

7.2 Review of Human Resources Policies

REPORT BY THE EXECUTIVE MANAGER, PEOPLE AND PERFORMANCE
TO 18 MAY 2022 ORDINARY MEETING
GOV400067, GOV400054, A0100021, GOV400098

RECOMMENDATION

That Council:

1. **receive the report by the Executive Manager, People and Performance on the Review of Human Resources Policies; and**
2. **endorse the revised Anti-Discrimination and Equal Employment Opportunity Policy and the Workplace Bullying Policy.**

Executive summary

The Anti-Discrimination and Equal Employment Opportunity Policy and the Workplace Bullying Policy have been reviewed to ensure compliance with relevant legislation and to ensure they are relevant for Council's requirements.

Disclosure of Interest

Nil

Detailed report

The Workplace Bullying Policy defines workplace bullying and legal responsibilities and establishes an informal and formal complaints procedure to ensure complaints are dealt with appropriately.

The Anti-Discrimination and Equal Employment Opportunity Policy aims to provide an environment where employees and others in the workplace are treated fairly and with respect and are free from unlawful discrimination, harassment, vilification and bullying.

Community Plan implications

Theme	Good Governance
Goal	An effective and efficient organisation
Strategy	Provide a positive and supportive working environment for employees

Strategic implications

Council Strategies

Workforce Strategy
EEO Management Plan

Council Policies

Anti-Discrimination and Equal Employment Opportunity Policy

Workplace Bullying Policy

Legislation

Local Government Act
Anti-Discrimination Legislation
Work Health and Safety Act

Financial implications

Not applicable

Associated Risks

Council is obligated to have these policies in place and to review them. Furthermore, if Council does not have these policies in place then there is an increased risk that Council employees are unaware of their legal responsibilities with respect to these issues and this may result in inappropriate and illegal behaviour.

MICHELE GEORGE
EXECUTIVE MANAGER, PEOPLE AND
PERFORMANCE

28 April 2022

Attachments:

1. Anti-Discrimination-and-Equal-Employment-Opportunity-Policy 2022 (with changes).
2. Anti-Discrimination and Equal Employment Opportunity Policy May 2022.
3. Workplace Bullying Policy May 2022 (with changes).
4. Workplace-Bullying-Policy-May 2022.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER



ANTI-DISCRIMINATION AND EEO POLICY

*A prosperous
and progressive
community*

ADOPTED	VERSION NO	6
COUNCIL MEETING MIN NO 116-19	REVIEW DATE	05/2025 2
DATE: 15/05/20 22 19	FILE NUMBER	A0100021

1. Purpose

Mid-Western Regional Council ('the Council') aims to provide an environment where employees and others in the workplace are treated fairly and with respect, and are free from unlawful discrimination, harassment, vilification, victimisation and bullying.

The Council aims to ensure that when employment decisions are made, they are based on merit, not on irrelevant attributes or characteristics that an individual may possess. The Council also aims to create a work environment which promotes good working relationships.

2. Commencement of Policy

This policy will commence from 15 May 20~~22~~19. It replaces all other Anti-Discrimination & Equal Employment Opportunity Policies (whether written or not).

3. Application of Policy

This Policy covers all employees of the Council (whether full time, part time or casual) and all persons performing work at the direction of, in connection with, or on behalf of the Council (for example contractors, subcontractors, volunteers, agents, consultants, and temporary staff) (collectively "workers").

This Policy is not limited to the workplace or work hours. This Policy extends to all functions and places that are work related. For example, work lunches, conferences, Christmas parties and client functions. This policy applies to verbal and written commentaries, including commentary made through social media. Equal Employment Opportunity (EEO) laws apply to all areas of employment, as well as the provision of goods and services.

This Policy does not form part of any Council employees contract of employment. Nor does it form part of any other Council employees contract for service.

4. EEO laws

Under EEO laws, discrimination, vilification, harassment, including sexual harassment, bullying and victimisation are unlawful and strictly prohibited.

5. Discrimination

5.1 Direct discrimination

Direct discrimination in employment occurs when a person is treated less favourably than another in their employment because of a reason or ground which is prohibited by law. The prohibited grounds of discrimination are set out in the Federal, State and Territory laws and include sex, race, age etc. A full list of the grounds of discrimination which operate federally and in NSW ~~will that are be~~ relevant, ~~and~~ are listed out below.

- Race (including colour, nationality, descent, ethnic, ethno-religious or national origin, immigrant status)
- Religious belief or activity
- Sex
- Marital status, relationship status
- Pregnancy (including potential pregnancy)
- Homosexuality, ~~transexuality~~, sexuality, sexual preference, lawful sexual activity, gender identity, asexuality, intersex, sexual orientation

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- Carers' responsibilities, family responsibilities, carer or parental status, being childless
- Disability, including physical, mental and intellectual disability
- Breastfeeding
- Age (including compulsory retirement)
- Industrial/trade union membership, non-membership or activity
- Political belief or activity
- Employer association membership, non-membership or activity
- Criminal record
- Temporary absence from work because of illness or injury
- Medical record
- HIV/AIDS
- Defence service
- Spent convictions
- Association (i.e. association with a person who has one or more of the attributes for which discrimination is prohibited)

5.2 Indirect discrimination

Indirect discrimination may occur when an employer imposes a policy, requirement or ~~condition~~ condition which applies to everyone equally but it in fact operates to disadvantage a particular group because of a characteristic of that group, such as their sex, age, race (~~i.e.~~ - a prohibited ground of discrimination).

Example: The Council imposes a height restriction on all applicants for the position of 'Parking Officer', that is, an applicant must be over 185cm (6 feet) tall in order to be successfully considered for the position. This requirement at first glance appears fair because it applies to all applicants irrespective of gender. However, in practice this requirement will disadvantage women as a group because statistically, women are naturally shorter than men. So the effect is to disadvantage women because of their sex.

Discrimination also includes the situation where a worker harasses another person based on a ground of discrimination. Harassment is unwelcome conduct that a reasonable person would expect to offend, humiliate or intimidate.

6. Vilification

Vilification is a public ~~act which~~ act that incites hatred, severe contempt or severe ridicule of a person or group, because of race, homosexuality, being transgender, ~~transexuality or~~ having HIV/AIDS. ~~Vilification is a particularly serious breach of EEO laws and will be dealt with accordingly.~~

7. Harassment

Harassment is any form of behaviour towards a person that:

- Is not wanted by the person;
- Offends, humiliates or intimidates the person; and
- Creates a hostile environment.

Harassment can occur on the same grounds as unlawful discrimination.

Harassment can be carried out in a variety of different ways, including through email or text messaging, internet chat rooms, instant messaging or other social media channels.

Harassment can often be the result of behaviour that is unintentional. However, harassment can be unlawful regardless of whether the behaviour was intentional or unintentional. In addition, harassment (including bullying) that makes the workplace unsafe contravenes work health and safety laws.

Examples of harassment include, but are not limited to:

- Telling insulting jokes about particular racial groups.
- Making derogatory comments or taunts about someone's race or religion.
- Spreading rumours based on someone's sexual preferences / pregnancy or potential pregnancy.
- Derogatory comments or jokes about a person's disability, pregnancy, sexuality, age, religion.

Examples of behaviour that is not harassment can include:

- Reasonable management action taken in a reasonable manner by council to transfer, demote, discipline, counsel, retrench or dismiss a worker.
- A decision by council, based on reasonable grounds, not to award or provide a promotion, transfer, or benefit in connection with a worker's employment.
- Reasonable administrative action taken in a reasonable manner by council in connection with a worker's employment.
- Reasonable action taken in a reasonable manner under legislation affecting a worker.
- Reasonable comment, advice and feedback (including negative comment or feedback) from a worker's manager or supervisor in connection with a worker's work performance or work-related conduct.
- Feedback on a worker's work performance or work-related conduct that is intended to assist the worker to improve their work performance and/or the standard of their conduct.

7.8. Sexual harassment

Sexual harassment is any unwanted, unwelcome or uninvited conduct of a sexual nature, which makes a person feel offended, humiliated or intimidated. Conduct can amount to sexual harassment even if the person did not intend to offend, humiliate or intimidate the other person. However, conduct will not be sexual harassment if a reasonable person, having regard to all the circumstances, would not have anticipated that the conduct would offend, humiliate or intimidate the other person. Sexual harassment does not have to be directed at a particular individual to be unlawful. Behaviour which creates a hostile working environment for other workers can also be unlawful.

Examples of sexual harassment include, but are not limited to:

7.18.1 physical contact such as pinching, touching, grabbing, kissing or hugging

7.28.2 staring or leering at a person or at parts of their body

7.38.3 sexual jokes or comments

7.48.4 requests for sexual favours

7.58.5 persistent requests to go out, where they are refused

7.68.6 sexually explicit conversations

7.78.7 displays of offensive material such as posters, screen savers, Internet material etc

7.88.8 accessing or downloading sexually explicit material from the Internet

7.98.9 suggestive comments about a person's body or appearance

7.108.10 sending rude or offensive emails, attachments or text messages.

8. Bullying

~~Bullying is repeated, unreasonable behaviour directed towards an individual or group that creates a risk to health and safety. Unreasonable behaviour means behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten. Single incidents of~~

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~~unreasonable behaviour can also create a risk to health and safety and may escalate into bullying. There is no requirement that bullying be intentional.~~

~~It is not bullying for a manager or supervisor to counsel a worker about their performance. Performance counselling is a necessary part of ensuring that workers meet the Council's standards of work and behaviour. Also, other reasonable managerial actions such as disciplinary action, work directions and orders, and allocation of work in compliance with business needs and systems do not constitute bullying.~~

9. **Victimisation**

Victimisation is where a person is retaliated against or subjected to a detriment because they have lodged a complaint, they intend to lodge a complaint or they are involved in a complaint of unlawful conduct. Workers must not retaliate against a person who raises a complaint or subject them to any detriment.

10. **When does EEO apply?**

EEO applies to all aspects of the employment relationship. The policy seeks to establish an equitable working environment where equal employment opportunities based on merit are provided in relation to:

- access to services and information;
- transparent decision making;
- recruitment and selection;
- learning and development;
- career advancement and developmental opportunities; and
- conditions of employment.

10.11. **Rights and responsibilities**

All workers must:

- 10.111.1 understand and comply with this Policy;
- 10.211.2 comply with the Council's Code of Conduct;
- 10.311.3 ensure they do not engage in any unlawful conduct towards other workers, customers/clients or others with whom they come into contact through work;
- 10.411.4 ensure they do not aid, abet or encourage other persons to engage in unlawful conduct;
- 10.511.5 follow the complaint procedure in this Policy if they experience any unlawful conduct;
- 10.611.6 report any unlawful conduct they see occurring to others in the workplace in accordance with the complaint procedure in this Policy; and
- 10.711.7 maintain confidentiality if they are involved in the complaint procedure.

Workers should be aware that they can be held legally responsible for their unlawful conduct.

Workers, who aid, abet or encourage other persons to engage in unlawful conduct, can also be legally liable.

11.12. **Breach of this Policy**

All workers are required to comply with this Policy at all times. If an employee breaches this Policy, they may be subject to disciplinary action. In serious cases this may include termination of employment. Agents and contractors (including temporary contractors) who are found to have breached this Policy may have their contracts with the Council terminated or not renewed. For other workers a breach of this Policy could result in you losing your position.

If a person makes an unfounded complaint or a false complaint in bad faith (e.g. - making up a complaint to get someone else in trouble or making a complaint where there is no foundation for the complaint), that person may be disciplined and may be exposed to a defamation claim.

12.13. Complaint handling procedure

~~If a worker feels that they have been subjected to any form of unlawful conduct contrary to EEO laws this Policy or the Council's Code of Conduct, they should not ignore it. The Council has a complaint procedure for dealing with these issues. The complaint procedure has numerous options available to suit the particular circumstances of each individual situation. The manner in which a complaint will be handled is solely at the discretion of the Council's Complaint Officer.~~

~~If a worker feels that they have been subjected to any form of unlawful conduct contrary to EEO laws, this Policy or the Council's Code of Conduct, they should not ignore it.~~

~~They should, as appropriate, follow one of the steps set out below.~~

13.14. Examples of the ways in which a complaint can be dealt with

13.14.1 Confront the Issue

If a worker feels comfortable doing so, they should address the issue with the person concerned. A worker should identify the offensive behaviour, explain that the behaviour is unwelcome and offensive and ask that the behaviour stop. It may be that the person was not aware that their behaviour was unwelcome or caused offence.

This is not a compulsory step. If a worker does not feel comfortable confronting the person, or the worker confronts the person and the behaviour continues the worker should report the issue to their manager. If the manager is the alleged perpetrator, then the matter should be reported to a senior manager, to the Executive Manager People & Performance or a representative of the Human Resources team.

~~,the worker should report the issue to the Council's Complaints Officer.~~

If a worker is unsure about how to handle a situation and is also unsure if they want to make a complaint they should contact ~~an EEO Contact Officer~~the Executive Manager, People & Performance or a representative of the Human Resources team for support and guidance. ~~The EEO Contact Officers aim to assist people uncertain about their rights. EEO Contact Officers are the Human Resources Officers and the WHS Coordinator.~~

13.214.2 Report the Issue

A worker should report the issue to ~~a Council Complaints Officer~~the Executive Manager, People & Performance or a representative of the Human Resources team. ~~The Complaints Officers in the Council's workplace are the Executive Manager Human Resources and the Human Resources Officers.~~

The Executive Manager, People & Performance or a representative of the Human Resources team Complaints Officer will aim to deal with the workers complaint in accordance with this Policy. There are two complaint procedures that can be used: informal and formal (detailed further below). The type of complaint procedure used will be determined by the nature of the complaint that is made.

13.314.3 Informal Complaint Procedure

~~Under the informal complaint procedure t~~here is a broad range of options for addressing the complaint. The procedure used to address the issue will depend on the individual circumstances of the case. Possible options include, but are not limited to:

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- a) the [manager, Executive Manager, People & Performance or a representative of the Human Resources team Complaints Officer](#) discussing the issue with the person against whom the complaint is made; and/or
- b) the [manager, Executive Manager, People & Performance or a representative of the Human Resources team Complaints Officer](#) facilitating a meeting between the parties in an attempt to resolve the issue and move forward.

The ~~An~~ informal complaint ~~procedure~~ is more suited to less serious allegations that if founded, would not warrant disciplinary action being taken.

[13.414.4](#) Formal Complaint ~~Procedure~~

The ~~A~~ formal complaint ~~procedure~~ involves a formal investigation of the complaint. Formal investigations may be conducted by the [Executive Manager, People & Performance or a representative of the Human Resources team Complaints Officer](#) or a person from outside the Council, appointed by the Council.

An investigation generally involves, collecting information about the complaint and then making a finding based on the available information as to whether or not the alleged behaviour occurred. Once a finding is made, the [Executive Manager, People & Performance, a representative of the Human Resources team Complaints Officer](#) or the external investigator will make recommendations about resolving the complaint.

If the Council considers it appropriate for the safe and efficient conduct of an investigation, workers may be required not to report for work during the period of an investigation. The Council may also provide alternative duties or work during the investigation period. Generally, workers will be paid their normal pay during any such period. [Refer to clause 37, Disciplinary Procedures, of the Local Government \(State\) Award 2020.](#)

[14.15.](#) Confidentiality

The [Executive Manager, People & Performance or a representative of the Human Resources team Complaints Officer](#) will endeavour to maintain confidentiality as far as ~~possible~~[reasonably practicable](#). However, it may be necessary to speak with other workers in order to determine what happened, to afford fairness to those against whom the complaint has been made and to resolve the complaint. If a complaint is raised and it appears that unlawful conduct has potentially occurred, the Council will endeavour to take appropriate action in relation to the complaint.

All workers involved in the complaint must also maintain confidentiality, including the worker who lodges the complaint. Spreading rumours or gossip may expose workers to a defamation claim. Workers may discuss the complaint with a designated support person or representative (who is not a worker employed or engaged by the Council). However, the support person or representative must also maintain confidentiality.

[15.16.](#) Possible outcomes

The possible outcomes will depend on the nature of the complaint and the procedure followed to address the complaint. Where an investigation results in a finding that a person has engaged in unlawful conduct, breach of this Policy or breach of the Code of Conduct that person may be disciplined. The type and severity of disciplinary action will depend on the nature of the complaint and other relevant factors. Where the investigation results in a finding that the person complained against has engaged in serious misconduct, this may result in instant dismissal. Any disciplinary action is a confidential matter between the affected worker and the Council.

Agents and contractors (including temporary contractors) who are found to have engaged in unlawful conduct and/or breached this Policy or the Council's Code of Conduct, may have their contracts with the Council terminated or not renewed. For other workers, a breach of this Policy or the Council's Code of Conduct could result in the loss of their position.

The Council may take a range of other non-disciplinary outcomes to resolve a complaint, depending on the particular circumstances. Examples include, but are not limited to:

~~15.1~~16.1 training to assist in addressing the problems underpinning the complaint;

~~15.2~~16.2 monitoring to ensure that there are no further problems;

~~15.3~~16.3 implementing a new policy;

~~15.4~~16.4 requiring an apology or an undertaking that certain behaviour stop; and/or

~~15.5~~16.5 changing work arrangements.

16. Questions

If a worker is unsure about any matter covered by this Policy, they should seek the assistance of the ~~Executive Manager, People & Performance or a representative of the Human Resources team~~~~Executive Manager Human Resources or a Human Resources Officer~~. Assistance can also be sought from an external agency such as the Australian Human Rights Commission and the Anti-Discrimination Board NSW.

Variations

The Council reserves the right to vary, replace or terminate this policy from time to time.

References & Legislation

- [Anti-Discrimination Act 1977 \(NSW\)](#)
- [Racial Discrimination Act 1975](#)
- [Sex Discrimination Act 1984](#)
- [Disability Discrimination Act 1992](#)
- [Australian Human Rights Commission Act 1986](#)
- [Work Health & Safety Act 2011 \(NSW\)](#)
- [Local Government \(State\) Award](#)
- [Local Government Act 1993](#)

Relevant Council documents

- [Workplace Bullying Policy](#)
- [Code of Conduct](#)
- [Workplace Environment Statement](#)
- [Social Media Acceptable Use Procedure](#)

Associated documents

- ~~[Workplace Bullying Policy](#)~~
- ~~[Code of Conduct](#)~~
- ~~[Workplace Environment Statement](#)~~
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ANTI-DISCRIMINATION AND EEO POLICY

*A prosperous
and progressive
community*

ADOPTED	VERSION NO	6
COUNCIL MEETING MIN NO	REVIEW DATE	05/2025
DATE: 15/05/2022	FILE NUMBER	A0100021

1. Purpose

Mid-Western Regional Council ('the Council') aims to provide an environment where employees and others in the workplace are treated fairly and with respect, and are free from unlawful discrimination, harassment, vilification, victimisation and bullying.

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- Religious belief or activity
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- Carers' responsibilities, family responsibilities, carer or parental status, being childless
- Breastfeeding
- Industrial/trade union membership, non-membership or activity
- Employer association membership, non-membership or activity
- Temporary absence from work because of illness or injury
- HIV/AIDS
- Spent convictions
- Disability, including physical, mental and intellectual disability
- Age (including compulsory retirement)
- Political belief or activity
- Criminal record
- Medical record
- Defence service
- Association (i.e. association with a person who has one or more of the attributes for which discrimination is prohibited)

5.2 Indirect discrimination

Indirect discrimination may occur when an employer imposes a policy, requirement or condition which applies to everyone equally but it in fact operates to disadvantage a particular group because of a characteristic of that group, such as their sex, age, race (i.e. - a prohibited ground of discrimination).

Example: The Council imposes a height restriction on all applicants for the position of 'Parking Officer', that is, an applicant must be over 185cm (6 feet) tall in order to be successfully considered for the position. This requirement at first glance appears fair because it applies to all applicants irrespective of gender. However, in practice this requirement will disadvantage women as a group because statistically, women are naturally shorter than men. So the effect is to disadvantage women because of their sex.

Discrimination also includes the situation where a worker harasses another person based on a ground of discrimination. Harassment is unwelcome conduct that a reasonable person would expect to offend, humiliate or intimidate.

6. Vilification

Vilification is a public act that incites hatred, severe contempt or severe ridicule of a person or group, because of race, homosexuality, being transgender, or having HIV/AIDS.

7. Harassment

Harassment is any form of behaviour towards a person that:

- Is not wanted by the person;
- Offends, humiliates or intimidates the person; and
- Creates a hostile environment.

Harassment can occur on the same grounds as unlawful discrimination.

Harassment can be carried out in a variety of different ways, including through email or text messaging, internet chat rooms, instant messaging or other social media channels.

Harassment can often be the result of behaviour that is unintentional. However, harassment can be unlawful regardless of whether the behaviour was intentional or unintentional. In addition, harassment (including bullying) that makes the workplace unsafe contravenes work health and safety laws.

Examples of harassment include, but are not limited to:

- Telling insulting jokes about particular racial groups.
- Making derogatory comments or taunts about someone's race or religion.
- Spreading rumours based on someone's sexual preferences / pregnancy or potential pregnancy.
- Derogatory comments or jokes about a person's disability, pregnancy, sexuality, age, religion.

Examples of behaviour that is not harassment can include:

- Reasonable management action taken in a reasonable manner by council to transfer, demote, discipline, counsel, retrench or dismiss a worker.
- A decision by council, based on reasonable grounds, not to award or provide a promotion, transfer, or benefit in connection with a worker's employment.
- Reasonable administrative action taken in a reasonable manner by council in connection with a worker's employment.
- Reasonable action taken in a reasonable manner under legislation affecting a worker.
- Reasonable comment, advice and feedback (including negative comment or feedback) from a worker's manager or supervisor in connection with a worker's work performance or work-related conduct.
- Feedback on a worker's work performance or work-related conduct that is intended to assist the worker to improve their work performance and/or the standard of their conduct.

8. Sexual harassment

Sexual harassment is any unwanted, unwelcome or uninvited conduct of a sexual nature, which makes a person feel offended, humiliated or intimidated. Conduct can amount to sexual harassment even if the person did not intend to offend, humiliate or intimidate the other person. However, conduct will not be sexual harassment if a reasonable person, having regard to all the circumstances, would not have anticipated that the conduct would offend, humiliate or intimidate the other person. Sexual harassment does not have to be directed at a particular individual to be unlawful. Behaviour which creates a hostile working environment for other workers can also be unlawful.

Examples of sexual harassment include, but are not limited to:

- 8.1 physical contact such as pinching, touching, grabbing, kissing or hugging
- 8.2 staring or leering at a person or at parts of their body
- 8.3 sexual jokes or comments
- 8.4 requests for sexual favours
- 8.5 persistent requests to go out, where they are refused
- 8.6 sexually explicit conversations
- 8.7 displays of offensive material such as posters, screen savers, Internet material etc
- 8.8 accessing or downloading sexually explicit material from the Internet
- 8.9 suggestive comments about a person's body or appearance
- 8.10 sending rude or offensive emails, attachments or text messages.

9. Victimisation

Victimisation is where a person is retaliated against or subjected to a detriment because they have lodged a complaint, they intend to lodge a complaint or they are involved in a complaint of unlawful conduct. Workers must not retaliate against a person who raises a complaint or subject them to any detriment.

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10. When does EEO apply?

EEO applies to all aspects of the employment relationship. The policy seeks to establish an equitable working environment where equal employment opportunities based on merit are provided in relation to:

- access to services and information;
- transparent decision making;
- recruitment and selection;
- learning and development;
- career advancement and developmental opportunities; and
- conditions of employment.

11. Rights and responsibilities

All workers must:

- 11.1 understand and comply with this Policy;
- 11.2 comply with the Council's Code of Conduct;
- 11.3 ensure they do not engage in any unlawful conduct towards other workers, customers/clients or others with whom they come into contact through work;
- 11.4 ensure they do not aid, abet or encourage other persons to engage in unlawful conduct;
- 11.5 follow the complaint procedure in this Policy if they experience any unlawful conduct;
- 11.6 report any unlawful conduct they see occurring to others in the workplace in accordance with the complaint procedure in this Policy; and
- 11.7 maintain confidentiality if they are involved in the complaint procedure.

Workers should be aware that they can be held legally responsible for their unlawful conduct.

Workers, who aid, abet or encourage other persons to engage in unlawful conduct, can also be legally liable.

12. Breach of this Policy

All workers are required to comply with this Policy at all times. If an employee breaches this Policy, they may be subject to disciplinary action. In serious cases this may include termination of employment. Agents and contractors (including temporary contractors) who are found to have breached this Policy may have their contracts with the Council terminated or not renewed. For other workers a breach of this Policy could result in you losing your position.

If a person makes an unfounded complaint or a false complaint in bad faith (e.g. - making up a complaint to get someone else in trouble or making a complaint where there is no foundation for the complaint), that person may be disciplined and may be exposed to a defamation claim.

13. Complaint handling procedure

If a worker feels that they have been subjected to any form of unlawful conduct contrary to EEO laws, this Policy or the Council's Code of Conduct, they should not ignore it.

They should, as appropriate, follow one of the steps set out below.

14. Examples of the ways in which a complaint can be dealt with

14.1 Confront the Issue

If a worker feels comfortable doing so, they should address the issue with the person concerned. A worker should identify the offensive behaviour, explain that the behaviour is unwelcome and offensive and ask that the behaviour stop. It may be that the person was not aware that their behaviour was unwelcome or caused offence.

This is not a compulsory step. If a worker does not feel comfortable confronting the person, or the worker confronts the person and the behaviour continues the worker should report the issue to their manager. If the manager is the alleged perpetrator, then the matter should be reported to a senior manager, to the Executive Manager People & Performance or a representative of the Human Resources team.

If a worker is unsure about how to handle a situation and is also unsure if they want to make a complaint they should contact the Executive Manager, People & Performance or a representative of the Human Resources team for support and guidance.

14.2 Report the Issue

A worker should report the issue to the Executive Manager, People & Performance or a representative of the Human Resources team.

The Executive Manager, People & Performance or a representative of the Human Resources team will aim to deal with the workers complaint in accordance with this Policy. There are two complaint procedures that can be used: informal and formal (detailed further below). The type of complaint procedure used will be determined by the nature of the complaint that is made.

14.3 Informal Complaint

There is a broad range of options for addressing the complaint. The procedure used to address the issue will depend on the individual circumstances of the case. Possible options include, but are not limited to:

- a) The manager, Executive Manager, People & Performance or a representative of the Human Resources team discussing the issue with the person against whom the complaint is made; and/or
- b) The manager, Executive Manager, People & Performance or a representative of the Human Resources team facilitating a meeting between the parties in an attempt to resolve the issue and move forward.

An informal complaint is more suited to less serious allegations that if founded, would not warrant disciplinary action being taken.

14.4 Formal Complaint

A formal complaint involves a formal investigation of the complaint. Formal investigations may be conducted by the Executive Manager, People & Performance or a representative of the Human Resources team or a person from outside the Council, appointed by the Council.

An investigation generally involves, collecting information about the complaint and then making a finding based on the available information as to whether or not the alleged behaviour occurred. Once a finding is made, the Executive Manager, People & Performance, a representative of the Human Resources team or the external investigator will make recommendations about resolving the complaint.

If the Council considers it appropriate for the safe and efficient conduct of an investigation, workers may be required not to report for work during the period of an investigation. The Council may also provide alternative duties or work during the investigation period. Generally, workers will be paid their normal pay during any such period. Refer to clause 37, *Disciplinary Procedures, of the Local Government (State) Award 2020*.

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15. Confidentiality

The Executive Manager, People & Performance or a representative of the Human Resources team will endeavour to maintain confidentiality as far as reasonably practicable. However, it may be necessary to speak with other workers in order to determine what happened, to afford fairness to those against whom the complaint has been made and to resolve the complaint. If a complaint is raised and it appears that unlawful conduct has potentially occurred, the Council will endeavour to take appropriate action in relation to the complaint.

All workers involved in the complaint must also maintain confidentiality, including the worker who lodges the complaint. Spreading rumours or gossip may expose workers to a defamation claim. Workers may discuss the complaint with a designated support person or representative (who is not a worker employed or engaged by the Council). However, the support person or representative must also maintain confidentiality.

16. Possible outcomes

The possible outcomes will depend on the nature of the complaint and the procedure followed to address the complaint. Where an investigation results in a finding that a person has engaged in unlawful conduct, breach of this Policy or breach of the Code of Conduct that person may be disciplined. The type and severity of disciplinary action will depend on the nature of the complaint and other relevant factors. Where the investigation results in a finding that the person complained against has engaged in serious misconduct, this may result in instant dismissal. Any disciplinary action is a confidential matter between the affected worker and the Council.

Agents and contractors (including temporary contractors) who are found to have engaged in unlawful conduct and/or breached this Policy or the Council's Code of Conduct, may have their contracts with the Council terminated or not renewed. For other workers, a breach of this Policy or the Council's Code of Conduct could result in the loss of their position.

The Council may take a range of other non-disciplinary outcomes to resolve a complaint, depending on the particular circumstances. Examples include, but are not limited to:

- 16.1 training to assist in addressing the problems underpinning the complaint;
- 16.2 monitoring to ensure that there are no further problems;
- 16.3 implementing a new policy;
- 16.4 requiring an apology or an undertaking that certain behaviour stop; and/or
- 16.5 changing work arrangements.

16. Questions

If a worker is unsure about any matter covered by this Policy, they should seek the assistance of the Executive Manager, People & Performance or a representative of the Human Resources team. Assistance can also be sought from an external agency such as the Australian Human Rights Commission and the Anti-Discrimination Board NSW.

Variations

The Council reserves the right to vary, replace or terminate this policy from time to time.

References & Legislation

- Anti-Discrimination Act 1977 (NSW)
- Racial Discrimination Act 1975
- Sex Discrimination Act 1984
- Disability Discrimination Act 1992
- Australian Human Rights Commission Act 1986
- Work Health & Safety Act 2011 (NSW)
- Local Government (State) Award
- Local Government Act 1993

Relevant Council documents

- Workplace Bullying Policy
- Code of Conduct
- Workplace Environment Statement
- Social Media Acceptable Use Procedure



WORKPLACE BULLYING POLICY

*A prosperous
and progressive
community*

ADOPTED		VERSION NO	7
COUNCIL MEETING MIN NO	116-19	REVIEW DATE	MAY 2025 ²
DATE:	15 MAY 2022 ¹⁹	FILE NUMBER	A0100021

1. Aim

- 1.1. Mid-Western Regional Council ('Council') is committed to providing a safe and healthy work environment in which all workers are treated fairly, with dignity and respect. Bullying is a risk to the health and safety of the workplace. It is unacceptable and will not be tolerated by the Council.
- 1.2. This Policy outlines the Council's commitment to a safe workplace and is aimed at ensuring, so far as ~~it reasonably can~~ reasonably practicable, that employees are not subjected to any form of bullying while at work. It also details the legal responsibilities of the Council and its ~~and employees~~ employees in relation to preventing bullying in the workplace.

2. Commencement of Policy

- 2.1. This Policy will commence on 15/5/2022¹⁹. It replaces all other bullying policies (whether written or not).

3. Scope

- 3.1. This Policy covers all employees of the Council (whether full-time, part-time or casual) and all persons performing work at the direction of, in connection with, or on behalf of the Council (for example contractors, volunteers, subcontractors, agents, consultants and temporary staff) (collectively 'workers').
- 3.2. This Policy extends to all functions and places that are work related, for example, work lunches, conferences, Christmas parties, social media platforms, text messaging, emails and client functions. This Policy does not form part of any employee's contract of employment. Nor does it form part of any contract for service.

4. Legal responsibilities

- 4.1. Everyone at the workplace has a legal responsibility to prevent bullying from occurring.
- 4.2. Under relevant health and safety legislation (the 'Legislation') the Council has the primary duty to eliminate or minimise, as far as reasonably practicable, the risks to health and safety in the workplace. This duty includes the implementation of strategies to prevent workplace bullying. This Policy will assist the Council in complying with its legal responsibilities.
- 4.2.4.3. Council will provide employees with regular compulsory training and education around identifying, preventing and responding to workplace bullying and unreasonable behaviour. Council will provide information about Council's stance on workplace bullying and expected workplace behaviours to all new employees through induction processes.
- 4.3.4.4. Workers ~~are~~ also required under the Legislation to take reasonable care for their own health and safety, as well as that of others at the Council's workplace. They must also comply with any reasonable instruction given by the Council. Compliance with this Policy will assist workers in meeting their legal responsibilities.

5. What is workplace bullying?

- 5.1. Workplace bullying is repeated, unreasonable behaviour, directed towards a worker or a group of workers that creates a risk to health and safety. It includes both physical and psychological risks and abuse.
- 5.2. 'Repeated behaviour' refers to the persistent nature of the behaviour and can refer to a range or pattern of behaviours over a period of time (for example, verbal abuse, unreasonable criticism, isolation and subsequently being denied opportunities – ie i.e. a pattern is being established from a series of events).
- 5.3. 'Unreasonable behaviour' means behaviour that a reasonable person, having regard to all the

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circumstances, would expect to victimise, humiliate, undermine or threaten another person.

6. Examples of workplace bullying

6.1. Bullying behaviours can take many different forms, from the obvious (direct) to the more subtle (indirect). The following are some examples of both direct and indirect bullying:

Direct bullying:

- abusive, insulting or offensive language
- spreading misinformation or malicious rumours
- behaviour or language that frightens, humiliates, belittles or degrades, including over criticising, or criticism that is delivered with yelling or screaming
- displaying offensive material
- inappropriate comments about a person's appearance, lifestyle, their family or sexual preferences
- teasing or regularly making someone the brunt of pranks or practical jokes
- interfering with a person's personal property or work equipment, or
- harmful or offensive initiation practices.

Indirect bullying:

- unreasonably overloading a person with work, or not providing enough work
- setting timeframes that are difficult to achieve, or constantly changing them
- setting tasks that are unreasonably below, or above, a person's skill level
- deliberately excluding or isolating a person from normal work activities
- withholding information that is necessary for effective work performance
- deliberately denying access to resources or workplace benefit and entitlements, for example training, leave
- deliberately changing work arrangements, such as rosters and leave, to inconvenience a particular worker or workers.

6.2. The above examples do not represent a complete list of bullying behaviours. They are indicative of the type of ~~behaviours which~~ behaviours, which may constitute bullying and therefore unacceptable to the Council.

6.3. A single incident of unreasonable behaviour does not usually constitute bullying. However, it should not be ignored as it may have the potential to escalate into bullying behaviour.

6.4. A person's ~~i~~ntention is irrelevant when determining if bullying has occurred. Bullying can occur unintentionally, where actions which are not intended to victimise, humiliate, undermine or threaten a person actually have that effect.

6.5. Bullying in the workplace is harmful not only to the target of the behaviour but damages the Council's culture and reputation. It is unacceptable and will not be tolerated.

7. What does NOT constitute workplace bullying?

7.1. Managing staff does not constitute bullying, if it is done in a reasonable manner. Managers have the right, and are obliged to, manage their staff. This includes directing the way in which work is performed, undertaking performance reviews and providing feedback (even if negative) and disciplining and counselling staff. Examples of reasonable management practices include:

- setting reasonable performance goals, standards and deadlines in consultation with workers and after considering their respective skills and experience;

- allocating work fairly;
- fairly rostering and allocating working hours;
- transferring a worker for legitimate and explained operational reasons;
- deciding not to select a worker for promotion, following a fair and documented process;
- informing a worker about unsatisfactory work performance in a constructive way and in accordance with any workplace policies or agreements;
- informing a worker about inappropriate behaviour in an objective and confidential way;
- implementing organisational changes or restructuring; and
- performance management processes.

8. What steps will the Council take to prevent workplace bullying?

8.1. The Council will take all reasonable steps to prevent bullying through a risk management process. This process includes:

- identification of bullying risk factors- these are things and situations which could contribute to bullying such as the way in which staff are managed, or organisational change such as redundancies
- assessing and eliminating the risks, as far as ~~reasonable~~reasonably practicable, or controlling, or minimising, them as far as ~~reasonable~~practicable; and
- training workers about bullying, how to deal with it and its impact on the workplace.

9. Complaint Procedure

~~9.1. If a worker feels that they have been bullied, they should not ignore it.~~

~~9.2. Any bullying issue should be brought to the Council's attention as soon as possible.~~

~~9.3. There are a number of options available for workers who feel they have been bullied:~~

If a worker feels that they have been subjected to any form of unlawful conduct contrary to EEO laws, this Policy or the Council's Code of Conduct, they should not ignore it.

They should, as appropriate, follow one of the steps set out below.

Confront the Issue

- If a worker feels comfortable doing so, they should address the issue with the person concerned. A worker should identify the bullying behaviour, explain that the behaviour is unwelcome and offensive and ask that it stop.

This is not a compulsory step. If a worker does not feel comfortable confronting the person, or the worker confronts the person and the behaviour continues, the worker should report the issue to their manager. If the manager is the alleged perpetrator, then the matter should be reported to a senior manager, ~~or~~ to the Executive Manager People & Performance or a representative of the Human Resources team~~Executive Manager Human Resources.~~

If at any time, a worker is unsure about how to handle a situation they should contact the Executive Manager ~~Human Resources~~People & Performance or a representative of the Human Resources team for support and guidance.

Report the Issue

- There are two complaint procedures that can be used to resolve bullying complaints: informal and formal (detailed further below). The type of complaint procedure used depends on the nature of the complaint that is made. The aim is to ensure that workers are able to return to a productive and harmonious working relationship environment as soon as possible.

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10. Informal Complaint Procedure

10.1. ~~Under the informal complaint procedure-~~There are a broad range of options for addressing the complaint informally. The procedure-process used to address the issue will depend on the individual circumstances of the case. The manager, ~~or~~ Executive Manager Human Resources People & Performance or a representative of the Human Resources team will determine which process to follow. The possible options include, but are not limited to, the manager, ~~or~~ Executive Manager Human Resources or a representative if the Human Resources team:

- discussing the issue with the person against whom the complaint is made; and/or
- facilitating a meeting between the parties in an attempt to resolve the issue and move forward.

10.2. ~~The informal complaint procedure is more suited to less serious allegations that if founded, may not warrant disciplinary action being taken.~~ An informal complaint is more suited to less serious allegations that if founded, would not warrant disciplinary action being taken.

11. Formal Complaint Procedure

11.1. ~~The~~ A formal complaint ~~procedure~~ involves the worker making a written complaint and a formal investigation being conducted of that complaint. It is appropriate for more serious allegations, or if senior management are involved. Formal investigations may be conducted by the Council or by an external investigator appointed by the Council.

11.2. An investigation generally involves collecting information about the complaint and then making a finding based on the available information as to whether or not the alleged behaviour occurred. Once a finding is made, the Council or the external investigator will make recommendations about what actions should be taken to resolve the complaint and any appropriate disciplinary action.

11.3. If Council considers it appropriate for the safe and efficient conduct of an investigation, workers may be required not to report for work during the period of an investigation. The Council may also provide alternative duties or work during the investigation period. Generally, workers will be paid their normal pay during any such period. Refer to clause 37, Disciplinary Procedures, of the Local Government (State) Award 2020.

12. Dealing with bullying complaints

12.1. In handling bullying complaints, the Council will adopt the following principles:

- Take all complaints seriously.
- Act promptly.
- Not victimise any person who makes a complaint, any person accused of bullying, or any witnesses.
- Support all parties.
- Be impartial.
- Communicate the investigation or complaint process to all parties involved, including estimated length of time for resolution.
- Maintain confidentiality - the Council will endeavour to maintain confidentiality as far as possible reasonably practicable. However, it may be necessary to speak with other workers in order to determine what happened, to legal representatives or the Council's senior managers. It will also be necessary to speak to those against whom the complaint has been made in order to afford fairness. All workers involved in the complaint must also maintain confidentiality, including the worker who lodges the complaint. Spreading rumours or gossip may expose the worker responsible to a defamation claim.
- Act appropriately - if a complaint is made and it appears that bullying has occurred, the Council will endeavour to take appropriate action in relation to the complaint.

- Keep records – documentation is essential. A record of all meetings and interviews stating who was present and agreed outcomes should always be maintained.

13. Possible outcomes

13.1. The possible outcomes of an investigation will depend on the nature of the complaint. Where an investigation results in a finding that a person has engaged in bullying behaviour, that person will be disciplined. The type and severity of disciplinary action will depend on the nature of the complaint and other relevant factors. Where the investigation results in a finding that the person complained against has engaged in serious misconduct, this may result in instant dismissal. Any disciplinary action is a confidential matter between the affected worker and the Council.

13.2. The Council may take a range of disciplinary action. Examples include, but are not limited to:

- Providing training to assist in addressing the problems underpinning the complaint
- Monitoring to ensure that there are no further problems
- Implementing a new Policy
- Mentoring and support from a senior manager
- Requiring an apology or an undertaking that certain behaviour stop
- Changing work arrangements
- Transferring to another work area
- Issuing a written warning (this can be a first or final warning depending on the circumstances)
- Dismissal.

14. Management and Supervisor's role

14.1. Managers and supervisors have a key role in the prevention of workplace bullying. Managers and supervisors must:

- ensure that they do not bully workers, other managers or supervisors, clients or customers;
- ensure that they do not aid, abet or encourage other persons to engage in bullying behaviour;
- ensure all staff who report to them are aware and understand this Policy and their responsibility to comply with it;
- ensure that all staff who report to them understand that any bullying in any form is unacceptable and will not be tolerated by the Council;
- act promptly and appropriately if they observe bullying behaviours;
- ensure that all staff who report to them understand that they should report any bullying behaviour;
- ensure all staff who report to them are aware and understand the complaint procedures; and
- act promptly if a complaint is made. If this is not possible, or is inappropriate, inform the [Executive Manager People & Performance or a representative of the Human Resources team](#) ~~Executive Manager Human Resources~~ as soon as possible.

15. Workers role

15.1. All workers must:

- understand and comply with this Policy;
- ensure they do not engage in any conduct which may constitute bullying towards other workers, customers/clients or others with whom they come into contact through work;
- ensure they do not aid, abet or encourage other persons to engage in bullying behaviour;
- follow the Council's complaint procedure if they experience bullying;
- report any bullying they see occurring to others in the workplace in accordance with this Policy; and

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- maintain confidentiality if they are involved in the incident complained of.

16. Breach of this Policy

- 16.1. The Council takes very seriously its commitment to providing a safe and healthy work environment, free from bullying. All workers are required to comply with this Policy.
- 16.2. If an employee breaches this Policy, they may be subject to disciplinary action. In serious ~~cases~~cases, this may include termination of employment. Agents and contractors (including temporary contractors) who are found to have breached this Policy may have their contracts with the Council terminated or not renewed.
- 16.3. If a person makes a false complaint, or a complaint in bad faith (e.g. making up a complaint to get someone else in trouble, or making a complaint where there is no foundation for the complaint), that person may be disciplined and may be exposed to a defamation claim.

17. More information

- 17.1. If a worker is unsure about any matter covered by this Policy, or requires more information about workplace bullying they should seek the assistance of their manager, ~~or of~~ the Executive Manager ~~Human Resources~~People & Performance or a representative of the Human Resources team. They may also wish to seek external advice from the relevant regulatory authority, such as Safe Work.

Variations

The Council reserves the right to vary, replace or terminate this Policy from time to time.

References & Legislation

- Workplace Health & Safety Act 2011 (NSW)
- Local Government (State) Award 2020
- Local Government act 1993

Relevant Council documents

Associated documents

- Anti-Discrimination and Equal Employment Opportunity Policy
- Code of Conduct
- Workplace Environment Statement
- Social Media Acceptable Use Procedure



WORKPLACE BULLYING POLICY

*A prosperous
and progressive
community*

ADOPTED	VERSION NO	7
COUNCIL MEETING MIN NO	REVIEW DATE	MAY 2025
DATE: 15 MAY 2022	FILE NUMBER	A0100021

1. Aim

- 1.1. Mid-Western Regional Council ('Council') is committed to providing a safe and healthy work environment in which all workers are treated fairly, with dignity and respect. Bullying is a risk to the health and safety of the workplace. It is unacceptable and will not be tolerated by the Council.
- 1.2. This Policy outlines the Council's commitment to a safe workplace and is aimed at ensuring, so far as reasonably practicable, that employees are not subjected to any form of bullying while at work. It also details the legal responsibilities of the Council and its employees in relation to preventing bullying in the workplace.

2. Commencement of Policy

- 2.1. This Policy will commence on 15/5/2022. It replaces all other bullying policies (whether written or not).

3. Scope

- 3.1. This Policy covers all employees of the Council (whether full-time, part-time or casual) and all persons performing work at the direction of, in connection with, or on behalf of the Council (for example contractors, volunteers, subcontractors, agents, consultants and temporary staff) (collectively 'workers').
- 3.2. This Policy extends to all functions and places that are work related, for example, work lunches, conferences, Christmas parties, social media platforms, text messaging, emails and client functions. This Policy does not form part of any employee's contract of employment. Nor does it form part of any contract for service.

4. Legal responsibilities

- 4.1. Everyone at the workplace has a legal responsibility to prevent bullying from occurring.
- 4.2. Under relevant health and safety legislation (the 'Legislation') the Council has the primary duty to eliminate or minimise, as far as reasonably practicable, the risks to health and safety in the workplace. This duty includes the implementation of strategies to prevent workplace bullying. This Policy will assist the Council in complying with its legal responsibilities.
- 4.3. Council will provide employees with regular compulsory training and education around identifying, preventing and responding to workplace bullying and unreasonable behaviour. Council will provide information about Council's stance on workplace bullying and expected workplace behaviours to all new employees through induction processes.
- 4.4. Workers are also required under the Legislation to take reasonable care for their own health and safety, as well as that of others at the Council's workplace. They must also comply with any reasonable instruction given by the Council. Compliance with this Policy will assist workers in meeting their legal responsibilities.

5. What is workplace bullying?

- 5.1. Workplace bullying is repeated, unreasonable behaviour, directed towards a worker or a group of workers that creates a risk to health and safety. It includes both physical and psychological risks and abuse.
- 5.2. 'Repeated behaviour' refers to the persistent nature of the behaviour and can refer to a range or pattern of behaviours over a period of time (for example, verbal abuse, unreasonable criticism, isolation and subsequently being denied opportunities – i.e. a pattern is being established from a series of events).
- 5.3. 'Unreasonable behaviour' means behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten another person.

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6. Examples of workplace bullying

6.1. Bullying behaviours can take many different forms, from the obvious (direct) to the more subtle (indirect). The following are some examples of both direct and indirect bullying:

Direct bullying:

- abusive, insulting or offensive language
- spreading misinformation or malicious rumours
- behaviour or language that frightens, humiliates, belittles or degrades, including over criticising, or criticism that is delivered with yelling or screaming
- displaying offensive material
- inappropriate comments about a person's appearance, lifestyle, their family or sexual preferences
- teasing or regularly making someone the brunt of pranks or practical jokes
- interfering with a person's personal property or work equipment, or
- harmful or offensive initiation practices.

Indirect bullying:

- unreasonably overloading a person with work, or not providing enough work
 - setting timeframes that are difficult to achieve, or constantly changing them
 - setting tasks that are unreasonably below, or above, a person's skill level
 - deliberately excluding or isolating a person from normal work activities
 - withholding information that is necessary for effective work performance
 - deliberately denying access to resources or workplace benefit and entitlements, for example training, leave
 - deliberately changing work arrangements, such as rosters and leave, to inconvenience a particular worker or workers.
- 6.2. The above examples do not represent a complete list of bullying behaviours. They are indicative of the type of behaviours, which may constitute bullying and therefore unacceptable to the Council.
- 6.3. A single incident of unreasonable behaviour does not usually constitute bullying. However, it should not be ignored as it may have the potential to escalate into bullying behaviour.
- 6.4. A person's intention is irrelevant when determining if bullying has occurred. Bullying can occur unintentionally, where actions which are not intended to victimise, humiliate, undermine or threaten a person actually have that effect.
- 6.5. Bullying in the workplace is harmful not only to the target of the behaviour but damages the Council's culture and reputation. It is unacceptable and will not be tolerated.

7. What does NOT constitute workplace bullying?

- 7.1. Managing staff does not constitute bullying, if it is done in a reasonable manner. Managers have the right, and are obliged to, manage their staff. This includes directing the way in which work is performed, undertaking performance reviews and providing feedback (even if negative) and disciplining and counselling staff. Examples of reasonable management practices include:
- setting reasonable performance goals, standards and deadlines in consultation with workers and after considering their respective skills and experience;
 - allocating work fairly;

- fairly rostering and allocating working hours;
- transferring a worker for legitimate and explained operational reasons;
- deciding not to select a worker for promotion, following a fair and documented process;
- informing a worker about unsatisfactory work performance in a constructive way and in accordance with any workplace policies or agreements;
- informing a worker about inappropriate behaviour in an objective and confidential way;
- implementing organisational changes or restructuring; and
- performance management processes.

8. What steps will the Council take to prevent workplace bullying?

8.1. The Council will take all reasonable steps to prevent bullying through a risk management process. This process includes:

- identification of bullying risk factors- these are things and situations which could contribute to bullying such as the way in which staff are managed, or organisational change such as redundancies
- assessing and eliminating the risks, as far as reasonably practicable, or controlling, or minimising, them as far as reasonably practicable; and
- training workers about bullying, how to deal with it and its impact on the workplace.

9. Complaint Procedure

If a worker feels that they have been subjected to any form of unlawful conduct contrary to EEO laws, this Policy or the Council's Code of Conduct, they should not ignore it.

They should, as appropriate, follow one of the steps set out below.

Confront the Issue

- If a worker feels comfortable doing so, they should address the issue with the person concerned. A worker should identify the bullying behaviour, explain that the behaviour is unwelcome and offensive and ask that it stop.

This is not a compulsory step. If a worker does not feel comfortable confronting the person, or the worker confronts the person and the behaviour continues, the worker should report the issue to their manager. If the manager is the alleged perpetrator, then the matter should be reported to a senior manager, to the Executive Manager People & Performance or a representative of the Human Resources team.

If at any time, a worker is unsure about how to handle a situation they should contact the Executive Manager People & Performance or a representative of the Human Resources team for support and guidance.

Report the Issue

- There are two complaint procedures that can be used to resolve bullying complaints: informal and formal (detailed further below). The type of complaint procedure used depends on the nature of the complaint that is made. The aim is to ensure that workers are able to return to a productive and harmonious working environment as soon as possible.

10. Informal Complaint

10.1. There are a broad range of options for addressing the complaint informally. The process used to address the issue will depend on the individual circumstances of the case. The manager, Executive Manager People & Performance or a representative of the Human Resources team will determine which process to follow. The possible options include, but are not limited to, the manager, Executive Manager Human Resources or a representative of the Human Resources team:

- discussing the issue with the person against whom the complaint is made; and/or

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- facilitating a meeting between the parties in an attempt to resolve the issue and move forward.
- 10.2. An informal complaint is more suited to less serious allegations that if founded, would not warrant disciplinary action being taken.

11. Formal Complaint

- 11.1. A formal complaint involves the worker making a written complaint and a formal investigation being conducted of that complaint. It is appropriate for more serious allegations, or if senior management are involved. Formal investigations may be conducted by the Council or by an external investigator appointed by the Council.
- 11.2. An investigation generally involves collecting information about the complaint and then making a finding based on the available information as to whether or not the alleged behaviour occurred. Once a finding is made, the Council or the external investigator will make recommendations about what actions should be taken to resolve the complaint and any appropriate disciplinary action.
- 11.3. If Council considers it appropriate for the safe and efficient conduct of an investigation, workers may be required not to report for work during the period of an investigation. The Council may also provide alternative duties or work during the investigation period. Generally, workers will be paid their normal pay during any such period. *Refer to clause 37, Disciplinary Procedures, of the Local Government (State) Award 2020.*

12. Dealing with bullying complaints

- 12.1. In handling bullying complaints, the Council will adopt the following principles:
- Take all complaints seriously.
 - Act promptly.
 - Not victimise any person who makes a complaint, any person accused of bullying, or any witnesses.
 - Support all parties.
 - Be impartial.
 - Communicate the investigation or complaint process to all parties involved, including estimated length of time for resolution.
 - Maintain confidentiality - the Council will endeavour to maintain confidentiality as far as reasonably practicable. However, it may be necessary to speak with other workers in order to determine what happened, to legal representatives or the Council's senior managers. It will also be necessary to speak to those against whom the complaint has been made in order to afford fairness. All workers involved in the complaint must also maintain confidentiality, including the worker who lodges the complaint. Spreading rumours or gossip may expose the worker responsible to a defamation claim.
 - Act appropriately - if a complaint is made and it appears that bullying has occurred, the Council will endeavour to take appropriate action in relation to the complaint.
 - Keep records – documentation is essential. A record of all meetings and interviews stating who was present and agreed outcomes should always be maintained.

13. Possible outcomes

- 13.1. The possible outcomes of an investigation will depend on the nature of the complaint. Where an investigation results in a finding that a person has engaged in bullying behaviour, that person will be disciplined. The type and severity of disciplinary action will depend on the nature of the complaint and other relevant factors. Where the investigation results in a finding that the person complained against has engaged in serious misconduct, this may result in instant dismissal. Any disciplinary action is a confidential matter between the affected worker and the Council.

13.2. The Council may take a range of disciplinary action. Examples include, but are not limited to:

- Providing training to assist in addressing the problems underpinning the complaint
- Monitoring to ensure that there are no further problems
- Implementing a new Policy
- Mentoring and support from a senior manager
- Requiring an apology or an undertaking that certain behaviour stop
- Changing work arrangements
- Transferring to another work area
- Issuing a written warning (this can be a first or final warning depending on the circumstances)
- Dismissal.

14. Management and Supervisor's role

14.1. Managers and supervisors have a key role in the prevention of workplace bullying. Managers and supervisors must:

- ensure that they do not bully workers, other managers or supervisors, clients or customers;
- ensure that they do not aid, abet or encourage other persons to engage in bullying behaviour;
- ensure all staff who report to them are aware and understand this Policy and their responsibility to comply with it;
- ensure that all staff who report to them understand that any bullying in any form is unacceptable and will not be tolerated by the Council;
- act promptly and appropriately if they observe bullying behaviours;
- ensure that all staff who report to them understand that they should report any bullying behaviour;
- ensure all staff who report to them are aware and understand the complaint procedures; and
- act promptly if a complaint is made. If this is not possible, or is inappropriate, inform the Executive Manager People & Performance or a representative of the Human Resources team as soon as possible.

15. Workers role

15.1. All workers must:

- understand and comply with this Policy;
- ensure they do not engage in any conduct which may constitute bullying towards other workers, customers/clients or others with whom they come into contact through work;
- ensure they do not aid, abet or encourage other persons to engage in bullying behaviour;
- follow the Council's complaint procedure if they experience bullying;
- report any bullying they see occurring to others in the workplace in accordance with this Policy; and
- maintain confidentiality if they are involved in the incident complained of.

16. Breach of this Policy

16.1. The Council takes very seriously its commitment to providing a safe and healthy work environment, free from bullying. All workers are required to comply with this Policy.

16.2. If an employee breaches this Policy, they may be subject to disciplinary action. In serious cases, this may include termination of employment. Agents and contractors (including temporary contractors) who are found to have breached this Policy may have their contracts with the Council terminated or not renewed.

16.3. If a person makes a false complaint, or a complaint in bad faith (e.g. making up a complaint to get

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someone else in trouble, or making a complaint where there is no foundation for the complaint), that person may be disciplined and may be exposed to a defamation claim.

17. More information

17.1. If a worker is unsure about any matter covered by this Policy, or requires more information about workplace bullying they should seek the assistance of their manager, the Executive Manager People & Performance or a representative of the Human Resources team. They may also wish to seek external advice from the relevant regulatory authority, such as Safe Work.

Variations

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References & Legislation

- Workplace Health & Safety Act 2011 (NSW)
- Local Government (State) Award 2020
- Local Government act 1993

Relevant Council documents

- Anti-Discrimination and Equal Employment Opportunity Policy
- Code of Conduct
- Workplace Environment Statement
- Social Media Acceptable Use Procedure