

Employee Code of Conduct

Procedure Number	125
Date adopted	December 2021
Scheduled for review	December 2024



Procedure

Purpose

Section 49 of the Victorian Local Government Act 2020 requires that the "Chief Executive Officer must develop and implement a code of conduct for members of council staff".

This Employee Code of Conduct (Code) establishes a minimum standard of behaviour that applies to all employees during work time or when they might reasonably be perceived to be representing the Campaspe Shire Council (Council) outside of work hours. The Code is a tool that aims to positively shape the culture at Council.

Procedure Statement

1. Introduction

This Code provides a comprehensive overview of the expectations of employees of Council.

In many instances other Council policies, procedures and guidelines will provide more detail for specific circumstances. This Code requires employees, in the conduct of their employment, to:

- Provide responsive services.
- Act impartially.
- Act with integrity and avoid conflicts of interest, and
- Accept accountability for results.

This is further supported by Council's values of:

- Respect - we treat others as we expect to be treated.
- Customer Focused - we are here to help.
- Continuous Improvement - we are a learning organisation.
- Teamwork - we support one another and work cooperatively.
- Accountability - we are responsible for our actions.

It is expected that all employees will exhibit Council's organisational values in interactions with their colleagues and members of the community.

2. Scope

This Code applies to all employees of Council, including the Chief Executive Officer (CEO).

3. General Conduct

All Council employees are required to act in a professional manner in accordance with the laws that govern Council. In addition, employees must:

- Consider their legal obligations (in accordance with Related Legislation section contained within this policy) and to this Code of Conduct.
- Reflect positive behaviour that enhances the image of Council.

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- Refrain from making any comments regarding other people, or Council as an entity, that would be considered derogatory or inappropriate.
- Refrain from engaging in conduct that has the potential to bring Council or the municipality into disrepute.
- Not make decisions outside the scope of their position description.
- Treat councillors, employees, suppliers, contractors, and members of the public with courtesy and with respect for their rights and provide all necessary and appropriate assistance.
- Refrain from the use of profanity, particularly directed towards other people in an offensive manner.
- Immediately advise their supervisor if they have been convicted or found guilty of a criminal offence.
- Immediately advise their supervisor if their qualification(s), professional accreditation(s), licence(s), registration(s), permit(s) or visa(s) relevant to the performance of their duties and their employment, are revoked or expire.
- Act with reasonable care and diligence in performing their duties and functions. This includes:
 - Work in accordance with Council policies, decisions, and practices in a professional manner.
 - Maintain and improve effectiveness and efficiency of service delivery and activities for which employees are responsible.
 - Ensure the appropriate and responsible use of Council resources.

4. Standards of Conduct

This section details a list of behaviours and standards that employees should comply with in the workplace and lists the documents that will assist in addressing specific issues. The list does not cover all situations or eventualities and employees should seek advice from their direct supervisor or the Human Resources Department if they are in any doubt.

4.1 Safety

Employees must consider their own safety and the safety of those around them while at work. This includes:

- Following health and safety policies, guidelines, and procedures.
- Using protective clothing or equipment provided at all required times.
- Immediately reporting any injury, near miss, damaged equipment or any other hazard observed.

4.2. Health and Wellbeing

4.2.1. Lifeworks

Council's Employee Health and Wellbeing provider - *Lifeworks* – is available for all staff and their immediate family members. This is a service where you can confidentially discuss any work or personal issues that are of concern to you. The contact number is: 1300 361 008.

4.2.2. Employee Health and Wellbeing

As part of their appointment all employees are required to comply with health orders and/or any other health and safety obligations imposed on Council from time to time.

4.3. Bullying, equal opportunity and workplace violence

In accordance with the Equal Opportunity Act 2010 and the Victorian Occupational Health and Safety Act 2004, Council has a duty to prevent and eliminate any form of bullying, discrimination, harassment, and sexual harassment in the workplace.

All employees have a responsibility to respect the rights of one another and to promote diversity, inclusion, safety and equal opportunity. Council will not tolerate breaches of the Respect and Equal Opportunity procedure.

Council is committed to preventing and, if it occurs, managing bullying, harassment, workplace violence, discrimination, or victimisation in the workplace. All employees must therefore be aware of and comply with Council's *Respect and Equal Opportunity Policy and Procedure* and the *Prevention of Violence in the Workplace Procedure*.

4.3.1. Council is committed to ensuring that:

- A safe workplace is provided for all employees.
- Appropriate training is provided to employees to identify and prevent workplace bullying, discrimination, harassment, and sexual harassment.
- Appropriate training is provided to employees to afford equal opportunity.
- Reported breaches of the procedure will be dealt with seriously, promptly and confidentially.
- Recruitment is facilitated in a fair and equitable manner to support equal opportunity.
- Contact Officers are appointed and appropriately trained for employees to seek support to raise issues in accordance with the Respect and Equal Opportunity Procedure.

4.3.2. Employees are expected to:

- Lead by example and display behaviour consistent with Council's organisational values.
- Comply with the Respect and Equal Opportunity Procedure.
- Speak up if inappropriate behaviour has been observed.
- Actively participate in training to identify and prevent workplace bullying, discrimination, harassment, sexual harassment, and to promote equal opportunity.

4.3.3. Disputes

Employee disputes which should be initiated using the Grievance Procedure will be dealt with in accordance with Council's Grievance and/or Disciplinary Procedures.

The procedure used will be determined following a review of the grievance which may lead to a range of outcomes e.g. upheld (in whole or part), dismissed (in whole or part), referred for disciplinary review etc.

4.4. Conflict of interest

In accordance with *Section 130 (2) (a)* of the *Local Government Act 2020*, Council requires all employees to disclose any material or general Conflicts of Interest (real or perceived).

A conflict of interest may occur in any situation in which an employee has a private interest, and which may interfere with his or her objectivity in performing their duties on behalf of Council.

A private interest includes a potential benefit or loss, either directly or indirectly, to the following:

- The employee.
- A family member of the employee.
- A body corporate of which the employee or their spouse or domestic partner is a director or a member of the governing body.
- A secondary employer of the relevant person unless the employer is a public body.
- A business partner of the employee.
- A person for whom the employee is a consultant, contractor, or agent
- A beneficiary under a trust or an object of a discretionary trust of which the employee is a trustee
- A person from whom the employee has received a disclosable gift.

In *Section 8.3.1 (1) of Council's Governance Rules*, it is the responsibility of the employee concerned to disclose potential conflicts of interest to their direct manager/supervisor. This must be done before an employee exercises a power of delegation or provides advice on a matter being considered by a delegated officer, Council, or a committee.

Any conflict of interest, whether real or perceived, that is lodged/disclosed must be provided to the Manager Governance for recording in the register of Conflicts of Interest.

Alleged and actual breaches of Conflict of Interest will be dealt with as per *Section 7* of the Code.

4.5. Confidentiality and privacy

Employees have a duty to maintain the confidentiality of information obtained in the course of their employment.

Council collects information about individuals, commercial enterprises and businesses which may be personal, private and/or sensitive. Employees should only search for information from the records management systems about matters related directly to their work. They must not use information gained at work for private purposes.

Types of confidential information may include, but are not limited to, personal/health information, intellectual property, commercial documents, computer software and programs, policies, financial affairs, strategic and business plans.

Employees can ensure they are maintaining privacy and confidentiality by:

- Taking care not to discuss work matters with anyone not entitled to know such information.
- Taking responsibility to safeguard confidential files and information.
- Ensuring screens are locked when leaving their computer.
- Complying with rules about sharing, correction, storage, and destruction of information.
- Seeking advice from their supervisor or Council's Privacy Officer when in doubt about how to proceed.
- Not discussing performance or human resources issues that may have been discussed with the employee as part of their role with any other party.
- Report any actual or perceived breach of privacy immediately to the Manager Governance and Manager Human Resources.

4.6. Customer service

Employees are expected to understand, use, and apply Council's *Customer Service Charter*.

To provide quality customer service that responds to the needs of our community, employees must work in collaboration, share responsibility, and assist each other. Employees are expected to share information with others and cooperate across work areas, treating each other with respect, courtesy, and goodwill.

4.7. Engagement in work outside of Council

Outside engagements (paid or unpaid) may pose risks to health and safety or result in conflict-of-interest issues. All full-time employees must seek written consent from their General Manager and the Manager Human Resources for any outside employment as well as any other outside involvement that may reasonably relate to their Council duties.

Employees who perform paid or unpaid work outside of Council are responsible for ensuring that this additional work does not:

- lead to a conflict of interest.
- involve using confidential information obtained through their work with Council.
- affect or use Council time or resources.
- discredit or disadvantage Council.
- interfere with an employee's ability to do their Council work (such as fatigue, start/finish times, etc), and

Ensure that such work is kept separate from Council work and is consistent with Occupational Health and Safety (OHS) requirements.

4.8. Environment

All employees should consider the impact of their activities on the environment and on the community. Such things to be considered include water efficiency, waste disposal, the way chemicals are used and stored and other resources. Noise pollution should be kept to a minimum, particularly in open office environments. Employees must minimise waste and ensure that recycling and organic bins are used.

4.9. Fairness and equity

When representing Council to the community, employees are expected to:

- Provide an accurate and fair representation of information.
- Conduct themselves in a manner that will not reflect unfavourably on Council.
- Decline and report offers of bribes/incentives.

Employees are expected to work together in a team approach and in an environment of mutual respect, trust, and acceptance. This includes:

- Mature and constructive working relationships built upon courtesy and respect.
- Acceptance and respect for the different but complementary roles in achieving Council's objectives.
- Respect for elected Councillor roles.

4.11. Fitness for duties

Council has a responsibility to provide and maintain a working environment that is safe and without risk to health.

Employees must present in a fit condition to undertake their duties without risk to their own safety, the safety of other employees and the public. An employee's fitness for work may be impaired by a variety of factors including the adverse effects of medical conditions, level of physical fitness, fatigue, stress, or the use of alcohol and other drugs. Working under the influence of alcohol or drugs is prohibited in the workplace and may result in summary dismissal.

Employees must not consume alcohol anywhere in the workplace other than at Council functions or other special events, which must be authorised in advance by the Chief Executive Officer. For more information, please refer to the *Fitness for Work Procedure*.

4.12. Fraud and theft

Fraud is defined as "dishonestly obtaining a benefit by deception or other means". Employees must not engage in dishonest activity causing actual or potential financial loss or detriment to Council that might result in:

- Council being overcharged for goods and/or services.
- Council being deprived of income to which it is entitled.
- Council's assets/property being stolen.
- Willful provision of incorrect information (for example, incorrect timesheets, not submitting leave requests when leave taken, etc.)
- "Borrowing" Council assets for personal use without permission.
- Misappropriated losses being incurred by Council.
- Misuse of Council assets.
- Exposure of Council for breaches of any laws.
- Purchasing "kickbacks"; or
- Gaining any benefit from Council including intangibles such as 'rights' and information.

Council does not condone the perpetration of theft or fraud and in consequence, will seek to recover losses from employees who have been found guilty of fraud. Any employee found guilty of the theft of Council property will be dismissed.

The prevention and detection of theft and fraud is the responsibility of every employee. All employees should be aware of their role in relation to fraud prevention, and any instances of fraud or suspected fraud must be reported in accordance with the *Grievance Procedure*.

4.13. Gifts and hospitality

The acceptance of gifts, benefits or hospitality can involve a conflict of interest or the perception of a conflict of interest.

It is therefore recommended that employees not accept any gift, benefit, or hospitality. It is recognised that at times attending a function may be part of an employee's role, however any such invitations should also be reported.

Any gift that is inconsistent with community values and could bring an employee's integrity, or that of the Council, into disrepute (e.g. if accepting a gift could be perceived as an endorsement of a product or service) must be declined.

Any gifts or hospitality accepted by an employee remain the property of Council and must be declared on the *Gifts, Benefits and Hospitality Declaration form*. When completed the form must be provided to the Governance Team for inclusion in Council's Gifts, Benefits and Hospitality Register.

4.14. Information Communication Technology (ICT) and media

Council telephones, printers, email, and internet facilities are for business use. Private use of these services must be kept to a minimum, provided that this use does not impact on work performance, other work responsibilities or system performance. The use of email or other media to distribute or store offensive or inappropriate material (for example pornography, depictions of extreme violence, racial vilification, or hatred) and/or access to inappropriate internet sites will not be tolerated under any circumstances and may lead to disciplinary and/or criminal charges.

Employees should be aware that the Council's ICT assets are regularly scanned and checked for unwanted threats, viruses, and employee usage.

Council recognises that it is occasionally necessary to make and receive personal telephone calls at work on Council telephones or your personal mobile phone. These calls should be kept to a minimum and wherever possible calls should be made and received while you are on designated breaks. In open office environments, phones should be kept on silent.

Council employees should not provide information directly to the media (either verbally or via a media release/statement) unless authorised by the Chief Executive Officer or the Manager Communications.

Non-work-related use of social media sites such as Facebook, LinkedIn, Twitter, YouTube etc should only be viewed/accessed during designated breaks. When using social media for work purposes, Council employees are expected to have obtained appropriate authorisation and behave with caution, courtesy, integrity, and respect.

Employees are required to follow any EMG approved ICT guidelines provided in support of the ICT policy including adherence to all ICT security guidelines and controls to protect and secure corporate information systems from unauthorised access.

More information is available in the *Social Media Policy*, *ICT Policy*, and the *Media Relations Policy*.

4.15. Intellectual property rights

Council owns all rights (including any intellectual property rights) in any works, ideas, concepts, designs, inventions, developments, improvements, systems or other material or information created by employees and volunteers during their employment that:

- relates directly or indirectly to their employment.
- assists in the performance of their roles.
- was created as the result of using Council resources; or
- otherwise relates in any way to Council business and activities.

Current and former employees must not use their acquisition of specialised or confidential knowledge, such as trade secrets, to the detriment of Council.

4.17. Public Interest Disclosures

The Public Interest Disclosures Act 2012 provides protection to people who come forward with a disclosure about improper conduct by public bodies or public sector employees. Council does not tolerate improper conduct by its employees, contractors, agency, temporary staff or volunteers, nor the taking of reprisals against those who come forward to disclose such conduct.

More information about making a disclosure is available in Council's *Public Interest Disclosures Procedure*.

4.18. Procurement and Cash Handling

Employees must adhere to Council's contracting and procurement policies and guidelines when purchasing goods, works and services. This ensures that all purchasing represents best value, is conducted in a transparent and accountable manner, with minimal risk to Council and promotes the highest level of procurement probity and ethical behaviour.

Employees must maintain high standards of accountability when managing money and maintain accurate records of financial transactions. In no circumstances are employees permitted to borrow or use Council money for private / personal purposes.

Refer to Council's *Procurement Policy* and *Cash Handling Procedure* for more information.

4.19. Record Keeping and Document Disposal

Council's records are a major component of its corporate memory and as such are a vital asset that support Council's ongoing operations, provide an evidence base for future decision making and provide a valuable record of Council's business activities over time.

All employees have a responsibility to understand their record keeping obligations to create, capture and manage appropriately complete and accurate records of Council's business. This includes records of decisions made, actions taken and transactions of daily business in accordance with Council's record management program, the *Records Management Policy* and Council's records management procedures and processes.

Employees must not destroy or alter (in an unauthorised manner), falsify or tamper with any business documents and records that are required to be maintained for a statutory period. Corporate records should not be removed from Council premises unless authorised by the employee's direct manager. Employees must also maintain adequate documentation to support any decisions made.

For more information, employees can review the *Records Management Policy* on the intranet or speak to a member of the Information Management Team.

4.20. Reference Checks/Statements

Verbal and/or written referee statements can only be provided by the CEO, General Managers and Managers.

If you are pursuing other employment and need to provide Council referees, these can only be a manager or general manager. No other employee is authorised to provide employment information on behalf of Council. Further advice and clarification can be sought from the Manager Human Resources.

4.21. Relationships with others

Council employees are required to be fair, reasonable, and honest in their dealings with individuals and/or organisations and behave in a manner that facilitates constructive communication between Council, other employees, and the community. This includes:

- Only taking direction from management, not Councillors, in carrying out their duties. Any instances of Councillors giving direction to employees must be reported to the Chief Executive Officer via the relevant General Manager.
- Having an awareness of any situation that may create tension between public and private roles.
- Respecting the opinion and property of others.
- Avoiding the inappropriate use of an employee's position to gain an advantage for themselves and others.
- Following lawful directions or instructions given by their line manager or by any person having the authority to give reasonable directions. This applies regardless of whether an employee agrees with the direction or instruction.
- Answering fully and truthfully all questions within the scope of employment.

4.22. Smoking

Smoking is not permitted in Council buildings, workplaces, vehicles, and areas designated as non-smoking under Victorian tobacco laws and in accordance with Council's *OHS -031 Smoking in the Workplace*.

4.23. Uniform

On commencement employees working in services that require the wearing of a compulsory corporate uniform will be provided with items as set out in Attachment 1.

In second and subsequent years employees will be provided with a maximum allowance to purchase additional corporate uniform pieces in addition to, or replacement of the initial allocation.

4.23.1. Compulsory Corporate Uniforms

All compulsory corporate uniforms must be purchased through an approved supplier of Council recognising that:

- the uniform has a Campaspe Shire Council logo included.
- the approved supplier has stock available all year around; and
- new employees can order in either summer or winter.

If employees wish to purchase additional items outside their annual allowances, Council will contribute 50% of the uniform cost (capped at the amount set by the Executive Management Group).

Exceptions

There may be occasions when circumstances prevent the corporate uniform being worn such as undertaking an extraordinary task, or some types of training, or on other occasions as determined by the Chief Executive Officer.

4.23.2. Return of Corporate Uniform

When an employee leaves Council's employ, they will be required to return all garments that have a Campaspe logo on them. Uniforms must be clean (either laundered or dry cleaned) and be returned before the last day of employment.

When footwear is provided for employees, the employee is required to exchange the old footwear (e.g. work boots) when collecting the new.

4.23.4. Sale of Corporate Uniform Pieces

If an employee has no further use for a piece of corporate uniform must be returned to Council (laundered or dry cleaned). No piece of used / secondhand corporate uniform may be 'sold' to another staff member.

4.23.5. Dress standards

Employees must ensure their appearance is professional, neat, clean, and appropriate for their area and type of work (this includes all clothing, accessories, hygiene and footwear).

Clothing should be comfortable and consider the following factors:

- Health and Safety / mandatory PPE requirements
- Requirement for a compulsory uniform (refer to 4.23.1 Uniforms)
- Type of duties to be performed
- Level of contact with clients, community members and external business.

The dress standard is unable to cover all contingencies, so employees are expected, based on the information in this Code, to use their best judgement in their choice of suitable clothing to wear to work, noting that their Manager/General Manager may interpret the Code differently.

Campaspe Shire branded clothing (uniform) must be worn in a complete fashion and not mixed and matched.

4.23.6. Name Badge

It is a requirement that employees always wear their Council name badge while performing their duties, at official functions and when engaging with the community.

4.23.7. Casual Clothes Days

Employees may wear casual clothes only on days nominated as such by the Chief Executive Officer.

4.23.8. Management Action

If a manager considers that an employee's attire is inappropriate, according to the requirements set out in this policy, they should approach the individual and ask for appropriate changes to be made.

Disputes over dress and presentation standards between the manager and employee should be referred to the Manager Human Resources.

4.24. Working with children and young people

Council is a 'Child Safe' organisation, and our employees are expected to adhere to relevant policies, procedures, legislation, and practices that represent the wellbeing, safety, and best interests of working with children and young people. This includes, but is not limited to:

- Being a positive role model to children and young people.
- Promoting the participation of children; listening to them, valuing their ideas, and taking them seriously.
- Using language that is respectful and positive, not humiliating, or discriminatory.
- Using appropriate behaviour management techniques.
- Not arranging to see or contact children or young people outside program times.

- Using appropriate physical contact.
- Raising concerns for the safety and wellbeing of a child in accordance with Council processes.
- Promoting open, transparent, and accountable environments for children and young people.
- Ensuring appropriate levels of supervision for all children.

It is the employee's responsibility to ensure they hold current Working with Children checks (if required) in accordance with their position description and follow Council's *Child Safe Policy*.

5. Breaches of the Code

A breach of the Code can damage personal, business, public and work relationships, and reputations, and have serious consequences for individuals.

Witnessing breaches of the Code, and staying quiet about it, may have many similar adverse effects.

It is important to remember that *"the standard we walk past is the standard we accept"*. Any employee who observes inappropriate behaviour has the right and an obligation to report it by following Council's *Grievance Procedure*, see Attachment 3.

Employees have the right to lodge a complaint when they feel they have been unfairly or inappropriately dealt with regarding the Code. Complaints of this nature will be dealt with in accordance with Council's *Grievance Procedure*, see Attachment 3.

In the event of a proven breach of this Code, appropriate action will be taken in accordance with Council's *Disciplinary Action Procedure* and treated individually with all relevant circumstances being considered.

In some cases, the breach may constitute a criminal offence or breach of other legislation and be prosecuted by an external authority such as Victoria Police, IBAC (Independent Broad-based Anti-Corruption Committee) or WorkSafe.

Human Rights

This Code has considered and complies with the Human Rights and Responsibilities contained in the *Victorian Charter of Human Rights and Responsibilities Act 2006*.

Definitions

Employees	For the purposes of this document, when the word 'employee(s)' is used, it also means contractors working in-house, temporary labour hire employees, trainees, volunteers, and work experience or graduate students who perform work for Council, whether employed on a full time, part time, casual, permanent, or temporary basis.
Workplace	For the purposes of this Code, the workplace is the place of employment and includes anywhere that an employee attends for the purpose of carrying out any function in relation to their employment with Council. It also includes any other work-related context, such as conferences, working from home, work functions or business trips.

Related Legislation

Child Wellbeing and Safety Act 2005 (Victoria)

Equal Opportunity Act 2010 (Victoria)

Fair Work Act 2009 (Commonwealth)

Gender Equality Act 2020

Human Rights and Equal Opportunity Act 1986 (Commonwealth)

Local Government Act 2020

Occupational Health and Safety Act 2004 (Victoria)

Racial and Religious Tolerance Act 2001 (Victoria)

Victorian Charter of Human Rights and Responsibilities 2006 (The Charter)

Workplace Gender Equality Act 2012 (Commonwealth)

Related Policies, Procedures and Strategies

Campaspe Shire Council Enterprise Agreement

Child Safe Policy

COVID-19 Vaccination Policy

Customer Service Charter

Disciplinary Action Procedure

Employee Handbook

Employee Leave Procedure

Fitness for Work Procedure

Fraud Minimisation and Reporting Procedure

Governance Rules

Grievance Procedure – Attachment 3

ICT Policy

Information and Communication Technology Policy

Media Relations Policy

Health Wellbeing and Safety Policy

OHS 002 - PPE Guidelines

OHS 026 - Prevention of Violence in the Workplace

OHS 031 - Smoking Procedure

Privacy and Data Protection Policy

Procurement Policy

Public Interest Disclosure Procedures

A-146 Records Management Policy

Respect and Equal Opportunity Procedure – Attachment 2

Smoking in the Workplace Policy

Social Media Policy

All policies, procedures and guidelines referred to within this policy are accessible via the Council intranet.

If unable to access the intranet, employees can request a copy from their manager/supervisor or the Human Resources Department.

Attachments

Attachment 1 – Approved Uniforms

Attachment 2 – Respect and Equal Opportunity Procedure

Attachment 3 – Grievance Procedure

Review Period

Three years

Responsible Officer

Manager Human Resources

Administrative Updates

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter the procedure, such a change may be made administratively. Examples include a change to the name of a Council department, a change to the name of a Federal or State Government department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be by resolution of Council.

Approval History

Adopted 22 June 2017

Executive Management Group

Revised 21 December 2021

Executive Management Group

Chief Executive Officer:



Date:

21/12/2021

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Attachment 1

Approved Uniforms**NOTE: Council logo is to be embroidered on left hand side of shirts, tops etc**

CUSTOMER SERVICE / LIBRARY / INDOOR STAFF		
Shirts/Polo/Tops	Pants/Shorts/Skirts	Jackets/Knitwear
Green, Blue, White, Grey, Check, Red, Green, Blue, White, Grey	Navy, Charcoal	Navy, Charcoal
CHILDCARE		
Navy	Navy	Navy
PORT OF ECHUCA		
Black with cream text	Black with cream text	Black with cream text
ECHUCA PADDLESTEAMERS		
Black with orange text	Black with orange text	Black with orange text
AQUATICS		
Navy blue and sky-blue tops (either combination) with Council logo in white	Navy blue or black	
Lifeguard	Follow LSV policy of red and yellow	

OUTDOOR STAFF	
Works / Parks & Gardens	Yellow Hi Vis Shirt plus appropriate PPE
Saleyards	Navy shirt
Animal Shelter	Navy long sleeved shirt Navy pants Navy vests and jackets Navy twill hat

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Respect and Equal Opportunity



Procedure Number	PR136
Date adopted	December 2021
Scheduled for review	December 2024

Purpose

In accordance with the *Equal Opportunity Act 2010* and the *Victorian Occupational Health and Safety Act 2004*, Campaspe Shire Council (Council) has a duty to prevent and eliminate any form of bullying, discrimination, harassment, and sexual harassment in the workplace.

All employees have the responsibility to respect the rights of one another to promote diversity, inclusion, safety, and equal opportunity.

Procedure Statement

1. Scope

This procedure applies to all council employees, including students, volunteers, and contractors. It is expected that all will abide by this procedure:

- a. In the workplace, including work outside normal working hours.
- b. During work activities, including suppliers and customers.
- c. At work related events including conferences and social functions; and
- d. At any time, individuals are identified in public as connected to council (for example, wearing corporate uniforms and social media use).

2. Bullying

- a. Bullying is defined as repeated and unreasonable behaviour directed towards an individual or group of individuals that creates a risk to health and safety. 'Repeated' refers to the persistent nature of the behaviour and can be a range of behaviour over time. There is no specific number of incidents required for the behaviour to be considered 'repeated', nor does the same specific kind of behaviour have to be repeated.
- b. Unreasonable behaviour means behaviour that a reasonable person, having regard to all circumstances, would expect to victimise, humiliate, undermine, or threaten. Behaviour may include individual or group actions or practices that victimise, humiliate, undermine, or threaten.
- c. A single incident of negative behaviour has the potential to escalate into bullying and therefore should not be ignored. Single incidents can still create a risk to health and safety and should be reported to a senior officer.
- d. If workplace bullying behaviour involves violence, for example, physical assault or the threat of physical assault, it should be reported to the police by either the witness or a manager.
- e. Workplace bullying has the potential to put a worker's health, safety, or welfare at risk. Bullying can take many forms and may be overt or covert in nature.

2.1 Bullying examples

- a. Examples of overt bullying behaviour include but are not limited to:
 - i. Shouting, swearing, insults and name calling
 - ii. Threatened or actual assault
 - iii. Humiliating an individual, especially in front of other people
 - iv. Belittling someone's opinions / dismissing their contribution
 - v. Ignoring, isolating, or alienating employees
 - vi. Practical jokes or "initiations"

- vii. Outbursts of anger or aggression
- viii. Ganging up
- ix. Persistent criticism / scrutiny of work
- x. Spreading unfounded, malicious rumours.
- xi. Abusive / intimidating phone calls / emails/other electronic media
- xii. Threatening termination of employment
- b. Examples of covert bullying behaviour include but are not limited to:
 - i. Removing areas of responsibility or imposing menial tasks
 - ii. Deliberately sabotaging or impeding work performance
 - iii. Excessive, unwarranted monitoring of a person's work
 - iv. Repeatedly changing work targets
 - v. Giving employees impossible assignments
 - vi. Imposing unrealistic deadlines
 - vii. Refusing to delegate
 - viii. Deliberately withholding information or supplying incorrect information that is vital for effective work performance

2.2 What is not bullying

Managers and supervisors are obligated to take appropriate management action and make appropriate management decisions. They need to be able to effectively direct and control the way work is carried out, respond to poor performance and, if necessary, take disciplinary action. In doing so, managers and supervisors are not 'bullying', but undertaking their roles through reasonable 'lawful' direction of employee's performance. Examples may include:

- i. Performance reviews and reviewing the delivery of agreed Key Performance Indicators (KPIs).
- ii. Counselling, disciplinary action or ongoing meetings to address underperformance or misconduct.
- iii. Modifying an employee's duties including transferring or redeploying the employee.
- iv. Investigating alleged misconduct.
- v. Refusing an employee permission to return to work due to a medical condition.
- vi. Managing employees in accordance with applicable council policies and procedures.
- vii. Allocating work in accordance with the employee's position description and other tasks that would be considered reasonable to allocate.
- viii. Implementing organisation changes or restructures.
- ix. Rostering and allocating locations for work to be performed and work hours where the requirements are reasonable.
- x. Not offering a position to an employee where a reasonable and transparent process has been followed.
- xi. A single incident of unreasonable behaviour but may be in breach of council's values and other applicable council policies and procedures.
- xii. Differences of opinion and disagreements are generally not considered to be bullying behaviour.

3. Discrimination

Discrimination occurs if a person is treated less favourably than another person would be treated in comparable circumstances, because of their personal attributes, characteristics, or beliefs.

The list below sets out the protected attributes covered in State and Federal equal opportunity legislation in Australia. Protected attributes mean it is unlawful to discriminate on any of the following grounds:

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- i. Political beliefs or activity
- ii. Relationship and parental status
- iii. Age
- iv. Sex
- v. Lawful sexual activity
- vi. Sexuality
- vii. Gender identity
- viii. Carer responsibilities
- ix. Race
- x. Personal association (whether as a relative or otherwise with a person who is identified by reference to any of the above attributes)
- xi. Pregnancy / potential pregnancy
- xii. Breast feeding
- xiii. Family responsibilities
- xiv. Religion
- xv. Impairment or disability
- xvi. Trade union activity or inactivity

3.1 Discrimination types**a. Direct Discrimination**

Means treating someone less favourably, because they have attributes protected by law, than people without those attributes would be treated in the same or similar circumstances. For example, refusing to promote or employ someone because of their age.

b. Indirect Discrimination

Occurs if a practice that apparently treats people equally and appears to be neutral, in fact significantly reduces a group's chance of obtaining the benefit or opportunity. For example, holding early morning meetings that not everyone can attend.

3.2 Discrimination examples

The following list includes (but is not limited to) behaviour that constitutes discrimination:

- i. Offensive jokes or comments about another person's racial or ethnic background, sex, sexual preference, age, disability, or any other protected attribute.
- ii. Display of pictures, calendars pin-ups, posters, and computer images (e.g. in electronic mail messages), which are offensive or derogatory.
- iii. Expressing offensive stereotypes of particular groups, for example, racial stereotypes.
- iv. Judging a person on characteristics such as religious or political beliefs, cultural practices, sex or age rather than work performance.
- v. Using stereotypes or assumptions relating to protected attributes when making decisions about a person's career.

4. Harassment

Harassment is any behaviour which is known or ought to be known to be unwelcome conduct which is perceived to be intimidating, offensive or humiliating by a reasonable person with consideration to the circumstances of the person being harassed. Harassment can be unintentional, intentional, a single or a series of actions. Harassment can be caused by an individual or a group.

Many forms of harassment are unlawful, such as harassment which is sexual, discriminatory, and racial or some other characteristic specified under anti-discrimination or human rights legislation.

4.1 Harassment examples

Harassment may include behaviour such as:

- i. Telling insulting jokes about particular racial groups
- ii. Sending explicit or sexually suggestive emails

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- iii. Displaying offensive or pornographic posters or screen savers
- iv. Making derogatory comments or taunts about someone's race or religion
- v. Asking intrusive questions about someone's personal life, including their sex life

5. Sexual harassment

Sexual harassment is unwelcome conduct or behaviour of a sexual nature, which reasonably offends humiliates or intimidates a person. It can be a single incident or repeated behaviour. Under the law, the intention of the harassment is irrelevant.

5.1 Sexual harassment examples

It is important that Council employees are aware that the underlying requirement of sexual harassment is that the conduct is unwelcome, with necessary intent, or a reasonable person would have anticipated that the conduct would offend, humiliate or intimidate. Sexual harassment includes but is not limited to:

- i. Comments of a sexual nature, obscene comments or insults.
- ii. Comments about the individuals' physical appearance.
- iii. Suggestive behaviour such as leering, ogling or offensive gestures.
- iv. Sexual jokes or offensive telephone calls.
- v. The display of visually sexually explicit photographs, posters, reading matter or objects.
- vi. Sexual propositions or continual requests for dates.
- vii. Physical contact such as touching, patting, pinching, cornering, or kissing.
- viii. Insinuations about a persons' sex or private life.
- ix. Some types of sexual harassment may also be offences under criminal law. Things like stalking or obscene communications (telephone calls, letters, text messages, emails, etc.), assault, indecent exposure, etc.

A person is found to have sexually harassed a person when they engage in any of the above conduct listed if they:

- i. Do so with the intention of offending, humiliating or intimidating another person; or
- ii. Have behaved in a way a reasonable person would have anticipated the possibility that other persons would be offended, humiliated, or intimidated by the conduct.

5.2 What is not sexual harassment

Sexual harassment is not behaviour that is based on mutual attraction, friendship, and respect. Council has no intention of intruding into individual working relationships which are consensual, based on mutual respect, and do not adversely impact on the individual's ability to perform their role.

6. Racial or religious vilification

This is unlawful under the Victorian Racial & Religious Tolerance Act 2001 and is defined as a public act of hatred, or contempt or hatred based on race or religion (for example, racist graffiti, pamphlets or damage to property based on religion or race.)

7. Responsibilities

a. Managers (including Supervisors / Team Leaders)

Monitor the workplace to ensure that

- i. Treat all employees with respect and courtesy.
- ii. Acceptable standards of conduct are always observed.
- iii. Comply with and uphold this procedure and associated policies/procedures within their area of responsibility.
- iv. Lead by example – do not engage in behaviour that could be regarded as being in breach of the objectives of this procedure.
- v. Ensure that direct reports are suitably trained and comply with the objectives of this

procedure.

- vi. Ensure this procedure is available for employees to access.
- vii. Make it clear that behaviour that may be in breach of this procedure will not be tolerated.
- viii. Act immediately if they witness or are told about any conduct that may be in breach of this procedure.
- ix. Assist with investigations and resolution as required and maintain appropriate documentation.

b. Employees

- i. Treat other employees with respect and courtesy.
- ii. Comply with this procedure.
- iii. Make others aware if an individual's behaviour is making them feel uncomfortable.
- iv. Speak up if they observe inappropriate behaviour.

c. Human Resources (in relation to employees)

- i. Support all parties involved and ensure that processes are followed.
- ii. Provide coaching, advice and guidance to all employees to assist them to respond and resolve workplace behaviour matters.
- iii. Upon request, act as a Council witness and scribe for managers conducting meetings.
- iv. Maintain confidential employee personnel records as required.
- v. Assist with investigations, claims and reviews of non-compliance issues from an employee against a manager.

8. Reasonable adjustments

The Equal Opportunity Act requires that reasonable adjustments are considered to avoid discrimination. Reasonable adjustments are changes to the work environment that allows people with a disability (whether temporary or permanent) to work safely and productively.

9. Grievances

- a. Council will deal with all reports of procedure breaches seriously, promptly and confidentially.
- b. Employees are encouraged to report breaches which will be dealt with in accordance with Council's Grievance Procedure.
- c. Council regards breaches of this procedure as serious and unacceptable conduct. Any employee found to have engaged in such conduct will be subject to disciplinary action.

Exclusions

Nil

Human Rights

This report has considered and complies with the Human Rights and Responsibilities contained in the Victorian Charter of *Human Rights and Responsibilities Act 2006*.

Definitions

Council

Campaspe Shire Council

Employees

Includes all council employees, including students, volunteers and contractors

Related Legislation

The Local Government Act 2020

Fair Work Act 2009 (Commonwealth)

Victorian Charter of Human Rights and Responsibilities 2006 (The Charter)

Attachment 3

Equal Opportunity Act 2010 (Victoria)

Victorian Racial & Religious Tolerance Act 2001

Occupational Health and Safety Act 2004 (Victoria)

Related Documents

Campaspe Shire Council Enterprise Agreement

Council Policy 124 – Health, Wellbeing and Safety

Procedure PR141 - Protected Disclosure

Councillor Code of Conduct

Attachments

Nil

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Grievance



Procedure Number	PR135
Date adopted	21 December 2021
Scheduled for review	December 2024

Purpose

The Grievance Procedure exists to deal with workplace grievances raised by employees in a respectful, fair, confidential, and reasonable manner to effectively resolve the grievance.

Procedure Statement

1. Scope

This procedure applies to all council employees, including students and volunteers.

2. Grievance definition

A grievance is any kind of problem, concern, dispute, or complaint related to work or the work environment.

3. Occupational Health and Safety (OHS) issue resolution process

For all OHS issues, except bullying or harassment, please refer to council's OHS Issue Resolution Procedure.

Workers Compensation grievances or appeals must be done in accordance with the *Workplace Injury Rehabilitation and Compensation Act 2013*.

4. Overview

The merit and context of each matter raised will be determined on a case-by-case basis. Employees are advised to keep diary notes of any incidents with names, dates, and witnesses to demonstrate concerns of repeated and/or unreasonable behaviour.

The Human Resources Department can be contacted at any time regarding a workplace grievance.

Council strongly encourages employees to report incidents, however, reporting is voluntary and not mandatory. Nevertheless, if a worker decides not to report issues, council expects that this will be the end of the matter. Employees must not seek to progress the issue informally (for example, allowing the matter to be the subject of conflict, innuendo, or gossip).

The following are suggested steps to addressing a grievance.

Please note an employee is not obligated to follow each step in the sequence below. For example, for some matters it may be more appropriate to seek formal management action rather than start with self-management.

5. Escalation

a. Step 1 – Self management

- i. If comfortable to do so, employees should advise the other person, verbally or in writing, in a direct and firm manner that their behaviour is unacceptable. This may be enough to stop the unwelcome behaviour. The employee may find the other person was not aware of their grievance and the matter can be resolved directly.

b. Step 2 – Informal management

- i. Many grievances can be resolved through an informal procedure. It is important that the manager monitors the matter to ensure the grievance is effectively resolved to avoid escalation to formal complaint.
- ii. The employee should report the grievance to their direct supervisor when:
 1. the employee does not feel comfortable talking to the person(s) involved.
 2. the employee has tried to talk to the person(s) involved and it was ineffective in resolving the grievance.
- iii. The supervisor will discuss the following with the employee:
 1. refer the employee to this procedure.
 2. decide if they are the appropriate person to handle the grievance; and
 3. obtain/record information about the employee's grievance and provide suggestions to help resolve it.
- iv. If the matter is not resolved by the direct supervisor, the grievance may be referred to the appropriate next up immediate manager who will attempt to resolve the matter.
- v. If the matter is still not resolved, the matter shall be referred to the Human Resources Department.

c. Step 3 – Formal management

- i. If the grievance is serious or has not been resolved either through self-management or informal management, the complainant is encouraged to raise their grievance via the formal management process.
- ii. A grievance is recognised as being formal once a completed Formal Grievance Form (Attachment 1 attached) has been received by the Human Resources Department.
Employees should not assume that their grievance has been treated formally by management without the completed form.
Receipt of this form will initiate an investigation within ten (10) working days.
- iii. Unless there is a real or perceived conflict of interest, all investigations will be conducted internally by a member of the Human Resources Team.
In the event of a real or perceived conflict of interest, the Manager Human Resources will seek approval to engage an external investigator.
- iv. Council will not proceed with an investigation if the employee confirms in writing that they have reconsidered informal management options prior to proceeding with an investigation, or if the grievance has been effectively resolved.
- v. The investigation process will:
 - The complainant must clearly outline the allegations and provide supporting tangible evidenced of the allegations, including the names of any witnesses.
 - The evidence provided will be assessed with a view to whether it sufficiently supports the allegations. If not, further information or evidence may be requested.
 - The allegations will be confirmed in writing with complainant.
 - The allegations will be put to the respondent who will have an opportunity to respond.
 - Witnesses may be interviewed.
 - Once all information has been collected, the investigator will make a determination on the balance of probabilities as to whether the allegations are substantiated or not.
 - Both the complainant and respondent will be advised in writing of the outcome of the investigation including any proposed action to be taken.

d. Step 4 - Enterprise Agreement – Clause 11 Prevention and Settlement of Disputes

If the above steps fail to produce a satisfactory outcome, employees may use the provisions of Clause 11 (Attachment 2) of the Shire of Campaspe Enterprise Agreement.

e. Step 5 – Fair Work

- i. If a grievance is unable to be resolved internally, employees have the option to contact Fair Work. Employees can contact the Fair Work Infoline on 13 13 94 or visit www.fairwork.gov.au.
- ii. Council encourages employees to give council the opportunity to resolve grievances internally prior to contacting Fair Work.

6. Contact Officers

Contact Officers are employees who have been trained to provide advice in relation to the grievance procedure.

Contact Officers details can be found on Campaspe Central and workplace noticeboards.

7. Resolution options

Options for resolving grievances will vary on a case-by-case basis according to circumstances. There is no one 'fix' that will resolve every situation. Some options for consideration are:

- i. Mediation (only where both parties agree to mediation and to the mediator).
- ii. Counselling and other reasonable support.
- iii. Disciplinary action, which may include termination of employment.
- iv. An apology, privately or publicly.
- v. Individual or group training.

8. Mediation/Conflict Resolution

- a. Mediation/conflict resolution is a voluntary process whereby two (2) parties discuss an issue in an unbiased manner through an independent party.
 - i. The mediator/conflict officer will provide each party the opportunity to identify the issues, develop resolutions and come to a mutual agreement in a safe manner.
 - ii. The role of the mediator/conflict officer is to facilitate a process that allows the parties to identify issues that may impact on their relationship.
 - iii. This is a structured process to ensure equity and fairness to all parties to ultimately achieve an agreement of expectations between the parties
- b. Typically, at a mediation session, the parties will be asked to sign a written agreement detailing the terms of any agreements reached.

The terms of any mediation agreement are confidential. While a mediation agreement is not legally binding, it is made in good faith between the parties.
- c. At Council's discretion, either a suitably trained Council Officer or an external mediator may be offered as the mediator.

9. Unions

- a. A Union is an organisation that advocates on behalf of employees. Employees may choose to be represented by their union from the beginning of their grievance. Key features of unions include:
 - i. Working with Council to help resolve workplace issues.
 - ii. Ensuring Council meets their minimum employment obligations; and
 - iii. Looking into suspected breaches of:
 1. workplace laws
 2. discrimination laws
- b. Employees need to be aware that should they choose to engage a union representative to assist them with their grievance, the role of the union representative is:
 - i. To provide support and assistance to formulate concerns/grievance.
 - ii. Support in meetings with recall of events etc.

The union representative will **not** be permitted to:

Attachment 3

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- i. Advocate or speak on behalf of the employee, or in any way represent the employee.
- ii. Attend mediation (if that is the agreed form of resolution), with the employee.

10. Confidentiality

- a. Grievances are to be always kept highly confidential for all parties involved. Employees must not discuss grievances with colleagues or any person other than a support person or legal/union representative.
- b. If an employee has been found to discuss the grievance with colleagues, they may be subject to disciplinary action.

11. Vexatious or frivolous grievances

- a. Vexatious grievances occur when an employee pursues a grievance without merit and intends to cause harm, expense, or inconvenience to others.
- b. A frivolous grievance is where a grievance has little merit and an investigation into the matter would be disproportionate to the seriousness of the grievance.
- c. All employees must appreciate that raising an allegation against another person in the workplace is a serious matter. Regardless of whether the grievance is substantiated, the act of raising the grievance may have consequences both personally and professionally for all parties involved.
- d. Council will not tolerate abuse of the processes outlined in this procedure or the making of vexatious complaints. If a grievance is unsubstantiated because it is found to be of a frivolous or vexatious nature, disciplinary action may result.

12. Victimisation

- a. Every employee has the right to claim and enforce their right under this procedure without victimisation or the threat of victimisation.
- b. Victimisation occurs when somebody has been treated detrimentally (for example, making hurtful statements) because an employee:
 - i. intends to or raises a grievance
 - ii. intends to provide information as a witness
 - iii. raises a safety issue
 - iv. supports another employee who has raised a grievance
 - v. has a grievance made against them.

13. Public Interest Disclosure

- a. Public interest disclosure exists to encourage people to report serious wrongdoing in their workplace by providing protection for employees who want to 'blow the whistle' (also known as "whistleblowers").
- b. For more information, please refer to council's Public Interest Disclosure Procedure.

14. Employee Assistance Program

- a. The Employee Assistance Program is intended to help employee's deal with personal problems that might adversely impact their job performance, health, and wellbeing. Employees who are involved in dealing with grievances can seek support from Council's Employee Assistance Program to assist throughout the process.
- b. Contact number for Employee Assistance is: 1800 604 640.

15. Recordkeeping

- a. Managers are responsible for providing all related documentation (for example, records of conversation, statements, file notes, etc.) to Human Resources for record keeping purposes.

16. Responsibilities

- a. Managers (including Supervisors / Team Leaders)
 - i. Proactively address and resolve workplace grievances before they become formal.

Attachment 3

- ii. Comply with and uphold this procedure and associated policies/procedures within area of responsibility.
 - iii. Ensure that direct reports understand this procedure and that they can easily access a copy.
 - iv. Assist with investigations and resolution as required, maintaining appropriate records and documentation.
 - v. Ensure any grievance is handled in the most appropriate manner at the earliest opportunity.
- b. Employees
 - i. Treat other employees with respect and courtesy.
 - ii. Comply with this procedure.
 - iii. Fully participate and cooperate in investigations or management review of any grievance raised (including full cooperation in investigations) and always maintain confidentiality.
 - iv. Make others aware if an employee's behaviour is making them feel uncomfortable.
 - v. Speak up if they observe inappropriate behaviour.
- c. Human Resources
 - i. Support all parties involved and to ensure that processes are followed.
 - ii. Provide coaching, advice, and guidance to managers to assist them to effectively resolve grievances.
 - iii. Upon request, act as a Council witness and scribe for managers conducting meetings.
 - iv. Maintain employee personnel records as required.
 - v. Conduct and/or oversee formal grievance investigations.
 - vi. Ensure impartial facilitation of counter claims.

Exclusions

Nil

Human Rights

This report has considered and complies with the Human Rights and Responsibilities contained in the Victorian Charter of *Human Rights and Responsibilities Act 2006*.

Definitions

Nil

Related Legislation

The Local Government Act 2020

Fair Work Act 2009

Victorian Charter of Human Rights and Responsibilities 2006 (The Charter)

Equal Opportunity Act 2010 (Victoria)

Occupational Health and Safety Act 2017 (Victoria)

Protected Disclosure Act 2012

Related Documents

Shire of Campaspe Enterprise Agreement

Occupational Health and Safety Policy

Occupational Health and Safety Issue Resolution Procedure

Contact Officer Procedure

Procedure

Procedure

Procedure

Procedure

Procedure

Attachment 3

Disciplinary Action Procedure

Formal Grievance Form

Attachments

Attachment 1 – Formal Grievance Form

Attachment 2 – Clause 11, Shire of Campaspe Enterprise Agreement 2016

Procedure

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Attachment 1**CAMPASPE SHIRE COUNCIL
FORMAL GRIEVANCE FORM**

Procedure

Procedure

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Procedure

Procedure

EMPLOYEE: <Employee name>**POSITION:** <Position title>**LOCATION:** <Work location>**DATE:** <Date submitted>**INCIDENT DETAILS**

Date and time of incident(s):	
Location of incident(s):	
Person the allegations are being made against:	
Witness names:	

OVERVIEW

1. What Council policy/procedure do you believe the employee has breached?
<Response>
2. Describe what happened?
<Response>
3. Has this happened before?
<Response>
4. Is/was anyone else involved?
<Response>
5. Do you have any evidence to substantiate your grievance?
<Response>
6. Is there any other relevant information that the Council should be aware of?
<Response>
7. What steps have you taken to resolve your grievance to date?
<Response>
8. What remedy are you seeking by submitting a formal grievance?
<Response>

ATTACHMENTS

9. Please list attachments of evidence to substantiate your grievance (if any).		
1	<Date>	<Attachment title> <Document type>
2	<Date>	<Attachment title> <Document type>

ACKNOWLEDGEMENT

I confirm that the content outlined within this document is a true and accurate record of the grievance details I have provided.

Name	Signature	Date
<Employee name>	<Signature>	<Date Submitted>

Please submit to the Human Resources Department once completed

Attachment 2**Clause 11 – Enterprise Agreement****11 PREVENTION AND SETTLEMENT OF DISPUTES**

The parties to this Agreement are committed to good industrial relations practices and procedures based on consultation and goodwill. The employer shall ensure that they advise employees subject to this procedure that they may be represented by their Union from the beginning of this process.

11.1 If a dispute relates to:

- 11.1.1 A matter arising under the Agreement; or
- 11.1.2 The National Employment Standards; or
- 11.1.3 Any other work-related matter

this term sets out procedures to settle the dispute.

11.2 An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term.**11.3 In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee or employees, their representative if requested, and their immediate line-manager or supervisor. The line-manager or supervisor must make a genuine attempt to resolve the matter in a timeframe that is agreed by all parties.****11.4 If the matter cannot be resolved, in the first instance, it will be referred to the appropriate next up immediate manager who will attempt to resolve the matter in a timeframe that is agreed by all parties.****11.5 If the matter is still not resolved, the matter shall be immediately referred jointly, for discussion, to a manager with industrial relations responsibility, the employee(s) and their representative if requested.****11.6 If the matter cannot be resolved, the matter may be referred to a mutually agreed independent mediator (from an agreed list of mediators) who may exercise powers of conciliation or arbitration and whose decision will be binding subject to Agreement by the parties.****11.7 Should the matter still be unresolved, either party shall be entitled to refer it to Fair Work Commission.****11.8 Fair Work Commission may deal with the dispute in two stages:**

- 11.8.1 Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including my mediation, conciliation, expressing an opinion or making a recommendation; and

11.8.2 If Fair Work Commission is unable to resolve the dispute at the first stage, Fair Work Commission may then:

- Arbitrate the dispute
- Make a determination that is binding on the parties.

Note: If Fair Work Commission arbitrates the dispute, it may also use the powers that are available to it under the Act.

A decision that Fair Work Commission makes when arbitrating a dispute is a decision for the purposes of Div 3 of Part 5.1 of the Act. Therefore, an appeal may be made against the decision.

11.9 While the parties are trying to resolve the dispute using the procedures in this term:

11.9.1 An employee must continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and

11.9.2 An employee must comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:

11.9.2.1 The work is not safe; or

11.9.2.2 Applicable occupational health and safety legislation would not permit the work to be performed; or

11.9.2.3 The work is not appropriate for the employee to perform; or

11.9.2.4 There are other reasonable grounds for the employee to refuse to comply with the direction.

11.10 The parties to the dispute agree to be bound by a decision made by Fair Work Commission in accordance with this term.

