislative obligations.

5. Informal complaint procedure

5.1 When can a complaint be managed informally?

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

- the allegations are not serious, for example interpersonal conflict or a minor breach of Local Government policies and procedures
- 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.

5.2 Process to follow

The informal complaint procedure may be approached as follows:

- the complainant should approach their direct manager or Human Resources to outline their concerns, the desired outcome and any ideas for resolution of the complaint
- the complainant's direct manager or Human Resources will explain the various options open to the complainant for the resolution of the complaint, and
- if the complainant chooses to proceed with the complaint, Human Resources can either:
 - arrange for a mediation between the complainant and the respondent
 - 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.

5.3 Outcomes

If the matter is resolved to the satisfaction of all parties, the matter will be concluded.

If the matter is not resolved, the direct manager and Human Resources will determine what 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 Human Resources.

6. Formal complaint procedure

6.1 When must a complaint be managed formally?

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

- the complaint involves serious allegations, including but not limited to, sexual harassment, discrimination, criminal conduct, serious or multiple breaches of Local Government policies and procedures, 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 direct manager and Human Resources.

6.2 What should a formal complaint include?

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 including the time, date, location and what was said or done
- if the complaint is about a person, the identity of the respondent 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.

6.3 Preliminary inquiries

Before commencing a formal investigation, the direct manager or Human Resources may conduct a preliminary inquiry.

The purpose of a preliminary inquiry is to:

- obtain details about the complaint and assess the seriousness of the allegations
- determine the level of factual dispute
- assess whether there is sufficient evidence to proceed to a formal investigation, and
- determine whether the Shire of Kent 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, breaches the *Local Government Act 1995* (WA) or may need to be dealt with by the Corruption and Crime Commission.

6.4 Investigation procedure

6.4.1 *External investigator*

If necessary, the direct manager and Human Resources may require a formal investigation to be conducted. The Shire of Kent can elect to appoint a person from outside the organisation to conduct the formal investigation or an appropriate Shire of Kent employee may conduct the investigation.

6.4.2 *Role of an investigator*

The role of an investigator is to collect information about the complaint and make findings about whether any allegations are substantiated. The investigator is responsible for ascertaining facts, reviewing documentation, interviewing parties and making a determination about whether or not the allegations are substantiated. In conducting an investigation the investigator should comply with the Grievance Policy, particularly the principles of procedural fairness. 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 related to the complaint include any documentation such as emails, letters and witness statements, and
- any mitigating circumstances that have been presented through the investigation on behalf of the respondent.

7. Outcome and action

7.1 Substantiated complaints and potential outcomes

The potential outcomes that may be sought if a complaint has been investigated and substantiated will depend on the nature of the complaint. Some possible outcomes include the following:

- an apology from the respondent to the complainant (written or verbal)
- agreement from the respondent that the behaviour will not be repeated
- a respondent may be issued with a verbal or written warning
- transfer, demotion or termination of the respondent's employment
- counselling for the complainant and/or respondent
- a mediation between the complainant and respondent
- implementation of a training program, or
- changes to the Shire of Kent's policies.

7.2 Disciplinary action

The outcome of the investigation will dictate whether disciplinary action is taken. What disciplinary action is taken is a matter of discretion for the Shire of Kent and must be considered in accordance with the Disciplinary Policy.

7.3 Performance concerns

If the complaint involves a performance issue, the direct manager of the respondent may commence a formal or informal performance management process with the respondent or discipline the respondent in accordance with the Disciplinary Policy.



8. Vexatious or malicious complaint

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

9. Other resources

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

- an Employee Assistance Program
- use of an independent investigator, or
- use of an independent mediator.

10. Variation to this procedure

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

11. Related documents

11.1 Internal

- Code of Conduct
- Disciplinary Policy
- Discrimination, Harassment and Bullying Policy
- Grievance Policy

11.2 External

- *Corruption, Crime and Misconduct Act 2003 (WA)*
- *Local Government Act 1995 (WA)*