	POLICY NUMBER:	P31
	DISPUTE RESOLUTION, COUNSELLING, DISCIPLINING AND DISMISSAL	
	CATEGORY:	COUNCIL POLICY
	SP CLASSIFICATION:	GOVERNANCE
	LG ACT 2019 REF:	Part 172
	RESPONSIBLE OFFICER:	CHIEF EXECUTIVE OFFICER

1. PURPOSE

The primary purpose of this policy is to establish a fair, equitable and consistent process for addressing grievances or disputes within the workplace, unsatisfactory work performance or alleged instances of inappropriate behaviour or misconduct. The principles of fairness, equity and natural justice will be applied.

2. SCOPE

This policy applies to all grievances raised by all workplace participants including Elected Members of Council and Council committees, employees, contractors and volunteers appointed to Wagait Shire Council and ensures all are treated fairly and consistently and that appropriate action is taken promptly. All reasonable opportunity will also be provided to employees to improve their performance where required.

All workplace participants are bound by the Wagait Shire Council Code of Conduct, employment agreements, role descriptions and internal policies and procedures that provide clarity regarding expected behaviours and conduct of all staff members.

3. DEFINITIONS

Term	Definition
Code of Conduct	The standards of behaviour expected of all employees as outlined in Wagait Shire Council Policy P05 Code of Conduct.
Workplace Participants	Includes all Elected Members, Council employees, contractors, consultants, committee members and any individual or group undertaking activity for or on behalf of the Council.
Employees	Means all those employed by Council including full-time, part-time, contract and casual employees.
Volunteers	Means all volunteers appointed or contracted to the Council, including Council Committee Members.

Natural Justice	The right to be given a fair hearing and the opportunity to present one's case, and the right to have a decision made by an unbiased or objective decision maker.
The Award	Means the Local Government Industry Award 2020.

4. POLICY

All counselling, dispute resolution and disciplinary matters will be kept confidential and be dealt with in a professional manner in accordance with the requirements of the *Local Government Industry Award 2020*.

4.1. Whistle-blowers

Workplace participants have an obligation under the Code of Conduct to report any concerns to management who will treat the matter with complete confidence. If workplace participants are not satisfied with the explanation or reason given the issue should be raised with the appropriate organisation or body, eg the police, the Environment Protection Agency or the health and safety regulator.

Whistle-blowers will not suffer any detriment as a result of any genuine attempt to bring to light matters of concern. However, if this procedure has not been invoked in good faith (eg for malicious reasons or in pursuit of a personal grudge), the whistle-blower may be subject to disciplinary action up to and including termination.

4.2 Dispute Resolution, Counselling and Mediation

The Wagait Shire Council is committed to ensuring that staff have access to an appropriate grievance resolution process. This is to ensure that a fair and equitable process is followed and actively encourages employees to follow the process in order to resolve workplace grievances.

All employees will be invited to discuss matters with their respective supervisor or co-worker openly and positively. If matters cannot be resolved efficiently and professionally, the employee may contact the Chief Executive Officer (CEO) for assistance. The CEO will see parties individually and/or as a group, to mediate and resolve any outstanding matters. Where resolution cannot be attained, professional mediation and/or counselling services will be called upon.

Throughout the process, all employees may seek guidance and support from a peer or union representative, who are also subject to confidentiality as described at 4.1.

4.3. Self-Resolution

A complainant should attempt to resolve the issue directly with the person(s) concerned. The complainant should identify the specific conduct that has caused offence, explain the impact of that conduct on them and request that the conduct stops. This attempt should be made as soon as possible.

If the complainant is not comfortable attempting to resolve the issue directly with the

person(s) concerned, or if their attempts to resolve the issue are unsuccessful, they should lodge a written complaint.

4.4. Making a Complaint

Written complaints should be made to the complainant's immediate supervisor. If the complaint is about the supervisor, the complaint should be made to the next most senior manager, who will handle the complaint or refer it to another manager at an appropriate level.

If the complaint is about the CEO of Council, the complaint must be made to the President of the Council. The complaint follows the same process described below and should be made as soon as possible.

All complaints should include the following information:

- a) The complainant's name and contact details
- b) Details of the specific incident or issue being complained about
- c) If the complaint is about a person(s), the identity of the person(s) being complained about and their relationship to the complainant
- d) The remedy/outcome the complainant is seeking
- e) Action already taken in an effort to resolve the issue

Complainants should be aware that the supervisor handling their complaint will generally need to disclose details of the complaint to the respondent (if there is one) in order to afford them procedural fairness.

Complainants should consider how they would like their complaint to be handled and indicate their preference from two options: Informal or Formal.

Informal: The informal complaint procedure is more appropriate for less serious issues such as interpersonal conflict or the application of Local Government policies and procedures. The informal procedure may also be appropriate where the parties are likely to continue working together.

Formal: The formal complaint procedure is suited to serious issues such as sexual harassment, discrimination or other similar conduct. It may also be appropriate for sensitive matters or where there is a high level of factual dispute. If the complainant would like their complaint handled under the formal complaint procedure, the complaint must be made in writing and copied to the CEO.

The CEO may still take action without a written complaint if it considers a staff member's health, safety or wellbeing is in jeopardy or if the CEO considers that misconduct or serious misconduct may have occurred.

Whilst the CEO will take into account the complainants preferred option for handling the dispute, the CEO is ultimately responsible for determining which process will be used.

4.4.1. Informal Complaint Procedure

The Complainant's supervisor is responsible for conducting the informal complaint procedure. Under the informal complaint procedure there is a broad range of options for resolving the complaint to the satisfaction of all parties.

The supervisor should take action to resolve the complaint within 14 days.

The following list provides possible options for resolving the dispute in accordance with the informal complaint procedure.

- a) The supervisor meeting with the complainant and respondent (either separately or together) to discuss the issues and explore possible solutions
- b) The supervisor writing to the complainant and respondent to obtain further information about the complaint and explore possible solutions
- c) The supervisor requesting approval from the CEO to arrange a mediation or conciliation session
- d) The supervisor exploring an issue on behalf of the complainant and options to address the issue

If the matter is resolved to the satisfaction of all parties, the matter will be concluded. If the matter is not resolved, the supervisor handling the complaint will determine whether any further action is required. The complainant may also respond if the matter is not resolved.

Information collected during the informal complaint procedure may be provided to the person handling the formal complaint.

4.4.2. Formal Complaint Procedure

The person responsible for conducting the formal complaint procedure is the complainant's supervisor. If the complaint is serious or complex, or if there is a real or perceived conflict of interest, the matter can be referred directly to the CEO. If the complaint is raised against the CEO, then the complainant can request for the matter to be dealt with by the Council President.

4.4.3. Part A: Preliminary Inquiry

Before commencing a formal investigation, the supervisor will normally conduct a preliminary enquiry. The purpose of a preliminary enquiry is to:

- a) Obtain details about the complaint and assess the seriousness of the allegations;
- b) Determine the level of factual dispute;
- c) Assess whether there is sufficient evidence to proceed to a formal investigation

A preliminary enquiry normally involves collecting information from the complainant and the respondent about the complaint. It does not normally involve interviewing witnesses. A preliminary enquiry should be conducted within 21 days of the complaint having been made.

The supervisor will consider the information and determine the next steps.

A matter should not proceed to a formal investigation or misconduct proceeding if there is insufficient evidence, the matter is not serious enough to warrant a formal investigation or misconduct proceeding or if there is not (or little) factual dispute. The supervisor should notify the complainant of the decision and provide reasons for their decision.

4.4.4. Part B: Formal Investigation

If deemed necessary, the supervisor is to conduct a formal investigation, or where there is a real or perceived conflict of interest, can elect to have the CEO or an externally appointed person from outside Council conduct the formal investigation.

The role of the person investigating (investigator) is to collect information about the complaint and make findings about whether the factual allegations are substantiated. The investigator should focus on determining the facts. The investigator should not determine outcomes, this is the role of the CEO. Where the complaint is raised against the CEO, then the outcomes will be determined by the Council.

A formal investigation should be conducted within 6 weeks of the complaint having been made.

4.4.5. Determination of outcomes

The outcomes of the informal or formal complaint procedure will vary depending on the circumstance. Some possible outcomes include:

- a) The parties getting a clear understanding of the issue
- b) An apology (written or verbal)
- c) A change in working arrangements
- d) A commitment to change behaviour
- e) Guidance, counselling or warnings being issued
- f) Disciplinary action

Under the informal complaint procedure, the supervisor handling the complaint is responsible for determining outcomes through discussion and consultation with the parties.

Under the formal complaint procedure, the CEO is responsible for determining outcomes and advising the complainant and the respondent. It may also be appropriate for the supervisor handling the complaint to consult with the CEO about any outcomes which affect the respondent.

Where the complaint is raised against the CEO, then the outcomes will be determined by the Council at a Special Meeting.

A determination of outcomes should occur within 7 days after the conclusion of the complaint procedure.

4.5. Disciplinary Procedure

Whenever an employee is required to attend a meeting regarding a disciplinary issue, the employee may have a support person present where practicable. The type of disciplinary

action taken against an employee is at the Local Government’s discretion and the type of disciplinary action will depend on the seriousness and frequency of any misconduct or performance issue.

Disciplinary action, except in cases of serious misconduct, fraud, and corruption, is an incremental process and can be terminated at any stage. The procedure for implementing disciplinary action is outlined below and in the Process Charts attached:

- Fig 1 – Performance Discipline Process
- Fig 2 – Incident Discipline Process

Offence	1st occasion	2nd occasion	3rd occasion	4th occasion
Unsatisfactory conduct	Formal verbal warning	Written warning	Final written warning	Termination with notice
Misconduct	Final written warning	Termination with notice		
Serious misconduct	Termination with notice			

4.5.1. Step 1 - Warning, Guidance and Counselling

Where an employee’s work performance or conduct is considered to be unsatisfactory, the employee shall be informed, in the first instance, of the nature of the unsatisfactory performance or conduct and of the standard that is required to be achieved.

The employee will be interviewed by their immediate supervisor. The employee has the option of having a peer or union representative present at this interview. The employee will have an opportunity to respond to the allegation(s).

The purpose of the interview will be to identify the causes of the problem and agree on solutions. Where the problem is acknowledged by the employee, a corrective action/performance management plan will be agreed by the employee. A review date will also need to be agreed upon to allow reassessment of the employee to be discussed and assessed.

Should the requisite improvement be forthcoming, it will be acknowledged by the supervisor and no further action will be taken. If no satisfactory improvement occurs, then the matter will proceed to step 2.

A written record of the interview must be kept by the CEO and a copy of the report is to be given to the employee concerned for their own records

4.5.2. Step 2 - Formal Warning

Where there is a recurrence of unsatisfactory work performance or conduct, the employee shall be warned formally in writing by the employee’s supervisor.

The employee shall also be counselled. Counselling should reinforce the standard of work or conduct that is expected and advise the severity of the situation and whether disciplinary action will follow, if the employee's work performance or conduct does not improve. A suitable review period for monitoring the employee's performance will be set at this time.

A written record will be kept of any correspondence for a formal warning and counselling. The employee will be entitled to sight and sign this written record and add any notations regarding the contents of such record.

4.5.3. Step 3 - Final Warning

If the employee's unsatisfactory work performance or conduct continues or resumes following the formal warning and counselling, the employee shall be given a final warning in writing giving notice that disciplinary action will be taken should the unsatisfactory work performance or conduct not cease immediately.

4.5.4. Step 4 – Disciplinary Action

If, after careful consideration and investigation, the CEO reaches the conclusion that the alleged offender is guilty of a breach of discipline which warrants penalty, the CEO may impose one or more of the following:

- a) A change of duties
- b) Performance management
- c) Lateral transfer
- d) Demotion
- e) Suspension or termination of employment

4.6. Termination and dismissal

In cases other than summary dismissal, an employee's employment may be terminated with notice or payment in lieu of notice provided the Local Government has a valid reason for terminating the employee's employment and the employee has an opportunity to respond to the reasons for termination.

4.7. Serious Misconduct, Fraud and Corruption

In cases of serious misconduct, fraud or corruption, workplace participants are required to report suspicions or allegations of fraud and corruption. Workplace participants and Elected Members must familiarise themselves with their obligations under Council's policies, associated procedures and related legislation listed at 5. Associated Documents.

All allegations and suspicions of fraud and corruption will be reported to authorities and investigated. All substantiated cases will be dealt with appropriately either by criminal, disciplinary or administrative mechanisms appropriate to the case.

Workplace participants may be suspended while an investigation occurs and will be

dismissed if serious misconduct, fraud or corruption is proved.

Please refer to Council Policy P50 Fraud and Corruption Protection for reporting processes.

5. ASSOCIATED DOCUMENTS

P05 Code of Conduct
P08 Human Resource Management
P32 Discrimination, Harassment and Bullying
P33 Work Health and Safety
P50 Fraud and Corruption Protection
Wagait Shire Council Employee Handbook

6. REFERENCES AND LEGISLATION

Fair Work Act 2009
Local Government Act 2019 (NT)
Local Government (General) Regulations (NT)
Local Government Industry Award 2020

7. REVIEW HISTORY

Date Approved: 17/01/2017	Approved By Council Moved: V Pres B Irvine Seconded: Cr T Dyer Vote: Carried	Resolution No. 2017/06	Date for review: Next Council Election
Date Approved: 21/02/2017	Approved By Council Moved: Pres Peter Clee Seconded: Cr A Richmond Vote: Carried	Resolution No. 2017/14	Date for review: Next Term of Council
Date Approved: 21/07/2020	Approved By Council: Moved: Cr Michael Vaughan Seconded: Vice President Tom Dyer Vote: AIF	Resolution No. 2020/115	Date for review: 2022
Date Approved: 22/03/2022	Approved By Council: Moved: Vice President Tom Seconded: Dyer Cr Michael Vaughan Vote: AIF	Resolution No. 2022/048	Date for review: Next Term of council

FIG 1. Performance Discipline Process

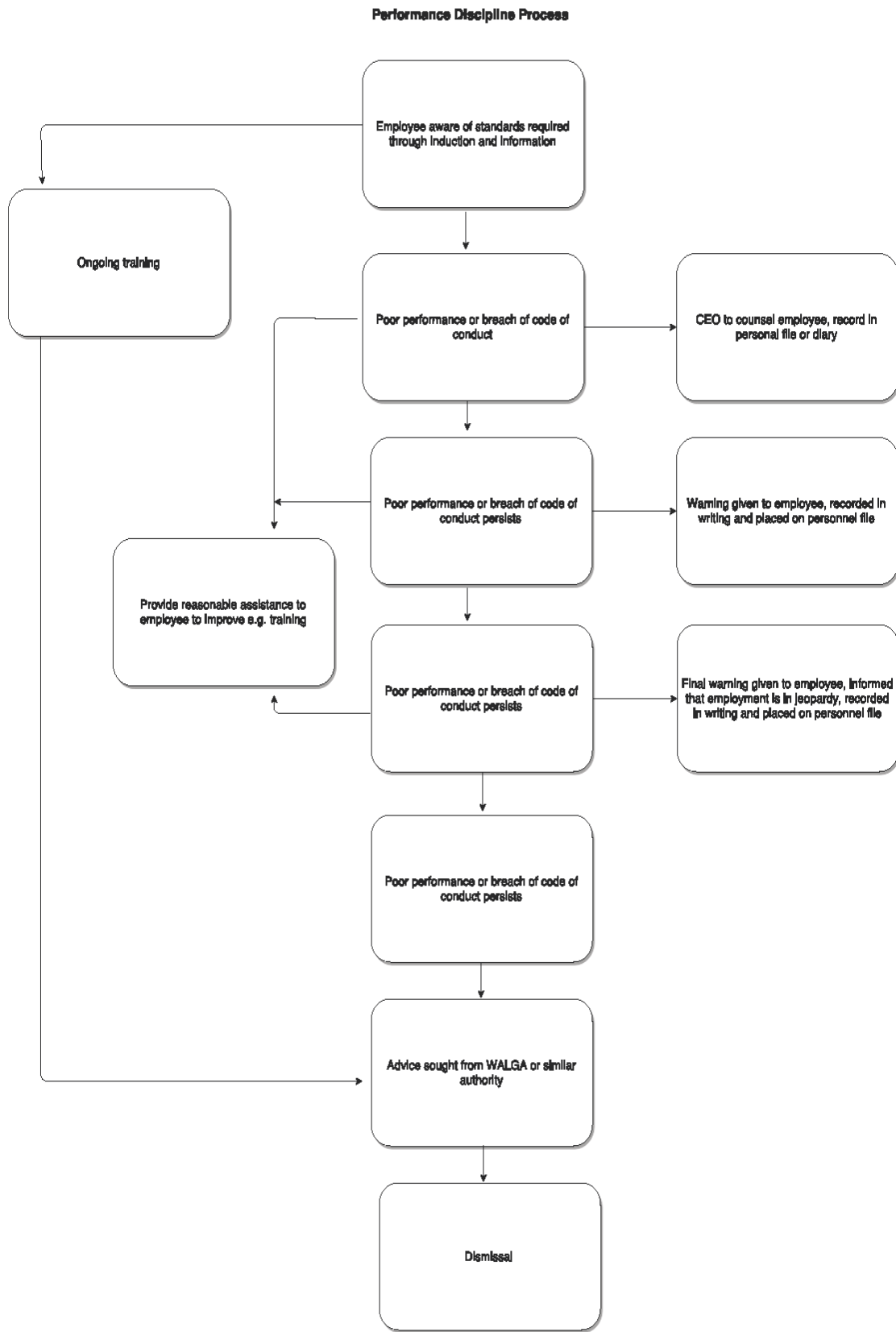


FIG 2. Incident Discipline Process

