

LIVERPOOL PLAINS SHIRE COUNCIL

POLICY REGISTER

Policy No. 1.6

POLICY TITLE: DISCIPLINARY PROCEDURES

File Reference No: E.12
Date Adopted: 19th June 2002
Minute No: 7930
Last Updated: 26th February 2014

History of Policy Review

Version	Adoption Date	Minute No	Details of Review
1	19 th June 2002	7930	New Policy
2	24 th June 2004	9079	Amalgamation
3	26 th February 2014	723	Updated

OBJECTIVES

To maintain basic and reasonable standards of conduct and performance in the service of the Liverpool Plains Shire Council and to set fair and equitable standards of discipline for unsatisfactory conduct and performance.

Guarantee the rights of all.

Ensure a safe and healthy work environment.

Prevent employees from generating a poor attendance record or poor work habits.

Reinforce overall performance.

NOTE:

1. No disciplinary action or suspension shall be undertaken unless the following disciplinary steps have been completed, except in the case of serious and wilful misconduct – see appropriate provision.
2. In the case of Senior Staff (i.e. those employees on the NSW SES Level 1 or more) dismissal cannot occur without the General Manager firstly consulting with the Council – Refer Section 337 of the Local Government Act, 1993.

POLICY STATEMENT

Liverpool Plains Shire Council believes that its employees are loyal and hard working. However, just as in community life, a large organisation requires policies and standards to assist all managers and subordinates with guidelines and procedures to events that may result in disciplinary or corrective action.

An effective disciplinary procedure must be fair, reasonable, logical and easily understood by all concerned.

This policy expands on Clause 3228 Disciplinary Procedures of the Local Government State (NSW) Award, 2010.

PROCEDURES

Step 1 – First Warning (Verbal) Guidance and Counselling

Problem:

Employee is demonstrating a performance or behavioural problem including neglect of duties, breach of discipline, lateness for work and absenteeism, non-compliance with safety standards, etc.

Procedure:

Counselling discussions involving:

The employee concerned;
The employee's immediate supervisor; and
As an option of the employee, their on-site Union delegate.

Purpose of Discussion:

Identify causes of the problem and provide examples of the problem.
Gain the employee's commitment to solving the problem.
Set a specific date for review of the matter, as well as clearly identifying the corrective action to be taken to solve it.

Record:

The supervisor will note a record of the discussion and place it on the appropriate file. The employee shall be entitled to sight and sign such record and add any notations regarding the contents of such records.

Include:

Date and time of discussion and who was in attendance.
Purpose of discussion and whether the problem was acknowledged by the employee.
Follow up date and required corrective action to be taken by the employee.

If improvement is then made by the agreed date, the supervisor should acknowledge and give recognition to the employee for the improvement and encourage continued improvement. Details of such improvement will be noted by the supervisor and placed on the appropriate file. However, if insufficient improvement by the agreed date, then Step 2 will apply.

Step 2 – Second Warning (Written)

Utilising Effective Follow Up Action.

Procedure:

Follow up discussion involving:

The employee concerned.

The employee's immediate supervisor.

The next level supervisor and at the option of the employee, their immediate on-site Union Delegate.

Purpose of Discussion:

Review previous discussion and illustrate reason for second discussion.

Discuss possible solutions.

Indicate the consequences of further lack of improvement and detail disciplinary action that will be taken.

Set a specific date for review of the matter and action plan of required corrective action to be taken.

Record:

A written record of the second warning is to be shown to the employee who will be required to sign it and add any notations regarding the content of such record; and the record will be forwarded to the Executive Assistant for placement on the employee's personnel file.

Include:

Date and time of discussion and who was in attendance.

Purpose of discussion and whether the problem was acknowledged by the employee.

Follow up date and required corrective action to be taken.

Name and signature of supervisors who took the action.

If improvement is then made by the agreed date, the supervisor should acknowledge this and give written recognition to the employee for the improvement, supervisor to monitor and encourage continued improvement. A copy of such letter should be placed on the employee's personnel file. However, if insufficient improvement by the agreed date, then Step 3 will apply.

Step 3 – Final Warning (Written)

Procedure:

FINAL WARNING involving:

The employee concerned.

The Director concerned.

At the option of the employee, their Union delegate.

Purpose of Discussion:

Review previous discussions.

Discuss reasons for the situation and illustrate reasons for this final warning.

Agree on specific action and follow up date.

If appropriate, inform the employee that further consequences will result if the employee does not take immediate corrective action.

The further consequences (Disciplinary Action) include:

- Demotion to a lower paid position;
- A report to the General Manager recommending suspension with a view to termination.
- Dismissal with due notice.

Record:

A written record of the final warning is to be shown to the employee who will be required to sign it and add any notations regarding the contents of such records; and the record will then be forwarded to the Executive Assistant for placement on the employee's personnel file.

Include:

Date and time of discussion and who was in attendance.

Purpose of discussion and whether the problem was acknowledged by the employee.

Follow up date and required corrective action to be taken.

Name and signature of supervisors who took the action.

Copies of all correspondence arising out of this step should be sent to the employee.

Should the employee fail to take the required corrective action within the agreed period, then Step 4 will apply.

Step 4 – Disciplinary Action

Procedure:

Meeting involving:

The employee concerned.

The Director concerned.

Union representation.

Purpose of Meeting:

The Director concerned will inform the employee of one of the following:

- (1) Demotion to a lower paid position, provided that the employee shall not suffer a reduction in the rate of pay for 2 weeks from the date of the demotion.
- (2) A report to the General Manager recommending suspension with a view to termination.
- (3) A discussion with due notice of termination.

EMPLOYEE'S RIGHTS

- (i) Have access to their personal files and may take notes and/or obtain copies of the contents of the file.
- (ii) Be entitled to sight, note and/or respond to any information placed on their personal file which may be regarded as adverse.
- (iii) Be entitled to make application to delete or amend any disciplinary or other record mentioned on their personal file which the employee believes is incorrect, out of date, incomplete or misleading.
- (iv) Be entitled to request the presence of a Union representative and/or the involvement of their Union at any stage.
- (v) Be entitled to make application for accrued leave for whole or part of any suspension during the investigation process.

EMPLOYER'S RIGHTS AND OBLIGATIONS

- (i) Be entitled to suspend an employee with or without pay during the investigation process provided that:
 - (a) If, after investigation, the reasons for the suspension are found to be inappropriate, the employee shall not suffer any loss of pay for the period under suspension.
 - (b) The suspension shall not effect the employee's continuity of service for the purposes of accruing leave entitlements.
 - (c) Council shall not unreasonably refuse an application for paid leave under this provision.
 - (d) By agreement, an employee may be transferred to another position or place of work.
- (ii) Properly conduct and speedily conclude an investigation into the alleged unsatisfactory work performance or conduct.

- (iii) Be entitled to take other disciplinary action before and/or during the procedures in cases of misconduct or where the employee's performance warrants such action.
- (iv) In appropriate circumstances, be entitled to terminate an employee's services in accordance with Clause 30, Termination of Employment of the Award.
- (v) Be entitled to request the presence of a Union representative at any stage.

SERIOUS AND WILFUL MISCONDUCT

An act of serious and wilful misconduct is a breach of one of the essential conditions of the contract of employment. Should an employee be guilty of serious and wilful misconduct in the course of their employment such as theft, assault of a person, wilful misuse or damage to Council plant, equipment or property, the offending employee or employees may be suspended immediately.

The offending employee or employees will be interviewed by a committee comprising the Director concerned or their nominee, Union representatives if requested and the General Manager, which will assist in determining whether immediate dismissal will be invoked.