



# BOULIA SHIRE COUNCIL

## Performance Management Policy

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<b>Summary:</b>	The purpose of this policy is to ensure that Council employees performance issues are treated in accordance with the principles of natural justice.
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<b>Responsible Section:</b>	CEO
<b>Responsible Officer:</b>	Director of Corporate & Financial Services
<b>Legislation:</b>	Local Government Act 2009 Local Government Regulation 2012 Qld Local Government Industry Awards Qld Industrial Relations Act 2016 WHS Act & Regulation 2011 Work Health and Safety Consultation Code of Practice 2011

## PURPOSE

To provide Council and its employees with clarity and understanding to ensure instances of underperformance are dealt with appropriately, complying with the principles of procedural fairness and natural justice, with a focus on performance improvement and maintenance.

## OBJECTIVES

To provide the employee with the opportunity to:

- Correct and/or improve the standard of conduct of an employee where appropriate or necessary.
- Provide any employee with an opportunity to correct unacceptable conduct (other than in situations where summary dismissal is appropriate).
- Ensure that all employees are treated fairly, equally, and consistently.
- Ensure that each situation is reviewed and addressed on an individual basis and in relation to the circumstances.

## SCOPE

This document encompasses the performance and conduct of all employees during their work and/or representation of the Council.

## DEFINITIONS

“**Council**” refers to Boulia Shire Council

“**The Act**” refers to the Local Government Act 2009 (as amended)

“**The Regulation**” refers to the Local Government Regulation 2012 (as amended)

“**Employees**” refers to individuals employed by Boulia Shire Council

“**Employer**” refers to Boulia Shire Council

## POLICY

Council reserves the right to modify this policy periodically. It is important to note that this policy does not constitute a part of any employee’s contractual agreement.

This policy is applicable to address necessary disciplinary actions stemming from conduct in any work-related context, encompassing conduct at work-related functions that may impact the Council. A work-related function is defined as any event connected to work, including but not limited to work lunches, dinners, conferences, Christmas celebrations, and client/customer functions. Furthermore, this policy extends to situations where employees visit other workplaces in connection with their duties, such as visiting a supplier, client, or customer.

In the event that the conduct raises concerns about a potential breach of Australian law, Council may choose to notify the police or other relevant government authorities.

### Grounds for disciplinary action

Disciplinary action may be initiated for:

- failure to fulfil responsibilities outlined in the Local Government Act 2009 (QLD) (Act); or
- failure to discharge a responsibility under the Act in alignment with the local government principles; or
- undertaking actions under the Act in a way that is inconsistent with the local government principles.

### **Disciplinary procedure**

The procedures detailed below serve as a general framework for disciplinary actions that Council may employ. However, the specific disciplinary procedure to be implemented, in accordance with this policy, remains at the discretion of the Council. This decision will be made by considering the circumstances of each case comprehensively.

### **Investigation**

Council will initiate an investigation into incidents and/or allegations. This may involve the collection of pertinent data and interviews with the involved employee, relevant witnesses such as co-workers, supervisors, customers, and suppliers with whom the employee has interacted. Council is committed to conducting fair and prompt investigations into all allegations of unsatisfactory performance, unacceptable conduct, or wilful or serious misconduct by an employee.

If, upon reasonable grounds, Council determines that an employee is likely to face disciplinary action, the employee may be suspended from duty pending the investigation's completion. During such suspensions, the employee will be provided with written notification of the suspension conditions and will continue to receive their full remuneration as at the start of the suspension.

Council emphasizes a zero-tolerance policy for unsubstantiated or frivolous allegations reported by any individual.

### **Disciplinary interview**

If, following the investigation, the Employer deems that the employee has a case to answer, the employee may be requested to attend a meeting to address the concerns raised.

The following procedure is as follows:

- The employee will receive advance notice of the meeting's purpose and the topics to be discussed.
- The employee is entitled to have a co-worker or union delegate present at the meeting.
- During the meeting, the written concerns, or allegations, along with any supporting evidence, will be provided to the employee.
- The employee will be given ample opportunity to respond to the concerns or allegations, and written responses may be submitted.
- The director/manager/foreman/supervisor will review the employee's response and conduct any additional inquiries or investigations as necessary.
- After considering the employee's response and conducting further inquiries, the director/manager/foreman/supervisor will determine whether the concerns or allegations have been substantiated.

If it is established that all or some of the concerns or allegations are valid, the following factors will be considered:

- the severity of the poor performance/misconduct.
- the response or explanation provided by the employee.
- the employee's employment history and record.
- the availability of appropriate and reasonable alternatives to dismissal.
- The director/manager/foreman/supervisor, in consultation with the CEO, will then decide on the appropriate disciplinary action, if any.

### **Disciplinary Action**

The disciplinary action administered will be determined on a case-by-case, considering all relevant circumstances; this includes considering whether the employee has previously received verbal or written warnings regarding their performance or conduct.

It is essential to note that irrespective of the disciplinary action taken, any form of unacceptable conduct or misconduct can lead to the dismissal of the employee.

In the event that Council enforces disciplinary action against an employee, the employee retains the rights to appeal the decision.

### **Employee to be given notice of grounds for disciplinary action**

Prior to Council initiating disciplinary action against an employee, the employee must be furnished with:

1. Written notice containing:

- the grounds on which the disciplinary action may be taken.
- the particulars of conduct claimed to support the grounds.
- the proposed disciplinary action.

2. A fair and reasonable opportunity to respond to the information provided in the written notice.

### **Informal Discipline**

Examples of informal disciplinary actions that Council may take include, but are not limited to:

- Redirection.
- Retraining.
- Counselling.

It's important to note that informal disciplinary action is not suitable when the employee's conduct amounts to wilful or serious misconduct.

### **Formal Discipline**

Examples of formal disciplinary actions that Council may undertake include, but are not restricted to:

- Termination of employment.
- Demotion.
- Deduction from salary or wages (not exceeding 2 penalty units).
- Reorganisation/Redeployment.
- A written reprimand or warning.

### **Dismissal**

An employee may face dismissal for misconduct as defined under the Qld Industrial Relations Act 2016, such as theft, assault, fraud, or other misconduct prescribed by regulation.

In the event of a decision to dismiss the employee, the employee should receive:

- Written notice of the day of dismissal or payment in lieu of notice.
- Payment of all accrued entitlements.
- Payment of any outstanding entitlements.
- A Separation Certificate.
- A Statement of Service, if requested.

Upon dismissal, the employee promptly returns all Council property in their possession or control to Council.

### **Deduction from salary or wages**

If disciplinary action taken against an employee involves a deduction from their salary or wages, Council may affect the deduction:

- If no appeal is brought against the disciplinary action, when the appeal period has concluded.
- If an appeal is initiated against the disciplinary action and the appeal's decision confirms or modifies the deduction, when notice of the decision is provided to the employee.
- If an appeal is initiated against the disciplinary action and the appeal is discontinued or struck out when the appeal concludes.

If an appeal against the disciplinary action changes it to a deduction from salary or wages, Council may implement the deduction when notice of the decision is given to the employee.

For appeals, employees may first appeal to the initiating supervisor/manager and, if unresolved, escalate the appeal to the Chief Executive Officer for review and a final decision.

### **Written reprimand or warning**

When disciplinary action against an employee involves a written reprimand or warning, it will become a permanent part of the employee's employment record and must include the following details:

- The disapproved conduct of the employee.
- The necessary remedial action required to rectify the conduct.
- The specified timeframe within which the remedial action is to be completed.
- The potential consequences if the employee repeats the conduct.

### **Documentation**

Council is advised to contemporaneously document disciplinary discussions and actions.

File notes summarising the nature of the allegations, investigative outcomes, and the disciplinary measures taken should be placed in the employee's personnel file.

Additionally, any conversations or meetings with the employee should be documented in a file note. The employee should be asked to sign the file note as an acknowledgement of agreement with its contents. In cases where the employee declines to sign the file note, the refusal, and the reason for objection, if provided, should be recorded on the file note.

Copies of warning letters should also be filed in the employee's personnel file. However, it is crucial to note that Council must securely dispose of any record related to the disciplinary action no later than two years after the action is concluded.

### **Variations**

Council retains the right to modify, replace, or terminate this policy periodically. However, no variations to the policy will be made while a disciplinary process is underway.