Shire of Lake Grace

Ordinary Council Meeting

Minutes

20 May 2020
Meeting Commencing at 1.30 pm

Disclaimer

No responsibility whatsoever is implied or accepted by the Shire of Lake Grace for any act, omission or statement or intimation occurring during Council/Committee meetings or during formal/informal conversations with staff. The Shire of Lake Grace disclaims any liability for any loss whatsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council/Committee meetings or discussions. Any person or legal entity who acts or fails to act in reliance upon any statement does so at that person’s and or legal entity’s own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for license, any statement or limitation or approval made by a member or officer of the Shire of Lake Grace during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of Lake Grace. The Shire of Lake Grace warns that anyone who has an application lodged with the Shire of Lake Grace must obtain and only should rely on WRITTEN CONFIRMATION of the outcome of the application and any conditions attaching to the decision made by the Shire of Lake Grace in respect of the application.
SHIRE OF LAKE GRACE

Minutes of the Ordinary Meeting of Council held at the Council Chambers, 1 Bishop Street, Lake Grace, WA on Wednesday 20 May 2020.

1.0 DECLARATION OF OPENING ANNOUNCEMENT OF VISITORS

The Acting Chief Executive Officer opened the meeting at 1:29pm.

Due to the resignation of Cr Jeanette De Landgrafft as Shire President, the Acting Chief Executive Officer will conduct proceedings for the election and declaration of a new Shire President, and if required a Deputy Shire President as per Local Government (Constitution) Regulations 1998 11A-11G.

1.1 CONSTITUTION MATTERS

The Acting Chief Executive Officer will oversee and conduct proceedings for:

1.1.1 ELECTION AND DECLARATION OF A SHIRE PRESIDENT

The election and declaration of the Shire President by secret ballot in accordance with the Local Government (Constitution) Regulations 1998 11A-11G.

The Acting Chief Executive Officer advised at the close of nominations for the position of Shire President one written nomination was received in favour of Cr Leonard William Armstrong. Cr Armstrong was elected.


1.1.2 ELECTION AND DECLARATION OF DEPUTY SHIRE PRESIDENT

Due to the resignation of Cr Peter Stoffberg as Shire Deputy President, The Acting Chief Executive Officer conducted proceedings for the election and declaration of a new Deputy Shire President as per Local Government (Constitution) Regulations 1998 11A-11G.

The election and declaration of Deputy Shire President by secret ballot in accordance with the Local Government (Constitution) Amendment Regulations 1998 11A-11G.

The Acting Chief Executive Officer advised that at the close of nominations for the position of Deputy Shire President one nomination was received in favour of Cr Ross Chappell. CR Chappell was elected.

The Acting Chief Executive Officer declared Cr Ross Chappell elected with a term of office expiring in October 2021. Cr Ross Chappell made the Declaration of Office as Deputy Shire President.
The new Shire of Lake Grace President Cr Leonard William Armstrong took the Chair and thanked Cr Jeanette De Landegrafft for her time as President. A letter of thanks will be sent to former Councillor Jeanette De Landegrafft for her 12.5 years of service to the community.

### 2.0 DISCLAIMER READING

A recording of the disclaimer is to be played aloud.

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3.0 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

3.1 PRESENT

Cr LW Armstrong  Shire President
Cr R Chappell    Deputy Shire President
Cr SP Stoffberg
Cr DS Clarke
Cr M Stanton
Cr RA Lloyd
Cr AD Marshall
Cr HL Steicke

In Attendance
Mr A George      Acting Chief Executive Officer
Mr C Elefsen    Manager Infrastructure Services
Mr Kevin Wilson Manager Corporate Services

Observers/Visitors
Ms Danielle Robertson Lake Grace Community Garden Group
Ms Lauren Caffrey   Lake Grace All Ages Community Playground Group

3.2 APOLOGIES

Nil

3.3 LEAVE OF ABSENCE PREVIOUSLY GRANTED

Nil

4.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

5.0 PUBLIC QUESTION TIME

Nil

6.0 PETITIONS/DEPUTATIONS/PRESENTATIONS

6.1 PRESENTATION – LAKE GRACE COMMUNITY GARDEN GROUP

Ms Danielle Robertson, representative of the Lake Grace Community Garden Group conducted a presentation to the Council about establishing a community garden next to the OP Shop; for the following reasons:

- The area is fenced
- Amenities such as power, water is connected
• Toilet facilities are in placed
• The area is secluded from traffic and yet accessible to the community
• The area is slabbed and has a flat surface
• Their value tie in well with the Op Shop theme

The LG Community Garden Group has asked for support from the Council and the Shire for the following:

• Council to consider continuing the current lease held by the CWA for the foreseeable future
• Shire staff to notify the LG Community Garden Group for any funding available that is suitable to their needs
• Council to support this community driven venture

Questions:

From Cr Clarke: When do you anticipate starting this project?
Response: With the current climate and the COVID-19 problem, we are unsure of the exact time to start but will surely inform the Council, the Shire and the community as soon as we know.

From Cr Marshall: Have you considered the area of the old power station?
Response: The area is big and with the water restrictions in place, it will not be viable.

The Councillors thanked the Lake Grace Community Garden group for their presentation and acknowledged the material (Attachment 6.1) presented.
Lake Grace Community Garden

Our Vision

- Strengthen community ties and develop a sense of community and belonging
- Sustainability
- Promote good mental & physical health
- Build and share knowledge between community members of all ages and walks of life.
- Improving overall health & habits through education
What we want to achieve

- A sustainable centre able to fund its own activities and improvements
- Intergenerational teaching and learning
- A community hub that will welcome all
- An outlet for those that are not interested in organised sport

How we will achieve this

- Develop a community driven working group to establish the project
- Develop active partnerships with community groups and organisations
- Charge a yearly fee to be able to use the garden with the understanding that users will provide various inputs, in return they will be able to reap the rewards of their labour
- Provide access to the Grow Free cart
Funding

- Annual Subscription
- Grants
  - CIBI
  - IGA Community Benefits
  - Act Belong Commit
  - Australia Post
  - Department of Local Government & Communities
  - Lotterywest
  - Bendigo Bank/Bankwest
  - Department of Veterans’ Affairs
- Selling of Excess Produce or Products
- An Annual Community Event

Public Events

- Host a Garden talk and invite the public to join
- Have a Garden Feast using food produced in the garden
- Collaborate with the Playgroup, School and Seniors to host workshops
Why at the Op Shop?

- The area is fenced
- There are toilet facilities
- There is running water and power
- Community garden values tie in well with Op Shop themes
- Limited vegetation
- The area is secluded from passing traffic yet accessible to community users
- Existing slab and flat surface

Council to consider continuing the current lease held by the CWA for the foreseeable future

What we are asking from Council?

- Shire staff to notify us of any grant funding available that may be suitable to our needs

Just your support in this community driven venture
Thank you for your time
6.2 PRESENTATION – LAKE GRACE ALL AGES COMMUNITY PLAYGROUND GROUP

Ms Lauren Caffrey, representative from the Lake Grace All Ages Community Playground Group conducted a presentation to the Council regarding the establishment of the Lake Grace Playground. The group identified the site of the proposed Playground concept with an overall site dimension of approximately 110m x 80m. The equipment to be used are all included in the presentation (Attachment 6.2)

Questions:

From A/CEO: Considering that the project is in 6 stages, over what period of time it is anticipated to be completed?
Response: It will depend on the funding availability and grants we received but firstly we will require a Project Manager to get to planning stage including the use of the land

Cr H Steicke commented that the group must be committed to see through the process as a complete project so that the community can benefit from it.

The group is asking the Shire that when the project is finally completed, the Shire takes over the maintenance and upkeep of the playground.
Attachment 6.2

Lake Grace Playground Concept

Glenn Mars – Recreation Consultant | glenn.mars@playgroundcentre.com | 0422 421 449 | 1800 092 897
May 2020

Lake Grace Playground Concept

Thank you for the opportunity to submit a presentation.
The following Playground Equipment focuses on providing maximum play value while looking innovative and exciting. Designed to embrace all ages and abilities with all inclusive options. Developed to meet universal needs for play, learning and wellbeing.

The Equipment Chosen will keep the area modern while providing all the important play value and engagement the local community deserve. Colour options available to ensure that this playspace is visually appealing for all ages and fits in with the environment.

We have provided the following concept based on your brief. We have kept the individual pricing and presentation straight forward to allow you to mix and match items to suit your budget, we would be pleased to discuss your final design and budget requirement with you.

Kind Regards,
Glenn Mars
Site Plan Supplied

Overall site dimensions 110x 80m approx.
Musical Instrument

Eco Bongos

Bongos Drums Musical Instrument
Musical bongo drums made from aluminium to suit almost any environment. Powder-coated standard in bright colours (or can be coloured to your choice). Available in timber, aluminium or wobbly wood post options.

Safety, Quality and Usability:
Musical Instrument

Eco Chimes

Play-Chimes Musical Instrument – Standard Model
Musical Play Chimes with backboard, aluminium chimes and a pair of beaters.
Standard Model has a bright coloured iodised aluminium chimes
Powder-coated standard in bright colours (or can be coloured to your choice)
Available in timber, aluminium or wobbly wood post options
Safety, Quality and Usability:
Musical Instrument
Eco Rain Wheel

Rain Wheel
A spinning, moving rain sounding wheel! A perfect "Inclusive" product for your playspace.
600mm diameter wheel with stainless steel main bearings.
Powder-coated standard in bright colours (or can be coloured to your choice)
Available in timber, aluminium or wobbly wood post options
Safety, Quality and Usability:
Musical Instrument
Bable drum small

Babel Drum Musical Instrument
Our Babel Drum has been carefully tuned to replicate the sweet sound of steel pans! The Babel Drum is very easy to play. Played with the hands, preferably by striking with the fingertips, the notes produce perfect musical tones typically associated with a tropical setting.
We recommend playing using the pads of your fingers, however you can also play with fingertips or the side of the thumb or a mix of all 3. A quick tap onto the smooth surface of the drum & pulling away quickly like you’ve touched something hot produces a beautiful melodic tone - do not leave the finger on the drum.
The strike should be fast & soft at the same time & the hand should be open & loose. Where you strike of course makes a lot of difference too, with the larger tongues producing lower notes & smaller ones the higher notes. A wide range of tones can be created through experimenting & developing different playing techniques.
Fabricated from stainless steel & on a stainless steel post.
Small drum - C Major (6-notes)
Musical Instrument
Tembos Pentonic

Tembos Musical Instrument
A type of aerophone (instrument sounded by air) - the Tembo is a plosive aerophone. Both intriguing & addictive, our interactive Tembos allow you to make surprisingly funky music simply by striking them with the durable rubber paddles!
The 6 stainless steel tubes generate a different tone with varying volumes depending on how hard you hit them - their audible strength is staggering!
A stylish support structure holds the stainless steel tubes in a vertical orientation with the tallest standing over 2.5m in height, creating a truly visual & audibly stunning experience.
Supplied with a pair of tethered paddles.
Musical Instrument
Duo Zylophone

Duo Musical Instrument
The Duo is a distinctive instrument with an ergonomic curved design. Accessible from both sides, this instrument can be enjoyed by up to four players. The curvaceous design of the Duo is not just about looking stylish. The wave makes it easier for individuals with limited range of movement or players in wheelchairs, to reach all of the notes. Each player is slightly offset from each other. Playing the Duo is effortless and so come & make some great music! The left and right-hand side are mirrored and scale spans two octaves.

The 'Duo' is available in 6 options:
- Jumeau Duo - Aluminium notes (bright, clear tone)
- Gemima Duo - GRP Fibreglass notes (fast & punchy sound)
- Kasinda Duo - Hardwood Timber notes (strong, deep resonant sound)
- Cupla Duo - clever mix of half Aluminium & half GRP Fibreglass notes
- Besso Duo - clever mix of half GRP Fibreglass & half Hardwood Timber notes
- KembarDuo - clever mix of half Hardwood Timber & half GRP Fibreglass notes

Supplied with two pairs of small tethered beaters.
Musical Instrument
Soprano pentatonic chimes

Mirror Chimes Musical Instrument
The Mirror Chimes are highly polished Aluminium Anodised notes that give a unique sound whilst reflecting the surrounding environment.
The chimes are mounted using our universal wall-mounting brackets.
Supplied with a pair of small tethered beaters.
Musical Instrument
Emperor chimes set of 3

Emperor Chimes Musical Instrument
With the largest standing 2.5m in height, our Emperor Chimes really are large in sound and size! As a full set of 6 they offer a complete octave. A standard set of 3 offers a primary C-major chord.
Striking the chime just about anywhere along the tube produces a deep, resonant, powerful tone that you not only hear, but can feel as well. The harder you strike, the more it will vibrate, creating a louder sound with such resonance you can actually feel the vibration through your entire body.
It is an amazing experience and you really do feel like you have been bathed in sound! These chimes are played with your hands.
Swing

Flying Saucer – Timba Frame with 1200mm Basket, Jungle Rope and 2 conventional Seats

Flying Saucer – Triple Frame with 1200mm Basket, Duo Rope & 2 Standard Seats
What a combo! Unique to Playground Centre!
The Flying Saucer is all the rage. Great for family fun and 1-5 children can use it at once.
All inclusive and all ages! On this extra-large 1200mm diameter basket you can lie down or stand up, your choice!
The Duo Rope is a rope swing for two! It swings with normal swinging motion. 160mm plaited rope with vandal resistant wire system.
Swing alongside with 2 standard swings on the same frame. Attractive top bar curves for strength. Top bar set at 2.2m above surface level.
Wobbly Hardwood Seesaw – or 4-seater

Take your turn on the beam see-saw for never-ending rocking fun. Fun for 2 or 4 users depending on which option you choose! (2 seater shown)

Safety Surface area size: 3700mm x 7000mm
4.15M Space Shuttle Spinner

4.15M Space Shuttle Spinner
20.01.150
The Space Shuttle Spinner is a
4m high tower which will give
you a greater adrenalin
rush. Includes 2 seats on
horizontal net, adding an extra
level of play & a handwheel so
you can rotate yourself while
sitting on the upper level ...
harder than it looks
though! Also excellent for
inclusive play - kids can sit or lie
in the basket.
Safety, Quality and Usability:
Compliant with NZ and
Australian Safety Standards
200mm HDG Central Mast
Hercules Rope Construction
**Inclusive Carousel**

All inclusive 2m diameter Carousel. Ideal for wheelchairs with seating for carers, mums with pushchairs/buggys or just heaps of kids! Good, old fashioned fun!

Standard model - Hot Dip Galvanised & colour powdercoated frame, with aluminium checkerplate base (no colour) and grey or black seat.

Colour Powdercoating available as optional extra for checkerplate base. Different seat colour options also available.
Sandplay 227 AU Hardwood

Sand Play Module 227
A combined traditional junior play module & sandplay station for a wide range of ages & abilities, packed with play value and suitable for 10+ users at a time. Activities incorporate:
- Sand Sieve Swing/Seesaw
- Rotating Sandlift with pulley, chain & membrane bucket
- Side Sandlift with pulley, chain & membrane bucket
- Sand Silo
- Sand Scoop
- Abacus
- 1m Rotational-moulded Plastic Crawl Tunnel with portholes
- Tic Tac Toe
Talk Tubes

Why not install a Talk Tube beside your path or walkway? Great for inclusive play as mum & dad, or those with limited ability or in wheelchairs can join in the fun. Available as Hot Dip Galvanised or Colour Powdercoated. Your choice of timber or steel/aluminium pole. Customised options available
SC381 1500 Double Embankment Slide

SC381 1500 Double Embankment Slide
A dynamic embankment slide in our 1500 Double model - race your friends to the bottom! Available with or without Canopy. Other models also available - 1200 Double, or a range of Single models.
Wobbly Wood Junior Rocker
The Junior Rocker is a popular springy seesaw for the under 5's - two kids can have fun together!
Safety, Quality, Durability & Usability
Compliant with NZ, Australian & European Safety Standards
Handcrafted from hardwood timber
Inclusive Spinning Bucket

Inclusive Spinning Bucket
A large 600mm diameter bucket spinner for all ages & all abilities - spin to your hearts content! Great for inclusive play with its clever & extra-safe design including:
Higher back for backrest
Handgrips on the sides
Lower at the front to make getting out easier
Safety Surface area required: 3700mm diameter
Tunnel through mound

The 'Tunnel thru mound' is one of our most popular activities! Tunnels made to your specific length ... create your mound over the top for a 'roly-poly' hill! Excellent for inclusive play. Available straight, curved ... manufactured from rotational moulded plastic, with steel supports ready to concrete into the ground. Our most popular models have a 500mm or 1m section, with 2 exit sections.
Steel Double Traveller

The Traveller is a traditional flying fox with a seat for all ages. Standard lengths are 25m, 30m, 45m, 50m. Custom lengths and different pole finishes available. Also available in Single Model Safety, Quality and Usability:
Certified to NZ & Australian Safety Standards
Conditional 25 Year Warranty
Heavy Duty Spring Dampening System
C-Lever Trolley Brake System
Stainless Steel Trolley,
6.85M Black Forrest Tower with Tree Hut and Slide

6.85M Black Forrest Tower

Amazing Black Forest Tower packed with assorted play activities - total of 6.85m high! Topped off with a Tree hut on top of the tower an icon and immediate attraction for kids of all ages. Activities include: 6m height Tube slide Tree Hut with a customisable cladding to suit your theme. Central vertical climbing chimney up to the top 1000mm diameter Honeycomb Birds Nest Basket with ladders & rockwall Chunky rope Bridge with ladders Net Tunnel with scramble net Suspended circular Climbing Chimney Various ladders & scramble nets & ropes

Safety, Quality and Usability:
Compliant with NZ, Australian & European Safety Standards Hercules Rope Construction Douglas fir timber posts with HDG steel post shoes or HDG steel poles Robust Construction
6.85M Black Forrest Tower Views of Activities
Fitness Exercise Equipment options

Staying active is more important than ever for all ages! Keep the community healthy with our range of individual fitness stations. They’re an ideal addition to urban areas, parks and playgrounds, and encourage outdoor exercise that’s appropriate for the entire family. Choose a selection of stations and create a unique fitness area that allows users to complete resistance training, strengthening exercises and stretches. Duo-stations offer a mix of fun and fitness providing ease of access, they are the gateway to enjoying the outdoors, and most importantly give the community fun way to stay fit! Duo stations are designed to enhance every fitness regime by providing a range of exercise options to give a full body workout! Shoulders, arms, core and legs-work every muscle with our user friendly equipment.

Water Play Feature

Water Play – Water pump Balance, flap and draw gates
The Water Gates offer various ways to dam up the water or let it flow again. The water gates are either concreted directly into the water channels or fixed into concreted installation frames. Winder water pump is constructed from Stainless Steel. An attractive, clear design and is particularly economical with water without reducing the children’s fun when pumping. The pump is connected directly to the water supply.
Warranty

Products from Playground Centre will promote many years of fun and excitement.

25 Year Warranty

On the structural integrity of:
- Hot Dip Galvanised Steel Poles
- Aluminium Poles
- Stainless Steel Hardware
- HS Tanalised Timber Poles

10 Year Warranty

On the structural integrity of part or parts of:
- Timber
- Steel
- Rotational-moulded plastic
- Engineered Plastic Sheets

5 Year Warranty

- Against colour fading of powdercoating, including Red
- Springs
- Hercules rope & connections

2 Year Warranty

- Moving parts
- Electronic components

Period Of Warranty

Our warranties apply from date of invoice to the original customer and the period varies according to the product group. Please see above.

Our warranties cover parts of equipment found to have undergone structural failure due to defective materials.

We will repair or replace the defective part at Playground Centre's discretion, and the defect is not due to:
- Vandalism, negligence, abuse, accidents, lack of maintenance or improper installation;
- Products tampered with, modified or repaired by anyone when not previously approved by Playground Centre;
- Fair wear and tear;
- Harsh or corrosive elements where preventative procedures as set out in our Maintenance instructions – pages 33, 34.

[1] and [9] have not been adhered to – see Resources on website.

Maintenance

All warranties are conditional on owners maintaining their investment by adhering to our Maintenance & Inspection Manual – see resources on website – to extend life of products.

Design

Due to our commitment to continual improvement, we reserve the right to improve or alter designs in this catalogue.

Safety Areas

Requirements for safety areas could vary to different countries and are subject to final design approval.
For us, it’s about bringing together the pieces to deliver the perfect combination for you.

For everyone
Pure fun + targeted personal benefits for every age.
Designed to embrace all abilities and meet universal needs for play, learning and well-being.
Made for NZ climate so tough enough for ‘play’ around the world.

Fresh & best
Leading trends translated into innovative, unique and creative solutions.
Global partnerships and international presence to source from and deliver the best and widest selection.

Life, skills & safety
Beyond fun for fun’s sake: target specific physical benefits, development and social skills.
Strong and age-appropriate products that meet or exceed all relevant safety standards.

Lasting products & partnerships
Real, enduring client relationships through exceptional service.
Expertise, efficiency and track record you can rely on.
Exceptional safety, quality, strength and durability.

Community & planet life
Genuine, proven commitment to customers, end-users and communities.
Inclusive approach to ensure equality and accessibility.
Environmental and sustainable practices and outlook.
Attachment 6.2

- **Agility** - Is the ability to move and change direction and position of the body quickly and effectively while under control.

- **Balance** - Evenly distributing one's weight to remain upright and steady.

- **Co-ordination** - The organisation of different body parts so they can work effectively together.

- **Fine Motor Skills** - Skills required to manipulate and gain control over materials and tools including grasping, manipulating and hand-eye co-ordination.

- **Flexibility** - The capacity of a joint or muscle to move through its full range of motion. Good flexibility is an important part of the overall fitness profile and is also important for injury prevention.

- **Gross Motor Skills** - The ability to control large body muscles including the arms, legs, hands, feet, head, neck and torso for walking, running, sitting, crawling, climbing, balancing, jumping, catching, throwing and striking. These skills foster a lifelong ability to participate in physical activity including sport and recreation.

- **Imaginative or Creative Play** - A style of playing where a child uses his/her imagination during play time. It allows a child to explore his/her own identity, make decisions and create their own rules, control behaviour and practice the act of creation which helps develop sense-of-self and boosts confidence. During creative "let's pretend" playtime, a child experiences new thoughts and feelings and begins to learn how to respond.

- **Move in any and every direction**

- **Social Development** - The ability to interact and work with others, and the acquisition of skills for effective relationships (ie sharing, waiting a turn, working as a team).

- **Team Work** - The process of working collaboratively with a group of people in order to achieve a goal.
NOTATIONS OF INTEREST

Nil

DECLARATIONS OF FINANCIAL INTEREST – LOCAL GOVERNMENT ACT 1995 SECTION 5.60A

Cr P Stoffberg declared a financial interest on item 14.4.4 – Budget Considerations, with the nature of the interest being a ratepayer directly impacted by COVID-19.

DECLARATIONS OF FINANCIAL PROXIMITY INTEREST – LOCAL GOVERNMENT ACT 1995 SECTION 5.60B

Nil

DECLARATIONS OF IMPARTIALITY INTEREST – ADMINISTRATION REGULATIONS 1996 SECTION 34C

Nil

APPLICATIONS FOR LEAVE OF ABSENCE

Nil

ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION

Nil

CONFIRMATION OF MINUTES

ORDINARY MEETING – 15 APRIL 2020

RESOLUTION 13239

Moved Cr Marshall
Seconded Cr Stoffberg

That the Minutes of the Ordinary Council Meeting held on 15 April 2020 be confirmed as a true and accurate record.

CARRIED: 8/0

SPECIAL MEETING

Nil
## 10.3 ANNUAL MEETING OF ELECTORS
Nil

## 11.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN
Nil

## 12.0 URGENT BUSINESS APPROVED BY THE PRESIDING MEMBER OR BY DECISION OF COUNCIL
Nil

## 13.0 REPORTS OF COMMITTEES
Nil

## 14.0 REPORTS OF OFFICERS
Nil

### 14.1 INFRASTRUCTURE SERVICES
Nil

### 14.2 PLANNING
Nil

### 14.3 HEALTH AND BUILDING
Nil
14.4 ADMINISTRATION

14.4.1 NATIONAL REDRESS SCHEME – PARTICIPATION OF WA LOCAL GOVERNMENTS

<table>
<thead>
<tr>
<th>Applicant:</th>
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<tbody>
<tr>
<td>File No.</td>
<td>0802</td>
</tr>
<tr>
<td>Attachments:</td>
<td>Local Government Information Paper (December 2019)</td>
</tr>
<tr>
<td>Author:</td>
<td>RR Rose</td>
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<tr>
<td></td>
<td>Mrs Racelis Rose</td>
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<td></td>
<td>Executive Assistant</td>
</tr>
<tr>
<td>Disclosure of Interest:</td>
<td>Nil</td>
</tr>
<tr>
<td>Date of Report:</td>
<td>20 April 2020</td>
</tr>
<tr>
<td>Senior Officer:</td>
<td>Mr Alan George</td>
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<td></td>
<td>Acting Chief Executive Officer</td>
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Summary

This item is for the Shire of Lake Grace to:

- Note the background information and the WA Government’s decision in relation to the National Redress Scheme;
- Note the key considerations and administrative arrangements for the Shire of Lake Grace to participate in the National Redress Scheme;
- Formally endorse the Shire of Lake Grace’s participation as part of the WA Government’s declaration in the National Redress Scheme; and
- Grant authority to an appropriate position / officer to execute a service agreement with the State, if a Redress application is received.

The Department of Local Government, Sport and Cultural Industries (DLGSC) is part of the Western Australian Government implementing reforms from the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse.

The establishment of a National Redress Scheme was a key recommendation of the Royal Commission to recognise the harm suffered by survivors of institutional child sexual abuse. DLGSC consulted with WA local governments throughout 2019 and early 2020 focusing on raising awareness of the Scheme and identifying how participation of the sector may be best approached.

Background

The Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) was established in 2013 to investigate failures of public and private institutions to protect
children from sexual abuse. The Royal Commission released three reports throughout the inquiry:

- Working with Children Checks (August 2015);
- Redress and Civil Litigation (September 2015); and
- Criminal Justice (August 2017).

The Royal Commission’s Final Report (15 December 2017) incorporated findings and recommendations of the three previous reports and contained a total of 409 recommendations, of which 310 are applicable to the Western Australian Government and the broader WA community.

The implications of the Royal Commission’s recommendations are twofold: the first is accountability for historical breaches in the duty of care that occurred before 1 July 2018 within any institution; the second is future-facing, ensuring better child safe approaches are implemented holistically moving forward.

The scope of this report addresses only the historical element of institutional child sexual abuse through the National Redress Scheme.

All levels of Australian society (including the WA local government sector and the Shire of Lake Grace) will be required to consider leading practice approaches to child safeguarding separately in the future.

**National Redress Scheme**

The Royal Commission’s *Redress and Civil Litigation (September 2015)* Report recommended the establishment of a single National Redress Scheme (the Scheme) to recognise the harm suffered by survivors of institutional child sexual abuse.

The Scheme acknowledges that children were sexually abused, recognises the suffering endured, holds institutions accountable and helps those who have been abused access counselling, psychological services, an apology and a redress payment.

The Scheme commenced on 1 July 2018, will run for 10 years and offers eligible applicants three elements of Redress:

- A direct personal response (apology) from the responsible institution, if requested;
- Funds to access counselling and psychological care; and
- A monetary payment of up to $150,000.

All State and Territory Governments and many major non-government organisations and church groups have joined the Scheme.
The WA Parliament has passed the legislation for the Government and WA based non-government organisations to participate in the National Redress Scheme.

The Western Australian Government (the State) started participating in the Scheme from 1 January 2019.

Under the National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (Cth), local governments may be considered a State Government institution.¹

A decision was made at the time of joining the Scheme to exclude WA local governments from the State Government’s participation declaration. This was to allow consultation to occur with the sector about the Scheme, and for fuller consideration of how the WA local government sector could best participate.

Comment

Following extensive consultation, the State Government (December 2019):

- Noted the consultations undertaken to date with the WA local government sector about the National Redress Scheme;
- Noted the options for WA local government participation in the Scheme;
- Agreed to local governments participating in the Scheme as State Government institutions, with the State Government covering payments to the survivor; and
- Agrees to the Department of Local Government, Sport and Cultural Industries (DLGSC) leading further negotiations with the WA local government sector regarding local government funding costs, other than payments to the survivor including counselling, legal and administrative costs.

The following will be covered for local governments participating in the Scheme as a State Government institution and part of the State’s declaration:

- Redress monetary payment provided to the survivor;
- Costs in relation to counselling, legal and administration (including the coordination of requests for information and record keeping in accordance with the State Records Act 2000); and
- Trained staff to coordinate and facilitate a Direct Personal Response (DPR – Apology) to the survivor if requested (on a fee for service basis with costs to be covered by the individual local government – see below for further explanation).

¹ Section 111(1)(b).
State Government financial support for local government participation in the Scheme, as set out, will ensure that Redress is available to as many WA survivors of institutional child sexual abuse as possible.

Individual local governments participating in the Scheme as a State Government institution, with the State will be responsible for:

- Providing the State with the necessary (facilities and services) information to participate in the Scheme;
- Resources and costs associated with gathering their own (internal) information and providing that information (Request for Information) to the State (if they receive a Redress application); and
- Costs associated with the delivery of a DPR (apology), if requested (based on a standard service fee, plus travel and accommodation depending on the survivor’s circumstance).

The State’s decision includes that all requested DPR’s will be coordinated and facilitated by the Redress Coordination Unit – Department of Justice, on every occasion.

The WALGA State Council meeting of 4 March 2020:

1. Acknowledged the State Government’s decision to include the participation of Local Governments in the National Redress Scheme as part of the State’s declaration;

2. Endorsed the negotiation of a Memorandum of Understanding and Template Service Agreement with the State Government, and

3. Endorsed by Flying Minute the Memorandum of Understanding prior to execution, in order to uphold requirements to respond within legislative timeframes.

The State and WALGA will sign a Memorandum of Understanding to reflect the principles of WA local governments participating in the Scheme as State Government institutions and being part of the State’s declaration.

State agencies (led by DLGSC), WALGA and Local Government Professionals WA will support all local governments to prepare to participate in the Scheme from 1 July 2020 (or earlier, subject to completing the necessary arrangements).

The State’s decision allows for the WA Government’s Scheme participation declaration to be amended including local governments and this report seeks endorsement of the Shire of Lake Grace’s participation in the Scheme.

As an independent entity and for absolute clarity, it is essential that the Shire of Lake Grace formally indicates via a decision of Council, the intention to be considered a State Government institution (for the purposes on the National Redress Scheme) and be included in the WA Government’s amended participation declaration.
The Shire of Lake Grace will not be included in the State’s amended declaration, unless it formally decides to be included.

The financial and administrative coverage offered by the State will only be afforded to WA local governments that join the Scheme as a State Government institution, as part of the State’s amended declaration.

The option also exists for the Shire of Lake Grace to formally decide not to participate in the Scheme (either individually or as part of the State’s declaration).

Should the Shire of Lake Grace formally decide (via a resolution of Council) not to participate with the State or in the Scheme altogether, considerations for the Shire of Lake Grace include:

- Divergence from the Commonwealth, State, WALGA and the broader local government sector’s position on the Scheme (noting the Commonwealth’s preparedness to name-and-shame non-participating organisations).

- Potential reputational damage at a State, sector and community level.

- Complete removal of the State’s coverage of costs and administrative support, with the Shire of Lake Grace having full responsibility and liability for any potential claim.

- Acknowledgement that the only remaining method of redress for a victim and survivor would be through civil litigation, with no upper limit, posing a significant financial risk to the Shire of Lake Grace.

Considerations for the Shire of Lake Grace

Detailed below is a list of considerations for the Shire of Lake Grace to participate in the Scheme:

1. **Executing a Service Agreement**

   All Royal Commission information is confidential, and it is not known if the Shire of Lake Grace will receive a Redress application. A Service Agreement will only be executed if the Shire of Lake Grace receives a Redress application. The Shire of Lake Grace needs to give authority to an appropriate position / officer to execute a service agreement with the State, if a Redress application is received. Timeframes for responding to a Request for Information are 3 weeks for priority applications and 7 weeks for non-priority applications. A priority application timeframe (3 weeks) will be outside most Council meeting cycles and therefore, it is necessary to provide the authorisation to execute an agreement in advance.

2. **Reporting to Council if / when an application is received**
Council will receive a confidential report, notifying when a Redress application has been received. All information in the report will be de-identified but will make Council aware that an application has been received.

3. Application Processing / Staffing and Confidentiality

Administratively, the Shire of Lake Grace will determine:

- Which position(s) will be responsible for receiving applications and responding to Requests for Information;
- Support mechanisms for staff members processing Requests for Information.

The appointed person(s) will have a level of seniority in order to understand the magnitude of the undertaking and to manage the potential conflicts of interest and confidentiality requirements.

4. Record Keeping

The State Records Office advised (April 2019) all relevant agencies, including Local Governments, of a ‘disposal freeze’ initiated under the State Records Act 2000 (the Act) to protect past and current records that may be relevant to actual and alleged incidents of child sexual abuse. The Shire of Lake Grace’s record keeping practices as a result, have been modified to ensure the secure protection and retention of relevant records. These records (or part thereof) may be required to be provided to the State’s Redress Coordination Unit in relation to a Redress application.

The Redress Coordination Unit (Department of Justice) is the state record holder for Redress and will keep copies of all documentation and RFI responses. Local Governments will be required to keep their own records regarding a Redress application in a confidential and secure manner, and in line with all requirements in The Act.

5. Redress Decisions

The Shire of Lake Grace should note that decisions regarding Redress applicant eligibility and the responsible institution(s), are made by Independent Decision Makers, based on the information received by the applicant and any RFI responses. The State Government and the Shire of Lake Grace do not have any influence on the decision made and there is no right of appeal.

Legal Implications

The Shire of Lake Grace in agreeing to join the Scheme is required to adhere to legislative requirements set out in the National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (Cth).
Authorisation of an appropriately appointed person to execute a service agreement with the State, if a Redress application is received, will be in accordance with s.9.49A(4) of the *Local Government Act 1995*.

**Policy Implications**

Nil

**Consultation**

The State, through the Department of Local Government, Sport and Cultural Industries (DLGSC), consulted with the WA local government sector and other key stakeholders on the Royal Commission into Institutional Responses to Child Sexual Abuse (in 2018) and the National Redress Scheme (in 2019).

The consultation throughout 2019 has focused on the National Redress Scheme with the aim of:
- raising awareness about the Scheme;
- identifying whether WA local governments are considering participating in the Scheme;
- identifying how participation may be facilitated; and
- enabling advice to be provided to Government on the longer-term participation of WA local governments.

Between March and May 2019, DLGSC completed consultations that reached 115 out of 137 WA local governments via:

- Webinars to local governments, predominately in regional and remote areas;
- Presentations at 12 WALGA Zone and Local Government Professional WA meetings;
- Responses to email and telephone enquiries from individual local governments.

It was apparent from the consultations that local governments were most commonly concerned about the:

- potential cost of Redress payments;
- availability of historical information;
- capacity of local governments to provide a Direct Personal Response (apology) if requested by Redress recipients;
- process and obligations relating to maintaining confidentiality if Redress applications are received, particularly in small local governments;
- lack of insurance coverage of Redress payments by LGIS, meaning local governments would need to self-fund participation and Redress payments.
LGIS published and distributed an update (April 2019) regarding the considerations and (potential) liability position of the WA local government sector in relation to the National Redress Scheme.

The WALGA State Council meeting on 3 July 2019 recommended that:

1. WA local government participation in the State’s National Redress Scheme declaration with full financial coverage by the State Government, be endorsed in principle, noting that further engagement with the sector will occur in the second half of 2019.

2. WALGA continue to promote awareness of the National Redress Scheme and note that local governments may wish to join the Scheme in the future to demonstrate a commitment to the victims of institutional child sexual abuse.

DLGSC representatives presented at a WALGA hosted webinar on 18 February 2020 and presented at all WALGA Zone meetings in late February 2020.

The State’s decision, in particular to cover the costs / payments to the survivor, has taken into account the feedback provided by local governments during the consultation detailed above.

Financial Implications

The State’s decision will cover the following financial costs for local governments:

- Redress monetary payment provided to the survivor;

- Costs in relation to counselling, legal and administration (including the coordination or requests for information and record keeping); and

- Trained staff to coordinate and facilitate a Direct Personal Response (DPR – Apology) to the survivor if requested (on a fee for service basis with costs to be covered by the individual local government – see below).

The only financial cost the local government may incur will be the payment of the DPR’s, which is on an ‘as requested’ basis by the survivor. This will be based on the standard service fee of $3,000 plus travel and accommodation depending on the survivor’s circumstances. All requested DPR’s will be coordinated and facilitated by the Redress Coordination Unit – Department of Justice.

The State’s decision also mitigates a significant financial risk to the local government in terms of waiving rights to future claims. Accepting an offer of redress has the effect of releasing the responsible participating organisation and their officials (other than the abuser/s) from civil liability for instances of sexual abuse and related non-sexual abuse of the person that is within the scope of the Scheme. This means that the person, who receives redress through the
Scheme, agrees to not bring or continue any civil claims against the responsible participating organisation in relation to any abuse within the scope of the Scheme.

**Strategic Implications**

Shire of Lake Grace Strategic Community Plan 2017-2028

Social Objective  
A valued, Healthy and inclusive community and life-style

Outcome 2.1  
An engaged, supportive and inclusive community

2.1.1  
Community Services and Infrastructure meeting the needs of the district

Outcome 2.2  
A healthy and safe community

2.2.2  
Provide and advocate for medical and health services

**Recommendation/Resolution**

That Council:

1) Notes the consultation undertaken and information provided by the Department of Local Government, Sport and Cultural Industries regarding the National Redress Scheme and the participation of WA local governments;

2) Notes that the Shire of Lake Grace will not be included in the WA Government’s amended participation declaration (and afforded the associated financial and administrative coverage), unless the Shire of Lake Grace makes a specific and formal decision to be included;

3) Endorses the participation of the Shire of Lake Grace in the National Redress Scheme as a State Government institution and be included as part of the State Government’s declaration;

4) Grants authority to the Shire of Lake Grace to execute a service agreement with the State, if a Redress application is received;

5) Notes that a confidential report will be provided if a Redress application is received by the Shire of Lake Grace;
RESOLUTION 13240

Moved Cr Stoffberg
Seconded Cr Lloyd

That Council:

1) Notes the consultation undertaken and information provided by the Department of Local Government, Sport and Cultural Industries regarding the National Redress Scheme and the participation of WA local governments;

2) Notes that the Shire of Lake Grace will not be included in the WA Government’s amended participation declaration (and afforded the associated financial and administrative coverage), unless the Shire of Lake Grace makes a specific and formal decision to be included;

3) Endorses the participation of the Shire of Lake Grace in the National Redress Scheme as a State Government institution and be included as part of the State Government’s declaration;

4) Grants authority to the Shire of Lake Grace to execute a service agreement with the State, if a Redress application is received;

5) Notes that a confidential report will be provided if a Redress application is received by the Shire of Lake Grace;

CARRIED: 8/0

Voting Requirements

Simple majority required.
National Redress Scheme for Institutional Child Sexual Abuse

Department of Local Government, Sport and Cultural Industries

Information Paper

3 February 2020
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1. SUMMARY - WA LOCAL GOVERNMENT: ROYAL COMMISSION AND REDRESS

The Western Australian Government (the State), through the Department of Local Government, Sport and Cultural Industries (DLGSC), has been consulting with the WA local government sector and other key stakeholders on the Royal Commission into Institutional Responses to Child Sexual Abuse (in 2018) and the National Redress Scheme (in 2019).

The consultation throughout 2019 has focused on the National Redress Scheme (the Scheme) with the aim of:

- raising awareness about the Scheme;
- identifying whether WA local governments are considering participating in the Scheme;
- identifying how participation may be facilitated; and
- enabling advice to be provided to Government on the longer-term participation of WA local governments.

Following this initial consultation and feedback gathered, the State Government considered a range of options regarding WA local government participation in the Scheme and reached a final position in December 2019.

DLGSC, supported by the Departments of Justice and Premier and Cabinet, will again engage with WA local governments in early 2020, to inform of the:

- State’s decision and the implications for the sector (see Section 4);
- Support (financial and administrative) to be provided by the State; and
- Considerations and actions needed to prepare for participation in the Scheme from 1 July 2020 (see Section 5).

DLGSC’s second phase of engagement with WA local governments is summarised in the table below:

<table>
<thead>
<tr>
<th>Description and Action</th>
<th>Agency</th>
<th>Timeline</th>
</tr>
</thead>
<tbody>
<tr>
<td>Distribution of Information Paper to WA Local Governments</td>
<td>DLGSC</td>
<td>3 February 2020</td>
</tr>
<tr>
<td>WALGA hosted webinar</td>
<td>DLGSC / DPC</td>
<td>18 February 2020</td>
</tr>
<tr>
<td>Metro and Country Zone meetings</td>
<td>WA LG's / DLGSC</td>
<td>19 to 24 February 2020</td>
</tr>
<tr>
<td>State Council meeting – Finalisation of Participation arrangements</td>
<td>WALGA</td>
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</tr>
<tr>
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<td>DLGSC / DPC</td>
<td>Mid-March 2020</td>
</tr>
</tbody>
</table>

Further information about the Royal Commission is available at Appendix A and the National Redress Scheme at Appendix B of this Information Paper.

The information in this Paper may contain material that is confronting and distressing. If you require support, please click on this link to a list of available support services.
2. CURRENT SITUATION - WA LOCAL GOVERNMENT PARTICIPATION IN THE NATIONAL REDRESS SCHEME

The WA Parliament passed the legislation required to allow for the Government and WA based non-government institutions to participate in the National Redress Scheme. The National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Act 2018 (WA) took effect on 21 November 2018.

The WA Government commenced participating in the Scheme from 1 January 2019.

The State Government’s Redress Coordination Unit within the Office of the Commissioner for Victims of Crime, Department of Justice:
- Acts as the State Government’s single point of contact with the Scheme;
- Coordinates information from State Government agencies to the Scheme; and
- Coordinates the delivery of Direct Personal Responses (DPR) to redress recipients (at their request) by responsible State Government agencies to redress recipients.

CURRENT TREATMENT OF WA LOCAL GOVERNMENTS IN THE SCHEME

Under the National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (Cth), Local Governments may be considered a State Government institution.¹

There are several considerations for the State Government and Local Governments (both individually and collectively) about joining the Scheme.

The State Government considers a range of factors relating to organisations or bodies participation in the Scheme, before their inclusion in the declaration as a State Government institution. These factors include the capability and capacity of the agencies or organisations to:
- Respond to requests for information from the State Government’s Redress Coordination Unit within prescribed timeframes;
- Financially contribute to the redress payment made by the Scheme on behalf of the agency or body; and
- Comply with the obligations of participating in the Scheme and the Commonwealth legislation.

A decision was made at the time of joining the Scheme to exclude WA local governments from the State Government’s declaration. This was to allow consultation to occur with the local government sector about the Scheme, and for fuller consideration to be given to the mechanisms by which the sector could best participate in the Scheme.

¹ Section 111(1)(b).
3. CONSULTATION TO DATE WITH WA LOCAL GOVERNMENT SECTOR

The Department of Local Government, Sport and Cultural Industries (DLGSC) has been leading an information and consultation process with the WA local government sector about the Scheme. The Departments of Justice and Premier and Cabinet (DPC) have been supporting DLGSC in the process, which aimed to:

- Raise awareness about the Scheme;
- Identify whether local governments are considering participating in the Scheme;
- Identify how participation may be facilitated; and
- Enable advice to be provided to Government on the longer-term participation of WA local governments.

DLGSC distributed an initial Information and Discussion Paper in early January 2019 to WA local governments, the WA Local Government Association (WALGA), Local Government Professionals WA (LG Pro) and the Local Government Insurance Scheme (LGIS). Between March and May 2019, DLGSC completed consultations that reached 115 out of 137 WA local governments and involved:

- an online webinar to 35 local governments, predominantly from regional and remote areas;
- presentations at 12 WALGA Zone and LG Pro meetings; and
- responses to email and telephone enquiries from individual local governments.

It was apparent from the consultations that the local government sector had, at the time, a very low level of awareness of the Scheme prior to the consultations occurring, and that little to no discussion had occurred within the sector or individual local governments about the Scheme. Local governments were most commonly concerned about the:

- Potential cost of redress payments;
- Availability of historical information;
- Capacity of local governments to provide a Direct Personal Response (apology) if requested by redress recipients;
- Process and obligations relating to maintaining confidentiality if redress applications are received, particularly in small local governments;
- Lack of insurance coverage of redress payments by LGIS, meaning local governments would need to self-fund participation and redress payments.

LGIS Update (April 2019) – National Redress Scheme

LGIS published and distributed an update regarding the considerations and (potential) liability position of the WA local government sector in relation to the National Redress Scheme.
WALGA State Council Resolution

The WALGA State Council meeting of 3 July 2019 recommended that:

1. WA local government participation in the State’s National Redress Scheme declaration with full financial coverage by the State Government, be endorsed in principle, noting that further engagement with the sector will occur in the second half of 2019.

2. WALGA continue to promote awareness of the National Redress Scheme and note that local governments may wish to join the Scheme in the future to demonstrate a commitment to the victims of institutional child sexual abuse.

It is understood that this recommendation was made with knowledge that it is ultimately a State Government decision as to whether:

- Local governments can participate in the Scheme as part of the State’s Government’s declaration; and
- The State Government will fund local government redress liability.
4. WA GOVERNMENT DECISION - FUTURE PARTICIPATION OF WA LOCAL GOVERNMENTS IN THE NATIONAL REDRESS SCHEME

Following the initial consultation process, a range of options for local government participation in the Scheme were identified by the State Government including:

1. WA Local governments be excluded from the State Government’s declaration of participating institutions.

   This means that: local governments may choose not to join the Scheme; or join the Scheme individually or as group(s), making the necessary arrangements with the Commonwealth and self-managing / self-funding all aspects of participation in the Scheme.

2. WA Local governments be included in the State Government’s declaration of participating institutions.

   There were three sub-options for ways local government participation as a State Government institution could be accommodated:
   a. Local governments cover all requirements and costs associated with their participation;
   b. The State Government covers payments to the survivor arising from local governments’ participation, with costs other than payments to the survivor (including counselling, legal and administrative costs) being funded by local governments; or
   c. An arrangement is entered into whereby the State Government and local governments share the requirements and costs associated with redress – for example, on a capacity to pay and deliver basis.

The State Government considered the above options and resolved via the Community Safety and Family Support Cabinet Sub-Committee (December 2019) to:

- Note the consultations undertaken to date with the WA local government sector about the National Redress Scheme;
- Note the options for WA local government participation in the Scheme;
- Agree to local governments participating in the Scheme as State Government institutions, with the State Government covering payments to the survivor; and
- Agree to the DLGSC leading further negotiations with the WA local government sector regarding local government funding costs, other than payments to the survivor including counselling, legal and administrative costs.
KEY ASPECTS OF THE STATE’S DECISION

For clarity, the State’s decision that means the following financial responsibilities are to be divided between the State Government and the individual local government that has a Redress application submitted, and then subsequently accepted by the Scheme Operator as a Redress claim.

State Government

The State Government will cover the following:

- Redress monetary payment provided to the survivor;
- Costs in relation to counselling, legal and administration (including the coordination of requests for information and record keeping); and
- Trained staff to coordinate and facilitate a Direct Personal Response or DPR (Apology) to the survivor if requested (on a fee for service basis with costs covered by the individual local government – see below).

Individual Local Government

The individual local government will be responsible for:

- Costs associated with gathering their own (internal) information if requested in a Redress application;
- Providing the State with the necessary information to participate in the Scheme; and
- Costs associated the delivery of a DPR (based on a standard service fee, plus travel and accommodation depending on the survivor’s circumstance). *

* note – The State’s decision includes that all DPR’s will be coordinated and facilitated by the Redress Coordination Unit (Department of Justice) on every occasion, if a DPR is requested by the survivor.

This decision was made on the basis that:

- State Government financial support for local government participation in the Scheme, as set out, will ensure that redress is available to as many WA survivors of institutional child sexual abuse as possible.
- The demonstration of leadership by the State Government, as it will be supporting the local government sector to participate in the Scheme and recognising the WALGA State Council resolution of 3 July 2019, is consistent with the local government sector’s preferred approach.
- Contributes to a nationally consistent approach to the participation of local governments in the Scheme, and particularly aligns with the New South Wales, Victorian and Tasmanian Governments’ arrangements. This provides opportunity for the State Government to draw on lessons learned through other jurisdictions’ processes.
- Ensures a consistent and quality facilitation of a DPR (by the State) if requested by the survivor.
- State Government financial support for any local government redress claims does not imply State Government responsibility for any civil litigation against local governments.
Noting the State’s decision, a range of matters need to be considered and arrangements 
put in place to facilitate local governments participating with the State Government’s 
declaration and meeting the requirements of the Scheme. Those arrangements will:
  • provide for a consistent response to the Scheme by WA Government institutions, 
    and for WA survivors accessing the Scheme; and
  • mitigate concerns raised by local governments during consultations about 
    complying with the processes and requirements of the Scheme.
5. CONSIDERATIONS FOR WA LOCAL GOVERNMENTS

Following the State’s decision, a range of matters need to be considered by each local government and in some cases, actions taken in preparation for participating in the Scheme, these include:

CONFIDENTIALITY

- Information about applicants and alleged abusers included in RFIs (Requests for Information) is sensitive and confidential and is considered protected information under *The National Redress Act*, with severe penalties for disclosing protected information.
- Individual local governments will need to consider and determine appropriate processes to be put in place and staff members designated to ensure information remains confidential.

APPLICATION PROCESSING / STAFFING

- The timeframes for responding to an RFI are set in *The Act* and are 3 weeks for priority application and 7 weeks for non-priority applications. This RFI process will be supported by the State (DLGSC and the Redress Coordination Unit).
- Careful consideration should be given to determining which position will be responsible for receiving applications and responding to RFIs, due to the potentially confronting content of people’s statement of abuse.
- Support mechanisms should be in place for these staff members, including access to EAP (Employee Assistance Program) or other appropriate support.
- The need for the appointed position and person(s) to have a level of seniority in order to understand the magnitude of the undertaking and to manage the potential conflicts of interest.
- The responsible position(s) or function(s) would benefit from being kept confidential in addition to the identity of the person appointed to it.

RECORD KEEPING

- The Redress Coordination Unit (Department of Justice) is the state record holder for Redress and will keep copies of all documentation and RFI responses. Local Governments will be required to keep their own records regarding a Redress application in a confidential and secure manner, and in line with all requirements of the *State Records Act 2000*.
- Consider secure storage of information whilst the RFI is being responded to.
REDRESS DECISIONS

- Decisions regarding redress applicant eligibility and responsible institution(s) are made by Independent Decision Makers, based on the information received by the applicant and any RFI responses. The State government does not have any influence on the decision made.
- There is no right of appeal.

MEMORIALS

- Survivors (individuals and / or groups) from within individual communities may ask about the installation of memorials. The State Government’s view is to only consider memorialising groups, however locally, this is a decision of an individual local government.
6. NEXT STEPS – PREPARATION FOR WA LOCAL GOVERNMENT PARTICIPATION IN THE SCHEME

In addition to the second-phase information process outlined in section 1, the State will develop:

1. A Memorandum of Understanding (MOU) - to be executed between the State and WALGA following the (WALGA) State Council meeting on 4 March 2020.

   The MOU will capture the overall principles of WA local governments participating in the Scheme as State Government institutions and being part of the State’s declaration; and

2. Template Service Agreement - that will be executed on an ‘as needed’ basis between the State and an individual local government, if a redress application is received.

DLGSC and the Department of Justice will work with WALGA / LGPro and all local governments to prepare for participation in the Scheme including:

- Identifying appropriate positions, staff and processes to fulfil requests for information;

- Ensuring local governments have delegated authority to an officer to execute a service agreement with the State if needed;

The State will prepare a template Council report, where all WA local governments will be asked to delegate authority to an appropriate officer in advance, able to execute a service agreement if required. This is necessary as priority requests for information under the Scheme, are in a shorter turnaround time than Council meeting cycles and therefore, cannot be undertaken at the time.

- Ensuring local government have established appropriate processes and can fulfil Scheme obligations (particularly in terms of confidentiality, record keeping etc); and

- Gathering the necessary facility and service information from all individual local governments to commence participation in the Scheme. This information will be provided to the Commonwealth, loaded into the Scheme database and used to facilitate an individual local government’s participation in the National Redress Scheme.
ACKNOWLEDGEMENTS

The contents of this Information and Discussion Paper includes extracts from the following identified sources. Information has been extracted and summarised to focus on key aspects applicable to the Department of Local Government, Sport and Cultural Industries' key stakeholders and funded bodies:

- The Royal Commission into Institutional Responses to Child Sexual Abuse – Final Report.
  
  To access a full version of the Royal Commission’s Findings and the Final Report, please follow the link at https://www.childabuseroyalcommission.gov.au/

  

- More information on the National Redress Scheme can be found at www.nationalredress.gov.au.


FOR MORE INFORMATION

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Website: www.dlgsc.wa.gov.au
APPENDIX A

ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE – FURTHER INFORMATION

The Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) was established in January 2013, to investigate systemic failures of public and private institutions\(^2\) to protect children from child sexual abuse, report abuse, and respond to child sexual abuse. The Royal Commission’s Terms of Reference required it to identify what institutions should do better to protect children in the future, as well as what should be done to:

- achieve best practice in reporting and responding to reports of child sexual abuse;
- eliminate impediments in responding to sexual abuse; and
- address the impact of past and future institutional child sexual abuse.

The Western Australian Government (State Government) strongly supported the work of the Royal Commission through the five years of inquiry, presenting detailed evidence and submissions and participating in public hearings, case studies and roundtables.

The Royal Commission released three reports throughout the inquiry: *Working with Children Checks (August 2015)*; *Redress and Civil Litigation (September 2015)* and *Criminal Justice (August 2017)*. The Final Report (Final Report) of the Royal Commission into Institutional Responses to Child Sexual Abuse incorporated the findings and recommendations of the previously released reports and was handed down on 15 December 2017. To access a full version of the Royal Commission’s Findings and the Final Report, follow the link at [https://www.childabuseroyalcommission.gov.au/](https://www.childabuseroyalcommission.gov.au/)

The Royal Commission made 409 recommendations to prevent and respond to institutional child sexual abuse through reform to policy, legislation, administration, and institutional structures. These recommendations are directed to Australian governments and institutions, and non-government institutions. One specific recommendation was directed at Local Government, while many others will directly or indirectly impact on the organisations that Local Government works with and supports within the community.

Of the 409 recommendations, 310 are applicable to the Western Australian State Government and the broader WA community.

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\(^2\) For clarity in this Paper, the term ‘institution’ means any public or private body, agency, association, club, institution, organisation or other entity or group of entities of any kind (whether incorporated or unincorporated), however described, and:

- includes for example, an entity or group of entities (including an entity or group of entities that no longer exist) that provides, or has at any time provided, activities, facilities, programs or services of any kind that provide the means through which adults have contact with children, including through their families
- does not include the family.
THE WESTERN AUSTRALIAN GOVERNMENT RESPONSE TO THE ROYAL COMMISSION

The State Government examined the 310 applicable recommendations and provided a comprehensive and considered response, taking into account the systems and protections the State Government has already implemented. The State Government has accepted or accepted in principle over 90 per cent of the 310 applicable recommendations.

The State Government’s response was released on 27 June 2018 fulfilling the Royal Commission recommendation 17.1, that all governments should issue a formal response within six months of the Final Report’s release, indicating whether recommendations are accepted; accepted in principle; not accepted; or will require further consideration. The WA Government’s response to the Royal Commission recommendations can be accessed at: http://www.dpc.wa.gov.au/childabuseroyalcommission

The State Government has committed to working on the recommendations with the Commonwealth Government, other states and territories, local government, non-government institutions (including religious institutions) and community organisations.

The State Government’s overall approach to implementation of reforms is focused on:

- Stronger Prevention (including Safer Institutions and Supportive Legislation)
  - Create an environment where children’s safety and wellbeing are the centre of thought, values and actions;
  - Places emphasis on genuine engagement with and valuing of children;
  - Creates conditions that reduce the likelihood of harm to children and young people.
- Reliable Responses (including Effective Reporting)
  - Creates conditions that increase the likelihood of identifying any harm;
  - Responds to any concerns, disclosures, allegations or suspicions of harm.
- Supported Survivors (including Redress).

Many of the recommendations of the Royal Commission have already been addressed through past work of the State Government, and others working in the Western Australian community to create safe environments for children. This work is acknowledged and where appropriate, will be built upon when implementing reforms and initiatives that respond to the Royal Commission’s recommendations.
APPENDIX B

NATIONAL REDRESS SCHEME - FURTHER INFORMATION

The Royal Commission's Redress and Civil Litigation (September 2015) Report recommended the establishment of a single national redress scheme to recognise the harm suffered by survivors of institutional child sexual abuse.

The National Redress Scheme (the Scheme):
- Acknowledges that many children were sexually abused in Australian institutions;
- Recognises the suffering they endured because of this abuse;
- Holds institutions accountable for this abuse; and
- Helps people who have experienced institutional child sexual abuse gain access to counselling and psychological services, a direct personal response, and a redress-payment.

The National Redress Scheme involves:
- People who have experienced institutional child sexual abuse who can apply for redress;
- The National Redress Scheme team — Commonwealth Government staff who help promote the Scheme and process applications;
- Redress Support Services — free, confidential emotional support and legal and financial counselling for people thinking about or applying to the Scheme;
- Participating Institutions that have agreed to provide redress to people who experienced institutional child sexual abuse; and
- Independent Decision Makers who will consider applications and make recommendations and conduct reviews.

The National Redress Scheme formally commenced operation on 1 July 2018 and offers eligible applicants three elements of redress:
- A direct personal response from the responsible institution, if requested;
- Funds to access counselling and psychological care; and
- A monetary payment of up to $150,000.

Importantly, the Scheme also provides survivors with community based supports, including application assistance; financial support services; and independent legal advice. The Scheme is administered by the Commonwealth Government on behalf of all participating governments, and government and non-government institutions, who contribute on a 'responsible entity pays' basis.

Institutions that agree to join the Scheme are required to adhere to the legislative requirements set out in the National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (Cth).

More information on the Scheme can be found at www.nationalredress.gov.au or the National Redress Guide.
SURVIVORS IN THE COMMUNITY

Throughout the five years of its inquiry, the Royal Commission heard detailed evidence and submissions, and held many public and private hearings, case studies and roundtables. Most notably, the Royal Commission heard directly from survivors of historical abuse.

The Royal Commission reported that survivors came from diverse backgrounds and had many different experiences. Factors such as gender, age, education, culture, sexuality or disability had affected their vulnerability and the institutions response to abuse.

The Royal Commission, however, did not report on the specific circumstances of individuals with the details of survivors protected; the circumstances of where and within which institutions their abuse occurred is also protected and therefore unknown. Further, survivors within the WA community may have chosen to not disclose their abuse to the Royal Commission.

Accordingly, it is not known exactly how many survivors were abused within Western Australian institutions, including within Local Government contexts. Within this context of survivors in the community, who may or may not be known, consideration needs to be given to how all institutions, including local governments, can fulfil the Royal Commission’s recommendation in relation to redress.

The Royal Commission’s Redress and Civil Litigation (September 2015) Report recommended the establishment of a single national redress scheme to recognise the harm suffered by survivors of institutional child sexual abuse. This report also recommended that Governments around Australia remove the limitation periods that applied to civil claims based on child sexual abuse, and consequently prevented survivors – in most cases – pursuing compensation through the courts.

As a result of reforms made in response to these recommendations, WA survivors now have the following options to receive recognition of their abuse:

1. Pursuing civil court action(s) against the perpetrator and/or the responsible institution. The Civil Liability Legislation Amendment (Child Sexual Abuse Actions) Act 2018 (WA) took effect on 1 July 2018, removing the limitation periods that previously prevented persons who had experienced historical child sexual abuse from commencing civil action.

2. Applying to the National Redress Scheme, which provides eligible applicants with a monetary payment, funds to access counselling and an apology. Note, to receive redress the responsible institution(s) will need to have joined the Scheme.
TREATMENT OF LOCAL GOVERNMENTS BY OTHER JURISDICTIONS

At the time of the State Government joining the Scheme, only two jurisdictions had made a decision about the treatment of local governments. All jurisdictions have since agreed to include local governments within their respective declarations, with the exception of South Australia (SA). The SA Government is still considering their approach.

It is understood that all jurisdictions, with the exception of SA, are either covering the redress liability associated with local government participation in the Scheme or entering into a cost sharing arrangement. The table below provides a summary of other jurisdictions’ positions.

<table>
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<th>Position</th>
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| Commonwealth             | • No responsibility for local governments.  
                          | • The Commonwealth Government has indicated preference for a jurisdiction to take a consistent approach to the participation of local governments in the Scheme. |
| Australian Capital Territory (ACT) | • ACT has no municipalities, and the ACT Government is responsible for local government functions.  
                            | • ACT has therefore not been required to explore the issue of local government participation in the Scheme. |
TIMEFRAME TO JOIN THE SCHEME

Institutions can join the Scheme within the first two years of its commencement. This means that institutions can join the Scheme up to and including 30 June 2020 (the second anniversary date of the Scheme). The Commonwealth Minister for Social Services may also provide an extension to this period to allow an institution to join the Scheme after this time. However, it is preferred that as many institutions as possible join the Scheme within the first two years to give certainty to survivors applying to the Scheme about whether the institution/s in which they experienced abuse will be participating.

If an institution has not joined the Scheme, they are not a participating institution. However, this will not prevent a person from applying for redress. In this circumstance, a person's application cannot be assessed until the relevant institution/s has joined the Scheme. The Scheme will contact the person to inform them of their options to either withdraw or hold their application. The Scheme will also contact the responsible institution/s to provide information to aid the institution/s to consider joining the Scheme.

THE SCHEME'S STANDARD OF PROOF

The Royal Commission recommended that 'reasonable likelihood' should be the standard of proof for determining eligibility for redress. For the purposes of the Scheme, 'reasonable likelihood' means the chance of the person being eligible is real and is not fanciful or remote and is more than merely plausible.

When considering a redress application, the Scheme Operator must consider whether it is reasonably likely that a person experienced sexual abuse as a child, and that a participating institution is responsible for an alleged abuser/s having contact with them as a child. In considering whether there was reasonable likelihood, all the information available must be taken into account.

Where a participating institution does not hold a record (i.e. historical information), the Scheme Operator will not be precluded from determining a person's entitlement to redress. The information to be considered by the Scheme Operator includes:

- The information contained in the application form (or any supplementary information provided by a person by way of statutory declaration);
- Any documentation a person provided in support of their application;
- The information provided by the relevant participating institution/s in response to a Request for Information from the Operator, including any supporting documentation provided; and
- Any other information available including from Scheme holdings (for example where the Scheme has built up a picture of relevant information about the same institution during the relevant period, or the same abuser).

It should be noted that the 'reasonable likelihood' standard of proof applied by the Scheme is of a lower threshold (or a lower standard of proof) than the common law standard of proof applied in civil litigation – the 'balance of probabilities'. Please see 11.7 of the Royal Commission's Redress and Civil Litigation Report (2015) for additional information on the difference between the two.
MAXIMUM PAYMENT AND SHARED RESPONSIBILITY

The amount of redress payment a person can receive depends on a person's individual circumstances, specifically the type of abuse the person experienced.

A person may only make one application for redress. The maximum redress payment payable under the scheme to an applicant is $150,000 in total.

The payment of redress is made by the institution(s) found responsible for exposing the individual to the circumstances that led to the abuse.

There may be instances where one or more institutions are found to be jointly responsible for the redress payment to a person, and instances where a person may have experienced abuse in one or more different institutions. In such situations, the redress payable by an institution will be apportioned in accordance with the Scheme's assessment framework - see https://www.legislation.gov.au/Details/F2018L00959 and method statement - see http://guides.dss.gov.au/national-redress-guide/4/1/1

Prior payments made by the responsible institution for the abuse to the applicant (e.g. ex-gratia payments) will be taken into account and deducted from the institutions' redress responsibility.

EFFECT OF AN APPLICANT ACCEPTING AN OFFER OF REDRESS

Accepting an offer of redress has the effect of releasing the responsible participating institution/s and their officials (other than the abuser/s) from civil liability for instances of sexual abuse and related non-sexual abuse of the person that is within the scope of the Scheme. This means that the person agrees to not bring or continue any civil claims against the responsible participating institution/s in relation to any abuse within the scope of the Scheme.

If a responsible participating institution/s is a member of a participating group, the person will be releasing the other associated institutions and officials within that group from any civil liability for instances of sexual abuse and related non-sexual abuse of the person that is within the scope of the Scheme.

Accepting an offer of redress also has the effect of preventing a responsible participating institution from being liable to contribute to damages that are payable to the person in civil proceedings (where the contribution is to another institution or person).

In accepting the offer of redress, a person will also be consenting to allow the participating institution/s or official/s to disclose the person's acceptance of redress offer in the event that a civil claim is made. The Scheme must provide a copy of the person's acceptance of offer to each responsible institution for their records once received.

Note – the acceptance of an offer of redress does not exclude the pursuance or continuance of criminal proceedings against the abuser(s).
14.4.2 BULLYING & HARASSMENT POLICY AND GRIEVANCE HANDLING POLICY & PROCEDURE

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<td>2. Grievance Handling Policy &amp; Procedure</td>
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<td>Mr Alan George</td>
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<td>Mr Alan George</td>
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Summary

For Council to consider the adoption of:
1. The Shire of Lake Grace Bullying and Harassment Policy, and
2. The Shire of Lake Grace Grievance Handling Policy and Procedure

Background

As a result of recommendations made over the past few months, it has become necessary to update certain Shire of Lake Grace policies.

Comment

The Shire of Lake Grace currently has an outdated and inadequate policy regarding Bullying and Harassment in the workplace.

A Bullying and Harassment Policy has been prepared based on best practice with reference to:

- Occupational Safety and Health Act, 1984, revised 2005
- Occupational Safety and Health Regulations, 1996, revised 2005
- Fair Work Act 2009 (Cth)
- Sex Discrimination Act 1984 (Cth)
- Racial Discrimination Act 1975 (Cth)
- Disability Discrimination Act 1992 (Cth)
- Age Discrimination Act 2004 (Cth)
- Australian Human Rights Commission Act 1986 (Cth)
- City of Albany
In conjunction with the Bullying and Harassment Policy, a Grievance Handling Policy and Procedure has been prepared.

Each policy clearly sets out the processes to follow should an employee have a grievance.

- There are references in the policies to “Grievance Officer” and “OSH representatives”. At present, the Shire has neither as the current OSH procedures require some work to update and complete. It is proposed that over the next few months, meetings will be convened with the outside staff to elect two OSH representatives and a grievance officer, should they request one that is not senior management. This process will also be carried out with the administration staff. In the meantime, the senior executive staff will be the point of contact for grievances.

- Reference made in the two policies to “Lake Grace disciplinary proceedings” refers to clauses 4.1, 4.2 and 4.3 of the Fitness for Work Policy being policy number 4.11 of the Shire of Lake Grace Policy Manual.

Legal Implications

The Shire of Lake Grace is bound by numerous acts as listed above.

Policy Implications

- The existing policies have been updated to reflect current expectations and legal requirements.
- The Shire of Lake Grace Occupational Safety and Health Policy require a major overhaul.

Consultation

- Various government regulation and acts
- McLeods Barristers and Solicitors
- City of Albany

Financial Implications

- A complete review of the Shire Occupational Safety and Health Policy is required and an indicative cost will be included in the 2020/2021 budget.

Strategic Implications

Shire of Lake Grace Strategic Community Plan 2017-2027

Leadership Objective – Strong governance and leadership, demonstrating fair and equitable community values

Outcome 4.1 A strategically focused, unified Council functioning efficiently.
  4.1.1 Provide informed leadership on behalf of the community
  4.1.3 Provide strategic leadership and governance

Outcome 4.2 An efficient and effective organisation
  4.2.1 Provide a positive and safe workplace
RESOLUTION 13241

Moved Cr Chappell
Seconded Cr Steicke

That Council adopts the following policies and procedure:

1. Bullying and Harassment Policy
2. Grievance Handling Policy and Procedure

CARRIED: Not Voted

Carried to the next Ordinary Council Meeting of 17 June 2020

Discussion about this matter was laid on the table regarding Standing Order No. 7 of the Shire of Lake Grace Standing Orders Local Law 2015 – Part 8 – Conduct of Persons at Council and Committee Meetings, Item 8.7 states:

(1) For the purpose of this clause, “complaint” means any expression of censure or dissatisfaction raised with the object, whether expressed or implied, of having remedial or disciplinary action taken against the employee concerned.

(2) If at a meeting of the Council or a Committee, a complaint is received from a member of the Council or any other person about the ability, character or integrity of any employee or of any employee or of any act or omission of an employee, and the person making the complaint has provided or is prepared to provide details of the complaint in writing and sign the complaint, the Council or Committee may –

(a) If the complaint is about the CEO, direct and signed written complaint to the President who is to refer the complaint to the Committee deemed most appropriate by the President to investigate and report upon the matter; or

(b) If the complaint is about any other employee, refer the signed written complaint to the CEO, who is to investigate the matter and report any action taken by him or her to the Council or Committee.

(3) Where a complaint is received by the Council or a Committee and becomes the subject of an investigation and report under subclause (2), the employee about whom the complaint is made, is to be given the opportunity to answer the complaint in writing.
RESOLUTION 13242

Moved Cr Chappell
Seconded Cr Marshall

That Council, in view of the Standing Order 8.7 of the Shire of Lake Grace Standing Orders Local Law 2015, the following documents to be reviewed and presented to the next Ordinary Council meeting:

- Code of Conduct
- Bullying and Harassment Policy
- Grievance Handling Policy and Procedure

CARRIED: 8/0

Voting Requirements

Simple majority required.
POLICY Bullying and Harassment Policy

PURPOSE The Shire of Lake Grace is committed to meeting its obligation to provide a working environment free from harassment and bullying. The scope of this policy extends beyond Shire of Lake Grace premises, for example, applying during employee events such as parties or employee attendance at conferences.

The Shire of Lake Grace recognises it has a legal and ethical responsibility to ensure that employees are not subject to inappropriate behaviour that will not only affect their performance but also their health and wellbeing.

All employees have a responsibility to challenge bullying, harassment or unfair treatment of any kind that they witness and to bring it to the attention of relevant supervisor / managers or senior executive ensuring that this type of behaviour will not be tolerated.

This policy applies to all of the Shire of Lake Grace employees, contractors, volunteers, apprentices / trainees and work experience students at all Shire of Lake Grace worksites, with breaches of this policy treated as misconduct or serious misconduct where deemed appropriate.

OBJECTIVES All Shire of Lake Grace employees are responsible for ensuring that breaches of this policy do not occur.

All staff are entitled to:

- recruitment and selection decisions based on merit and not affected by irrelevant personal characteristics;
- work free from discrimination, bullying and harassment; and
- the right to raise issues or to make an enquiry or complaint in a reasonable and respectful manner without being victimised.

- All staff must:
  - follow the standards of behaviour outlined in this policy and the Shire of Lake Grace’s Code of Conduct;
  - avoid gossip and respect the confidentiality of complaint resolution procedures; and
  - treat everyone with dignity, courtesy and respect.

GUIDELINES Managers and supervisors have a leadership role and must also:

- model appropriate standards of behaviour;
- take steps to educate and make staff aware of their obligations under this policy and the law;
- intervene quickly and appropriately when they become aware of inappropriate behaviour;
- act fairly to resolve issues and enforce workplace behavioural standards, making sure all relevant parties are heard;
- help staff resolve complaints informally;
- refer formal complaints about breaches of this policy to Human Resources;
and

- ensure staff who raise an issue or make a complaint are not victimised.

What is bullying at work?

Bullying can take many forms, including unwelcome jokes, teasing, nicknames, emails, pictures, text messages, social isolation or unfair work practices. Bullying behaviour can be obvious or covert and may involve, for example, any of the following types of behaviour:

- Aggressive or intimidating conduct
- Belittling or humiliating comments
- Spreading malicious rumours
- Teasing, practical jokes or 'initiation ceremonies'
- Exclusion from work-related events
- Unreasonable work expectations, including too much or too little work, or work below or beyond a worker’s skill level
- Displaying offensive material
- Pressure to behave in an inappropriate manner.

However, in order for it to be defined as bullying the behaviour is usually repeated and unreasonable, inappropriate, offensive or degrading and could be reasonably regarded as creating a risk to health and safety to individuals at the workplace.

What is unlawful harassment?

Unlawful harassment occurs when a person, or a group of people, is intimidated, insulted or humiliated because of one or more characteristics. Unlawful harassment can arise as the result of a single incident as well as repeated incidents.

Just because someone does not object to inappropriate behaviour in the workplace at the time, does not mean that they are consenting to the behaviour.

Harassment can occur through behaviour such as:

- telling jokes about particular racial groups;
- sending explicit or sexually suggestive emails or texts;
- displaying offensive or pornographic websites or screen savers;
- making derogatory comments or taunts about someone’s race or religion, gender or sexual orientation;
- asking intrusive questions or statements about someone’s personal life;
- creating a hostile working environment, for example, where the display of pornographic materials or crude conversations, innuendo or offensive jokes are part of the accepted culture.
Sexual harassment

Sexual harassment is a specific and serious form of harassment. It is any unwelcome sexual behaviour, which could be expected to make a person feel offended, humiliated or intimidated. Sexual harassment can be physical, spoken or written. It can include:

- comments about a person's private life or the way they look;
- sexually suggestive behaviour, such as leering or staring;
- brushing up against someone, touching, fondling or hugging;
- sexually suggestive comments or jokes;
- displaying offensive screen savers, photos, calendars or objects;
- repeated unwanted requests to go out;
- insults or taunts of a sexual nature;
- sending sexually explicit emails or text messages;
- behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

Sexual harassment in the workplace can occur at work, at work-related events, between people sharing the same workplace, or between colleagues outside of work. All staff and volunteers have the same rights and responsibilities in relation to sexual harassment.

A single incident is enough to constitute sexual harassment, it doesn't have to be repeated. All incidents of sexual harassment, no matter how large or small or who is involved, require employers and managers to respond quickly and appropriately. The Shire of Lake Grace recognises that comments and behaviour that do not offend one person can offend another.

What is not bullying or harassment

A single incident of unreasonable behaviour does not constitute bullying.

An isolated incident of inappropriate or unreasonable behaviour may be an affront to dignity at work but as a one off incident is not considered to be bullying. However as part of providing a workplace that is free from behaviours that pose a risk of injury or harm to employees, these type of incidents should not be ignored and may breach other Shire policies.

'Reasonable management practices' are not classed as bullying and can include (but are not limited to):

a. a direction to carry out reasonable duties and instructions;
b. a direction to comply with Shire rules, protocols, policies and procedures;
c. setting reasonable goals, standards and deadlines;
d. providing reasonable comments and advice (including relevant negative comments or feedback) on the work performance of an individual or group;
e. rostering and allocating reasonable working hours;
f. performance managing employees in accordance with the Shire's policies and procedures;
g. providing informal and formal feedback about behaviour and conduct in a reasonable way; or
h. implementing organisational change or restructuring.
The following conduct does not constitute unlawful harassment:

i. a person receives reasonable comment and advice (including relevant negative comments or feedback) from managers and supervisors on the work performance of an individual or group;

j. a person is not offered a job because, notwithstanding that reasonable adjustments have been made, they cannot meet the inherent requirements of the job;

k. another applicant was preferred in a recruitment and selection or promotion process where they have better demonstrated the skills and experience to meet the required criteria of the job;

l. the Shire implements specific equal employment opportunity or ‘affirmative action’ strategies, plans or programs designed to ensure genuine equal opportunities in the workplace, particularly in relation to groups that have been disadvantaged in the past.

Breach of policy

A breach of this policy may have the following actions, but are not limited to:

1. Disciplinary action up to and including termination of employment;
2. The complainant receiving an oral or written apology from the respondent with a commitment to cease the behaviour;
3. The parties being required to participate in some form of counselling, mediation or conciliation;
4. The respondent undertaking training in relation to their behaviour; and
5. Drawing up a management plan to document agreed or proposed actions by the parties.

Vexatious claims and claims made without reasonable cause

Employees should not raise allegations which are vexatious or without reasonable cause. Any allegations which are later shown to be vexatious or made without reasonable cause will be dealt with according to the Shire of Lake Grace disciplinary proceedings.

‘Without reasonable cause’ means that a claim is made without there being any real reason, basis in fact(s) or purpose.

Vexatious means that:

- the main purpose of a claim is to harass, annoy or embarrass the other party; or
- there is another purpose for the grievance other than the settlement of the issues arising in the claim (or response).

Making a Complaint

As far as possible, employees should attempt to resolve issues informally by one of the following means:

- Directly approaching the person (either on their own or with another person as a support person) they believe is responsible for the bullying/harassment and:
- Telling them which behaviour they consider unreasonable and unacceptable; and
• Asking them to stop; and
• Keeping a written record of this action.

If a worker believes they have experienced or witnessed behaviour in breach of this policy and an attempt to informally resolve the matter fails or is not appropriate they can make a complaint in any of the following ways:

• To their manager/supervisor or, if their manager/supervisor is the person whose behaviour is concerning them, the next person of seniority in their area;
• To a Grievance Officer/OSH Representative; or
• A member of the executive team

Whether or not the matter has been raised formally and whether or not the allegations have been raised verbally or in writing, managers/supervisors are responsible for addressing workplace bullying. If a manager/supervisor receives a complaint or otherwise becomes aware of workplace bullying, they should take action to attempt to resolve the matter.

Where a manager/supervisor is unsure whether the alleged behaviour may constitute bullying, they should contact the executive management team.

The matter will be thoroughly investigated and a report of the facts made in complete confidence. All complaints will be treated seriously and confidentially with the appropriate support and action taken to resolve the offending behaviour.

Please refer to the Grievance Handling Policy & Procedure regarding lodging a formal complaint and to understand the process and how it will be dealt with.

Confidentiality and Victimisation

The parties to a bullying/harassment complaint are required to maintain confidentiality in relation to the concern or complaint. The parties must not disclose, by any form of communication, either the fact or the substance of the allegations or issues to anyone other than a support person or a qualified counsellor or other professionals bound by confidentiality.

The victimisation of people making complaints is unlawful and will not be tolerated. A person must not victimise or otherwise subject another person to detrimental action as a consequence of that person raising, providing information about, or otherwise being involved in the resolution of a complaint under Shire’s policies and procedures.

Any breach of either the confidentiality or non-victimisation requirements will be treated seriously by the Shire of Lake Grace, and may result in disciplinary action. Any such breach will be referred for investigation and dealt with according to the Shire of Lake Grace disciplinary proceedings.
Further Support

For more information please contact:

For policy queries, support or training please your manager / supervisor;
For policy queries please contact a Grievance Officer / OSH Representative;
For personal support please consider the Employee Assistance Program
(EAP).

Associated Documents

- Occupational Safety & Health Policy
- Grievance Handling Policy & Procedure
- Equal Employment Opportunity and Discrimination Policy
- Employee Code of Conduct
- Council Policy: Code of Conduct (Council Member’s, Committee
  Members, Staff and Volunteers)

References:

- Occupational Safety and Health Act, 1984, revised 2005
- Occupational Safety and Health Regulations, 1996, revised 2005
- Fair Work Act 2009 (Cth)
- Sex Discrimination Act 1984 (Cth)
- Racial Discrimination Act 1975 (Cth)
- Disability Discrimination Act 1992 (Cth)
- Age Discrimination Act 2004 (Cth)
- Australian Human Rights Commission Act 1986 (Cth)
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POLICY  GRIEVANCE HANDLING POLICY AND PROCEDURE

PURPOSE  The Shire of Lake Grace promotes good relations amongst workers and between workers and management. It is acknowledged that the enjoyment people experience in their job is reflected in how well they work and how well they relate to work colleagues and customers.

The Shire of Lake Grace also acknowledges that problems can arise at work that may sometimes cause workers to feel aggrieved. This policy aims to ensure that complaints and grievances are handled and resolved in an appropriate, fair, transparent and timely manner, and in accordance with the principles of natural justice.

This policy applies to behaviour that occurs in the workplace including work outside normal work hours and at work related events such as conferences, training events and social functions like after hours drinks, Christmas parties and at any other place where a worker is a representative of the Shire of Lake Grace.

OBJECTIVES  All workers have the right to work in a safe working environment and to be treated with dignity and respect;

To ensure that issues raised are dealt with promptly and justly;

To ensure fairness and consistency in the treatment of workers.

GUIDELINES  This policy applies to all workers at all Shire of Lake Grace worksites, with breaches of this policy treated as misconduct or serious misconduct where deemed appropriate.

What constitutes a ‘worker’ within the business?

- Employee
- Contractor
- Subcontractor
- Outworker
- Apprentice
- Trainee
- Student gaining work experience
- Volunteer

What is a grievance?

A workplace grievance / complaint means a problem, concern, issue or incident raised by a worker. Examples may include but are not limited to: interpersonal conflicts between workers, the physical work environment or perceived unfairness in the workplace.
Please refer to the Grievance procedure at the bottom of this policy which gives advice about what to do if a worker has a grievance and what will happen if a formal complaint is made.

Responsibilities

All Shire of Lake Grace workers are responsible for ensuring that breaches of this policy do not occur.

All staff must:

- Be aware of this policy;
- Ensure their behaviour in the workplace complies with this policy;
- If an employee has any questions in relation to this policy, then they can ask their supervisor / manager / senior executive;
- Respect the confidentiality of any complaint made and avoid gossip in relation to any possible inappropriate conduct.

Additional responsibilities of managers and supervisors:

Managers and supervisors have a leadership role and must also:

- Investigate a complaint or refer it to senior executive in accordance with this policy;
- Not allow, permit, assist or tolerate inappropriate actions occurring or continuing by their action or inaction;
- Not victimise a person for making a complaint;
- Ensure that confidentiality is maintained in relation to complaints including stopping gossip when they are aware of it.

PROCEDURE  Informal Stage

Address the issue directly

If the worker feels comfortable doing so, she / he should attempt to resolve the issue by discussing it confidentially with the other person (the respondent) as soon as practicable after it arises. If assistance is required, please contact the supervisor / manager / senior executive.

The worker can tell them that their behaviour, decision, actions, etc was unfair, offensive, discriminatory etc., and why they believe this to be so. This person may have been totally unaware of the effect of their behaviour or decision. By bringing this to their attention, they are given a chance to address the situation.

This may not be appropriate in some cases, particularly if the complainant feels uncomfortable speaking to this person.

Raise the matter with supervisor / manager / senior executive

Workers can settle most grievances informally with their supervisor or manager as many problems can be raised and settled during the course of everyday working relationships. This also allows for problems to be settled quickly, however workers can raise issues with a senior executive
if the issue is related to their Supervisor or Manager.

An informal meeting is designed to be an initial attempt to resolve the matter quickly between the member of staff and their supervisor / manager without embarking on the formal stages.

A supervisor / manager will initially investigate the complaint and determine whether a more formal investigation is required. If the line manager is the subject of the complaint, or cannot be objective in an investigation, the matter must be referred to a senior executive.

Supervisors / Managers should keep a written record of the discussions and provide the worker with a note of the outcome of the informal stage (this can be done via email or file note).

If no resolution is achieved from the informal meeting, the worker(s) may choose to initiate the formal procedure. Each complaint will be dealt with in a timely and effective manner given all circumstances.

Mediation

Mediation is voluntary and will only take place with agreement of both parties to support resolution. It is accepted that if used correctly, mediation can create an environment in which the individuals involved can jointly discuss the issues and find a mutually agreeable solution. Alternatively mediation can be held at the same time but with individuals in separate rooms.

The aim of mediation in this context is for an independent person to explore the issues with the two parties and seek to find a mutually acceptable way of resolving the matter. A desirable outcome may be an agreement and if necessary an action plan, which will set the standards of conduct required for a more harmonious working relationship in the future.

The overriding aim of workplace mediation is to restore and maintain the employment relationship wherever possible. This means the focus is on working together to go forward, not determining who was right or wrong in the past.

Formal Stage

A formal investigation is appropriate where an informal resolution was not successful or the worker wishes to lodge a formal grievance. This can be because one or more of the factors exist:

- Where the complainant wants the matter to be dealt with formally.
- The matter is of a serious nature with significant ongoing consequences.
- The behaviours are repeated over an extended period of time.
- The impact on the complainant is significant psychologically and/or physically.
- The working relationship has broken down.
If somebody decides to go ahead and make a formal complaint, it will be taken seriously and investigated in an impartial manner. This may mean that the person that made the complaint, the person complained about, and any witnesses will be interviewed. Again, confidentiality will be assured and no decision will be made until the investigation is complete.

If somebody comes forward with a complaint, they will not be treated unfairly or victimised as a result. If a complaint is made against a worker, that worker will not be prejudged. They will have an opportunity to tell their side of the story.

Steps

- A formal grievance should be put in writing and reported to the workers supervisor / manager, grievance officer or senior executive (refer to Appendix 1 Grievance Form which can, but doesn’t need to, be used to do this). The written complaint should contain a description of the incident(s) / behaviour in question, the time and date of the incident(s) etc., the names of any witnesses, and any supporting evidence such as emails, photographs, texts etc.
- The Manager Corporate Services will decide who to allocate the investigation to. It may be a grievance officer, member of executive, or external independent investigator.
- The person against whom the allegations are made will be provided with a letter of allegations that will be investigated.
- All parties will be informed in writing of the outcomes of any investigative process.

Investigation Process

An investigation must have commenced within 10 business days of the written complaint being given to management. The time frames outlined can be varied either by agreement between the parties, at the Senior Executive’s discretion for operational requirements or a justifiable reason for the delay can be substantiated; e.g. illness or leave, and all parties involved to be informed.

Typical steps in an investigation include:

- All parties involved will be invited to an interview. Workers are entitled to invite a support person to join them in an interview. Support people are there to observe and support, not to participate in the interview. They must also not be a witness to either party.
- The investigator interviews the complainant.
- The investigator interviews any witnesses identified and makes a written statement of all witnesses.
- The investigator checks the accuracy of the statements with the relevant witnesses and a final statement is completed within 5 business days of the draft statement being provided to the complainant/witness.
- The investigator interviews the respondent which will include outlining the grievance process, the principles that apply to the process and the procedure that will be followed.
- The investigator makes a written statement based on the interview.
with the respondent and any relevant witnesses and checks the accuracy of the statements with the relevant witnesses and a final statement is completed within 5 business days of the draft statement being provided to the respondent/witness.

- The investigator provides a written report which contains all the relevant evidence and states whether the allegations are substantiated or not.
- The Shire of Lake Grace will make a decision and both parties will be notified of the outcome.

If the complaint is substantiated, the appropriate disciplinary action may be taken.

If the complaint is unsubstantiated, the worker will be given an explanation as to why that finding was made. If the complaint is found to have been completely fabricated, appropriate disciplinary action may be taken against the complainer.

**Temporary Transfers or Suspension**

During the investigation either person may request alternate working arrangements, the Shire of Lake Grace will endeavour to accommodate the request. When an individual’s grievance is of harassment or bullying nature, it may be appropriate to ensure that while the matter is under investigation, the complainant is not subjected to any further alleged harassment or bullying. One way to support the complainant is in one party being temporarily moved to a different business unit. Good practice suggests that it is not appropriate to move the complainant and therefore it is usual to move the alleged harasser / bully temporarily. The necessity to move one party to a complaint will depend upon the severity of the allegations that have been made.

The grievance should be handled confidentiality so that no one, other than the parties involved and line management, are aware that a complaint has been made and the subsequent reason for the temporary move.

In instances where the alleged behaviour is considered serious or poses a threat to a worker, the Shire of Lake Grace may suspend one or both parties from normal working duties. Suspension is a holding action and does not imply guilt. The employee(s) will continue to receive full pay whilst suspended.

**Disciplinary Action**

A worker who engages in any conduct that constitutes discrimination, harassment, bullying, victimisation or breach of confidentiality, will be subject to disciplinary action, which can include instant dismissal. If the investigation reveals that the complaint is valid a number of actions may be taken depending on the nature of the complaint. The outcome may include but is not limited to:
• Apology
• Counselling
• Training
• Warning – verbal or written
• Dismissal

If the investigation is inconclusive, i.e. the complaint cannot be proved due to lack of evidence; the Shire of Lake Grace may nevertheless take a number of actions. These may include training of all employees and monitoring behaviour of all employees.

Any manager who is made aware of any behaviour that could be discrimination, harassment, bullying, victimisation or breach of confidentiality and who does not deal with the conduct appropriately or report the conduct to senior executive can also be subject to appropriate disciplinary action.

Confidentiality and Victimisation

The parties to a grievance / complaint are required to maintain confidentiality in relation to the concern or complaint. The parties must not disclose, by any form of communication, either the fact or the substance of the allegations or issues to anyone other than a support person or a qualified counsellor.

The victimisation of people making complaints is unlawful and will not be tolerated. A person must not victimise or otherwise subject another person to detrimental action as a consequence of that person rising, providing information about or otherwise being involved in the resolution of a complaint under the Shire of Lake Grace’s policies and procedures.

Any breach of either the confidentiality or non-victimisation requirements will be treated seriously by the Shire, and may result in disciplinary action. Any such breach will be dealt with according to the Shire of Lake Grace disciplinary proceedings.

Vexatious claims and claims made without reasonable cause

Workers should not raise allegations which are vexatious or without reasonable cause. Any allegations which are later shown to be vexatious or made without reasonable cause will be dealt with according to the Shire of Lake Grace’s disciplinary proceedings.

‘Without reasonable cause’ means that a claim is made without there being any real reason, basis in fact(s) or purpose.

Vexatious means that:

• the main purpose of a claim is to harass, annoy or embarrass the other party; or
• there is another purpose for the grievance other than the settlement of the issues arising in the claim (or response).
Employee Assistance Program (EAP)

Employees may wish to receive impartial advice, support and guidance by utilizing the Employee Assistance Programme (EAP). Details of which can be found on the intranet, the monthly staff newsletter or by contacting the Manager Corporate Services.

EAP is also valuable for individuals against whom an allegation of harassment is being made. They may be unaware of, or insensitive to, the impact of their actions and counselling can help.

Further Support

For more information please contact:

- For policy queries, support or training please contact the Manager Corporate Services;
- For policy queries please contact a grievance officer / OSH Representative;
- For personal support please consider the Employee Assistance Program (EAP);

Associated Documents

- Occupational Safety & Health Policy
- Bullying and Harassment Policy
- Equal Employment Opportunity and Discrimination Policy
- Employee Code of Conduct
- Council Policy: Code of Conduct (Council Member’s, Committee Members, Staff and Volunteers)

References:

- Fair Work Act 2009
- Local Government Act 1995 which is also complimented by guidelines and handbooks, produce by the Department of Local Government (WA).
- State Records Act 2000 (WA)
- Privacy Act 1988 (C’th)
- Freedom of Information Act 1992 (WA)
- Equal Employment Opportunity Act 1984
- Public Interest Disclosure Act (2003)
- Occupational Health and Safety Act 1984 (WA) revised 2005
- Occupational Safety and Health Regulations, 1996, revised 2005
- Sex Discrimination Act 1984 (C’th)
- Racial Discrimination Act 1975 (C’th)
- Disability Discrimination Act 1992 (C’th)
- Age Discrimination Act 2004 (C’th)
- Australian Human Rights Commission Act 1986 (C’th)
Appendix 1 - Grievance Form

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Checklist for lodging a complaint
If you have decided to lodge a grievance / complaint you need to:
- Put it in writing to a Grievance Officer.
- Make sure that ALL details are a true and correct interpretation of the events.
- Attach any relevant documentation.

If you require any assistance, or if you have any queries relating to this form, please contact a Grievance Officer.

After receiving your claim:
- The Grievance Officer will invite you to an investigation interview;
- The claim and any relevant information from those involved in the process will be investigated;
- A report will determine if the course of action was either:
  - Substantiated; or,
  - Unsubstantiated.
- You will then be told the outcome of the investigation.

Confidentiality Clause:
Any information that is disclosed in the course of any dealing with this claim is highly confidential. You understand and agree that no part of this claim is to be discussed with any other person, except a counsellor or support person whether they be involved in the investigation or not.

Complainant Signature: ________________________ Date: ________________________

Summary of your grievance:
Please give a brief outline of your complaint, we need to know:
- What is the nature of your grievance;
- What is the process/outcome/communication/policy in which you believe to be unjust;
- Who was involved in this process, and how was their approach inappropriate;
- How do you believe this could have been handled more appropriately;
- Why do you feel that the outcome was unfair, and what do you think would have been a fair outcome.

You may also choose to attach photocopies of any documents that you think might help us investigate your complaint.

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