



1 HEAD OF POWER

- *Local Government Act 2009 (Qld)*
- *Local Government Regulation 2012 (Qld)*
- *Industrial Relations Act 2009 (Qld)*
- *Crime and Corruption Act 2001 (Qld)*
- *Public Sector Ethics Act 1994 (Qld)*
- *Human Rights Act 2019 (Qld)*
- *Public Records Act 2023 (Qld)*

2 POLICY PURPOSE

This policy describes the operational processes and procedures for managing instances of unsatisfactory performance, inappropriate conduct and misconduct by employees of Pormpuraaw Aboriginal Shire Council (Council).

This policy also supports employees to perform their roles to the required standard. It provides managers and supervisors with clear guidelines for setting expectations, giving regular and constructive feedback, and ensuring employees are given a reasonable opportunity, with appropriate support, to improve before formal disciplinary action is considered.

This policy does not form part of any employee's contract of employment and does not override the terms of any applicable award, enterprise agreement or contract.

3 POLICY OBJECTIVE

The primary objective of this policy is to establish clear standards for professional conduct and work performance while providing a consistent, transparent framework that guarantees procedural fairness and the right of reply for all employees. By facilitating a supportive environment, the Policy ensures that underperformance is identified early and addressed through opportunities for improvement, all while maintaining strict compliance with the *Local Government Act 2009 (Qld)* and the *Industrial Relations Act 2016 (Qld)*. Ultimately, this framework serves to protect the reputation and integrity of Council by ensuring that all workplace matters are resolved swiftly, ethically and in accordance with statutory obligations.

4 POLICY SCOPE

This policy applies to all employees, contractors, volunteers, consultants and agents (together "Personnel") of Council.

The Chief Executive Officer (CEO) is responsible for all staff and operations within Council, including performance management. Councillors have a strategic focus and are not involved in operational or staff management matters.

This policy does not apply to the performance management or discipline of the CEO. The CEO is appointed by, and accountable to, the Council, and the Council manages the CEO's performance, conduct and contract under the CEO Appointment and Performance Policy, and the CEO's contract of employment. CEO remains bound by the Employee Code of Conduct, the *Public Sector Ethics Act 1994 (Qld)*, and all other obligations and Council policies applying to Personnel.

This policy applies when dealing with matters associated with unsatisfactory performance, inappropriate conduct and misconduct in any circumstances at, in connection with, or arising out of employment with Council, including conduct at work-related functions and when employees visit other workplaces in connection with Council business.

Where an employee's conduct involves a breach, or suspected breach, of any Australian law, Council may notify the police or other relevant government authority.

5 POLICY STATEMENT

5.1 GOVERNANCE AND RESPONSIBILITIES

Council will allocate responsibilities to ensure decisions are lawful, consistent with Council delegations, and appropriately documented.

- a) The CEO is responsible for taking disciplinary action against employees in accordance with section 197 of the *Local Government Act 2009 (Qld)* and Part 3, Division 1 of Chapter 8 of the *Local Government Regulation 2012 (Qld)*, and for reporting suspected corrupt conduct to the Crime and Corruption Commission.
- b) The Responsible Manager is responsible for maintaining and updating this policy, providing advice to managers on the application of this policy, and overseeing compliance with procedural fairness requirements.
- c) Managers and supervisors are responsible for addressing unsatisfactory performance and conduct issues in a timely, fair and consistent manner, for conducting or commissioning investigations, and for ensuring documentation is maintained.
- d) All Personnel are responsible for complying with the Employee Code of Conduct, cooperating with investigations, maintaining confidentiality in relation to disciplinary processes, and reporting suspected misconduct or corrupt conduct.

5.2 GROUNDS FOR DISCIPLINARY ACTION

In accordance with section 197 of the *Local Government Act 2009 (Qld)*, and under Part 3, Division 1 of Chapter 8 of the *Local Government Regulation 2012 (Qld)*, disciplinary action may be taken against an employee in relation to:

- a) failure to perform responsibilities under the *Local Government Act 2009 (Qld)*, which may include persistent unsatisfactory performance;
- b) failure to discharge a responsibility under the Act in accordance with the local government principles; or
- c) action taken under the Act in a way that is not consistent with the local government principles, which may include misconduct.

Disciplinary action may also be taken for conduct that constitutes a breach of the employee's contract of employment, applicable award, or enterprise agreement.

5.3 PROBATIONARY PERIOD

All new employees will be subject to a probationary period of six (6) months from the date of commencement, unless otherwise specified in the employee's contract of employment.

The purpose of the probationary period is to assess whether the employee is suitable for ongoing employment, having regard to their performance, conduct, attendance, capability and compatibility with Council's values and workplace culture.

5.3.1 Probationary Reviews

The employee's supervisor must conduct structured performance reviews during the probationary period at the following intervals, at a minimum:

- a) an initial meeting within the first two (2) weeks to confirm role expectations, performance standards, key accountabilities and available support;
- b) a mid-probation review at three (3) months to assess progress, identify any concerns and provide feedback; and
- c) a final probation review at five (5) months to determine whether the employee has met the required standards and to recommend confirmation, extension or termination of employment.
- d) Where necessary more regular reviews may be required where poor performance is identified.

Each probationary review must be documented and a copy placed on the employee's personnel file.

5.3.2 Outcome of Probation

At the conclusion of the probationary period, the supervisor must recommend one of the following outcomes:

- a) confirmation of ongoing employment, where the employee has met the required standards;
- b) extension of the probationary period by a further period of up to three (3) months, where the employee has not yet met the required standards but shows reasonable prospect of improvement with additional support; or
- c) termination of employment during or at the conclusion of the probationary period, where the employee has not met the required standards and there is no reasonable prospect of improvement.

Where the probationary period is to be extended, the employee must be provided with written notice of the extension, the reasons for the extension, the areas requiring improvement, and the support that will be provided.

Where employment is to be terminated during probation, the employee must be given notice in accordance with their contract of employment and any applicable award or agreement.

5.4 WORK AND CAREER DEVELOPMENT

Council is committed to ongoing work and career development as a means of supporting employees to achieve their full potential, deliver quality services, and contribute to Council's corporate objectives.

5.4.1 Annual Work and Career Development

All employees must participate in a formal work and career development review at least annually. The timing and format of the review cycle will be determined by the CEO.

The review must address, at a minimum:

- a) achievement against objectives and key performance indicators set for the review period;
- b) competency, skill and capability demonstrated during the review period;
- c) conduct and adherence to Council's values and the Employee Code of Conduct;
- d) professional development undertaken and development needs for the coming period; and
- e) objectives and key performance indicators for the next review period.

Reviews must be documented, discussed with the employee, and signed by both the supervisor and the employee. A copy must be placed on the employee's personnel file.

5.4.2 Performance Conversations

Supervisors are encouraged to have regular, documented, performance conversations with employees throughout the year. These conversations provide an opportunity to give and receive feedback, address emerging issues early, recognise achievements, and adjust priorities as needed.

Supervisors must not wait for the annual Work and Development Review to raise performance or conduct concerns. Where a concern is identified, it should be raised with the employee promptly and documented.

5.5 PERFORMANCE IMPROVEMENT PLAN

Where an employee's performance does not meet the required standard and informal coaching or feedback has not resulted in sufficient improvement, the supervisor may implement a formal Performance Improvement Plan (PIP).

A PIP is not disciplinary action. It is a structured, supportive process designed to give the employee a clear and reasonable opportunity to improve their performance to the required standard before formal disciplinary action is considered.

5.5.1 Content of a Performance Improvement Plan

A PIP must be documented in writing and must include, at a minimum:

- a) a clear description of the specific performance deficiencies and the gap between the employee's current performance and the required standard;
- b) the performance standard that the employee is expected to achieve;
- c) the support measures Council will provide, which may include training, mentoring, coaching, modified duties, additional supervision or resources;
- d) the review period, which must be reasonable having regard to the nature and extent of the performance deficiency (typically between four (4) and twelve (12) weeks);
- e) specific milestones and review dates at which progress will be formally assessed;
- f) the consequences of failure to achieve the required standard within the review period, which may include formal disciplinary action up to and including termination of employment; and
- g) the name and contact details of the supervisor responsible for overseeing the PIP.

5.5.2 Process for a Performance Improvement Plan

The supervisor must meet with the employee to discuss the PIP, explain the concerns, outline the support available, and provide the employee with an opportunity to comment on the proposed plan before it is finalised.

The supervisor must meet with the employee at each scheduled review point to assess progress, provide feedback, and document the outcome. At the conclusion of the PIP, the supervisor must determine one of the following outcomes:

- a) the employee has met the required performance standard and the PIP is concluded;
- b) the employee has made satisfactory progress but has not yet met the required standard, and the PIP is extended for a further defined period; or
- c) the employee has not met the required standard despite having been given adequate support and opportunity to improve, and the matter will proceed to formal disciplinary action under this policy.

All PIP documentation, including the plan itself, review notes, and the final outcome, must be placed on the employee's personnel file.

A PIP is not required before formal disciplinary action where the employee's conduct constitutes misconduct or serious misconduct.

5.6 INVESTIGATION

Depending on the circumstances, it may be necessary to conduct an investigation into incidents and allegations against an employee. Investigations may be conducted internally or by appointment of an external investigator.

An investigation must involve:

- a) particularisation of the allegations;
- b) collection of relevant evidence;
- c) interviews with the employee, complainants and relevant witnesses; and
- d) consideration of evidence to make a finding on each allegation, using the standard of proof for workplace matters, which is "on the balance of probabilities".

Council will endeavour to ensure investigations are undertaken in a timely manner. Throughout the investigation process, appropriate procedural fairness principles will be applied, including providing the employee with the opportunity to have a support person, allowing reasonable timeframes to respond to allegations, and providing sufficient information to allow a meaningful response.

Council may take disciplinary action against a person who knowingly makes a false or vexatious allegation. This clause does not affect the protections available to a person who makes a public interest disclosure under the *Public Interest Disclosure Act 2010 (Qld)*.

5.7 SUSPENSION

In accordance with section 282 of the *Local Government Regulation 2012 (Qld)*, the CEO may suspend an employee from duty on full pay when satisfied, on reasonable grounds, that the employee will be subject to disciplinary action.

Where an employee is suspended, the employee must be provided with written notification of:

- a) the conditions of the suspension;
- b) the reasons for the suspension, where it is appropriate and practicable to do so; and
- c) that the employee will continue to receive their full remuneration for the period of the suspension.

5.8 NOTICE OF PROPOSED DISCIPLINARY ACTION

Before the CEO takes disciplinary action against an employee, the employee must be provided with a written Notice of Proposed Disciplinary Action in accordance with section 283 of the *Local Government Regulation 2012 (Qld)*. Compliance with section 283 is a mandatory precondition to taking valid disciplinary action.

The Notice must contain, at a minimum:

- a) the proposed disciplinary action to be taken;
- b) the grounds on which the disciplinary action is proposed; and
- c) the particulars of conduct (facts) claimed to support the grounds.

The Notice must clearly state the specific disciplinary action that is proposed. It is not sufficient to merely outline possible consequences or a range of options. The grounds and particulars must be sufficiently detailed to enable the employee to understand the case against them and provide a meaningful response.

The employee must be afforded a fair and reasonable opportunity to respond to the Notice. Council requires all responses to a Notice of Proposed Disciplinary Action to be in writing. The employee may also be asked to attend a meeting to discuss the matters raised.

Where additional facts or allegations come to Council's attention after a Notice has been issued, a supplementary Notice must be provided to the employee before those additional matters can be taken into consideration.

5.9 DISCIPLINARY INTERVIEW

Where a disciplinary interview is conducted following the provision of a Notice of Proposed Disciplinary Action, the following procedure will generally apply:

- a) the employee will be given advance notice of the meeting, its purpose, and the topics to be discussed;
- b) the employee will be given a reasonable opportunity to have a support person present;
- c) the allegations and supporting evidence will be clearly put to the employee, consistent with the details in the Notice;
- d) the employee will be given adequate opportunity to respond to each allegation and to raise any concerns;
- e) the manager conducting the interview will consider the employee's response and make any further inquiries or investigations that may be necessary; and
- f) after considering the employee's response and any further inquiries, the manager will determine whether the allegations have been substantiated on the balance of probabilities.

If it is determined that all or some of the allegations are substantiated, the following factors will be considered:

- a) the seriousness of the unsatisfactory performance or misconduct;

- b) the response or explanation given by the employee;
- c) the employee's employment history and record; and
- d) whether there are appropriate and reasonable alternatives to dismissal.

5.10 TYPES OF DISCIPLINARY ACTION

5.10.1 Formal Disciplinary Action

In accordance with section 280 of the *Local Government Regulation 2012 (Qld)*, the types of formal disciplinary action which may be taken by the CEO are:

- a) dismissal;
- b) demotion, including a reduction in remuneration; and
- c) a written reprimand or warning.

The type of disciplinary action taken will vary from case to case, depending upon all of the circumstances, including whether the employee has received any prior verbal or written warnings. Regardless of whatever disciplinary action is imposed, where it does not lead to dismissal, such action may be relied upon in future to support dismissal due to ongoing unsatisfactory performance, unacceptable conduct or misconduct.

Nothing in this policy prevents Council from issuing a first and final warning as an initial disciplinary step, or, where the employee's conduct constitutes serious misconduct, from dismissing the employee as the first disciplinary outcome, provided the notice and response requirements of this policy are met in every case.

5.10.2 Alternatives to Formal Disciplinary Action

Where appropriate, Council may take the following actions as alternatives to, or in addition to, formal disciplinary action:

- a) redirection or retraining;
- b) reorganisation or redeployment;
- c) mediation; and
- d) counselling.

Alternatives to formal disciplinary action are not appropriate where the employee's conduct constitutes serious misconduct.

5.11 WRITTEN REPRIMAND OR WARNING

If disciplinary action taken against an employee consists of a written reprimand or warning, it will form part of the employee's employment record and must, at a minimum, state:

- a) the employee's conduct that is disapproved of;
- b) the remedial action needed to rectify the conduct;
- c) the period within which the remedial action is to be taken; and
- d) the possible consequences for a repeat of the conduct by the employee.

5.12 DISMISSAL

If the decision is made to dismiss the employee, the employee must be provided with:

- a) written notice of the day of dismissal, or payment in lieu of notice, except where dismissal is due to serious misconduct and in accordance with section 121 of the *Industrial Relations Act 2016 (Qld)*;
- b) payment of all accrued entitlements;
- c) a Separation Certificate; and
- d) a Statement of Service, if requested.

On dismissal, the employee must immediately return all Council property in their possession or control.

An employee occupying housing owned or provided by Council must vacate the housing within the period specified in the employee's housing or tenancy agreement or contract of employment or, where no period is specified, within one (1) month of the dismissal taking effect.

Where dismissal is proposed, the requirements of section 283 of the *Local Government Regulation 2012 (Qld)* must be complied with, even where the employee's conduct constitutes serious misconduct. Failure to comply with section 283 may result in the dismissal being found invalid by the Queensland Industrial Relations Commission.

5.13 APPEALS

Nothing in this policy prevents an employee from exercising their rights under the *Industrial Relations Act 2016 (Qld)* or other applicable law if Council takes disciplinary action against the employee.

An employee who has concerns about the process followed under this procedure may raise those concerns through Council's Grievance Policy and Procedure. The decision-maker for disciplinary action remains the CEO.

An application for reinstatement on the grounds of unfair dismissal may be made to the Queensland Industrial Relations Commission within 21 days after the dismissal takes effect, in accordance with the *Industrial Relations Act 2016 (Qld)*.

5.14 CORRUPT CONDUCT

Suspected corrupt conduct must be referred to the CEO, who has a duty to notify the Crime and Corruption Commission under the *Crime and Corruption Act 2001 (Qld)*. The disciplinary process under this policy does not limit or replace the obligation to report corrupt conduct.

5.15 RECORD KEEPING AND CONFIDENTIALITY

Council must make contemporaneous notes of all performance management discussions, investigation interviews, disciplinary meetings and subsequent actions.

File notes summarising the nature of the allegations, the details and outcome of any investigation, all conversations with the employee, and the disciplinary action taken (including copies of warning or termination letters) must be placed on the employee's personnel file.

Where possible, the employee should be asked to sign file notes as an acknowledgement. If the employee declines to sign, the refusal and any reason given must be recorded.

All records relating to disciplinary action must be managed in accordance with the *Public Records Act 2023 (Qld)* and Council's records management requirements.

Throughout investigation and disciplinary processes, all Personnel involved, including support persons, are required to maintain confidentiality. Breaches of confidentiality may result in Council taking disciplinary action against the person responsible.

5.16 TRAINING, AUDIT AND CONTINUOUS IMPROVEMENT

All Personnel must receive training on this policy as part of induction, and at least annually thereafter.

Training must include the purpose and requirements of this policy, the obligations and responsibilities of Personnel, how to identify and report non-compliance, and the consequences of a breach of this policy.

The Responsible Manager is to arrange periodic audits of compliance with this policy and to identify improvement actions.

5.17 EVALUATION OF POLICY

The success of this policy will be measured by:

- a) compliance with procedural fairness requirements;
- b) timely resolution of performance and conduct matters;
- c) number and nature of disciplinary actions taken;
- d) outcome of any appeals or proceedings before the Queensland Industrial Relations Commission;
- e) completion rates for Personnel training; and
- f) audit outcomes relating to performance and discipline management.

5.18 BREACHES

Failure to comply with this policy may result in disciplinary action and may also result in decisions being reviewed, suspended, or set aside where required to address risk, probity, or legal compliance.

Suspected misconduct, fraud, improper influence, or serious probity concerns must be reported in accordance with Council's relevant reporting processes and Code of Conduct.

6 HUMAN RIGHTS COMPATIBILITY STATEMENT

Council is a public entity under the *Human Rights Act 2019 (Qld)* and must act and make decisions in a way that is compatible with human rights.

The rights most engaged by this policy are the right to privacy and reputation and the right to a fair hearing. This policy protects those rights through the procedural fairness, confidentiality, and recordkeeping requirements it imposes on all performance management and disciplinary processes.

This policy has been assessed as compatible with Human Rights protected under *the Human Rights Act 2019*.

7 DEFINITIONS

Term	Definition
Council	Pormpuraaw Aboriginal Shire Council

Term	Definition
Disciplinary Action	A formal action taken by the Chief Executive Officer against an employee under Part 3, Division 1 of Chapter 8 of the Local Government Regulation 2012 (Qld).
Employee	A person holding an appointment under section 196 of the Local Government Act 2009 (Qld). For the purposes of this policy, Employee does not include the Chief Executive Officer, whose appointment, performance management and discipline are dealt with by the Council under the Chief Executive Officer Appointment and Performance Policy.
Misconduct	Conduct that could, if proved, be a criminal offence or an act providing reasonable grounds for terminating the employee's employment. Serious misconduct includes theft, assault, sexual harassment or sex or gender-based harassment and fraud.
Notice of Proposed Disciplinary Action	The written notice required under section 283 of the Local Government Regulation 2012 (Qld) that must be provided to an employee before disciplinary action is taken.
Performance Improvement Plan (PIP)	A structured, documented plan that sets out specific performance deficiencies, the required standard, support measures, a review period, and the consequences of failure to improve.
Personnel	All employees, contractors, volunteers, consultants and agents of Council.
Probationary Period	The initial period of employment, typically six (6) months, during which the suitability of a new employee for ongoing employment is assessed.
Procedural Fairness	The requirement that a person affected by a decision is given a fair opportunity to be heard before the decision is made, and that the decision-maker acts without bias.
Support Person	A co-worker, union delegate, or other person nominated by the employee to provide support during a disciplinary meeting or interview. A support person is not an advocate and does not speak on behalf of the employee unless invited to do so by Council.
Unsatisfactory Performance	A persistent failure by an employee to perform the inherent requirements of their role to the standard reasonably expected, after having been given reasonable opportunity, support and direction to improve.

8 RELATED POLICS AND OTHER DOCUMENTS

- Code of Conduct for Staff
- Code of Conduct for Staff Summary
- Councillor Code of Conduct
- Public Interest Disclosure Policy
- Work Health and Safety Policy
- Delegations Register
- Alcohol and Other Drugs Policy
- Employee Complaint Resolution
- Staff Handbook

9 MONITORING AND REVIEW

Notwithstanding the above, this policy is to be reviewed every four (4) years for relevance and to ensure that its effectiveness is maintained.

This policy is to be reviewed in accordance with the Governance Framework. Council reserves the right to vary, replace, or terminate this policy from time to time. A variation to this policy does not apply to a disciplinary process that has already commenced, which will be completed under the policy as in force when the process began.

10 RESPONSIBILITY

This Policy is to be implemented by the CEO; and reviewed and amended in accordance with the Governance and Records Officer.

11 VERSION CONTROL

Version	Details	Resolution No	Date
V1	Developed and Adopted	2026/193	19 October 2026