



WUJAL WUJAL ABORIGINAL SHIRE COUNCIL

Anti-Discrimination, Workplace Bullying and Harassment Policy

Document Control

Version History:	22.03.2023	File Reference	36192
Reviewed and adopted	22.03.2023	Resolution Ref	20230322.01
Next review due	2025		

1. Origin / Authority

Wujal Wujal Aboriginal Shire Council

2. Purpose and Scope

Wujal Wujal Aboriginal Shire Council (Council) is committed to providing a safe and healthy work environment in which all workers are treated fairly, with dignity and respect. The purpose of this policy is to outline Council's position on discrimination, workplace bullying, sexual harassment, victimisation and vilification.

This policy covers all behaviour considered discrimination, workplace bullying, sexual harassment, victimisation and vilification within and external to the workplace.

3. Policy Statements

In accordance with legislation discrimination, workplace bullying, sexual harassment, victimisation and vilification are unlawful and strictly prohibited.

Discrimination, workplace bullying, sexual harassment, victimisation and vilification can create risks to the health and safety of workers in the workplace. It is unacceptable and will not be tolerated by Council.

3.1 Discrimination

Discrimination can be direct or indirect. Direct discrimination occurs when a person with an identified attribute (such as their race, sex or pregnancy) is treated less favourably than a person without that attribute, in the same or similar circumstances.

Indirect discrimination occurs when an unreasonable policy or condition, which applies to everyone, has an unfair impact on a person or group of persons because of a certain attribute.

Legislation prohibits discrimination on the basis of a number of identified attributes, including but not limited to:

- Sex;
- Relationship status;
- Pregnancy;
- Parental status;
- Breastfeeding;
- Age;
- Race;
- Impairment;
- Religious belief or religious activity;
- Political belief or activity;
- Trade union activity;
- Lawful sexual activity;
- Gender identity;
- Sexuality;
- Family responsibilities; and
- Association with, or relation to, a person identified on the basis of any of these attributes.

Discrimination cannot occur in any aspect of the workplace.

Employees have rights to equal employment opportunities, and to be treated fairly as they go about their daily duties, irrespective of their association with an identified attribute.

3.2 Workplace Bullying

Workplace bullying is repeated, unreasonable behaviour, directed towards a worker or a group of workers that creates a risk to health and safety. It does not need to be intentional.

'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.

‘Unreasonable behaviour’ means behaviour that a reasonable person, having regard to all circumstances, would expect to victimise, humiliate, undermine or threaten another person.

Workplace bullying can be either direct or indirect. Examples of workplace bullying include, but are not limited to:

- Language or comments that are abusive, insulting and/or offensive;
- Unjustified criticism or complaints;
- Deliberately excluding someone from workplace activities;
- Not sharing important information that a person needs to work effectively;
- Setting unreasonable timelines or constantly changing deadlines;
- Setting tasks that are unreasonably below or beyond a person’s skill level;
- Spreading misinformation or malicious rumours;
- Changing rosters or leave to deliberately inconvenience someone.

A person’s intention is irrelevant when determining if bullying has occurred. A single incident of unreasonable behaviour does not constitute bullying; however, it may constitute inappropriate conduct and therefore will not be tolerated by Council.

What does NOT constitute workplace bullying?

Reasonable management action taken in a reasonable way is not workplace bullying. Reasonable management action can include:

- Setting reasonable performance goals, standards and deadlines;
- Informing a worker of their unsatisfactory work performance;
- Deciding not to select a worker for promotion where a reasonable process was followed;
- Informing a worker of their inappropriate behaviour in an objective and confidential way;
- Rostering and allocating hours where the requirements are reasonable;
- Transferring a worker for operational reasons;
- Implementing organisational changes or restructuring; and
- Taking disciplinary action, including suspension or termination of employment, when warranted.

Whilst workplace bullying requires the conduct to be repeated, unreasonable conduct or behaviour towards another worker or member of the public that occurs only once, can still be considered, and treated, as a breach of Council’s Code of Conduct or related policies.

3.3 Sexual Harassment

Sexual harassment is any unwanted or unwelcome sexual attention which makes a person feel humiliated, offended or intimidated. It does not have to be repeated or ongoing. Sexual harassment includes, but is not limited to:

- Unwelcome physical touching;
- Sexual or suggestive comments, jokes or taunts;
- Unwelcome requests for sex;
- The display of sexual material (e.g. photos or pictures);
- Sexual reading matter (e.g. emails, faxes or letters).

Sexual harassment applies to all genders.

Sexual harassment such as obscene phone calls, indecent exposure or sexual assault may be a criminal offence. Where such conduct occurs, Council may report the conduct to the Queensland Police, as well as take action in accordance with this policy, associated policies and legislation.

3.4 Victimisation

Victimisation is where a person has caused or threatened a detriment to someone because they:

- Refused to do something that would contravene any anti-discrimination laws;
- Complained, or intends to complain, about something that would contravene anti-discrimination laws;
- Are or have been involved in a proceeding under the Anti-Discrimination Act 1991, including as a witness, or supplying information to the Commission or tribunal; or
- Are believed to have done or intend to do any of the above.

Detriment means loss, damage, or injury to the person. It must be real and not trivial, and something that a reasonable person would consider to be a detriment.

The Anti-Discrimination Act 1991 makes victimisation unlawful.

3.5 Vilification

Vilification is when someone publicly targets a person or a group of people by inciting hatred toward them, serious contempt for them, or severe ridicule of them because of their race, religion, sexuality or gender identity.

For something to be vilification under the law, it has to happen in public. This means things other people can hear or see, such as:

- someone shouting threats or comments at you
- leaflets, stickers, graffiti or posters
- written articles or comments online or in the media
- flags, emblems and symbols
- t-shirts or other clothing
- making gestures

The law only protects people from vilification if they are targeted because of certain characteristics (called 'attributes' under the law). The protected attributes are currently:

- race
- religion
- sexuality
- gender identity

Vilification is different to discrimination. Vilification is more serious and involves someone expressing hatred, disrespect, or ridicule for people because of who they are, and encouraging other people to think and do the same.

Vilification can be considered a criminal offence where there is a threat of harm to someone or to their property, or urging harm to a person or their property. Where such conduct occurs, Council may report the conduct to the Queensland Police, as well as take action in accordance with this policy, associated policies and legislation.

The Anti-Discrimination Act 1991 makes vilification unlawful.

3.6 Rights and Responsibilities

All workers must:

- ensure they do not engage in any unlawful and/or unacceptable conduct towards other workers, members of the public or others with whom they come into contact with through work or whilst representing Council;
- ensure they do not aid, abet or encourage other persons to engage in unlawful and/or unacceptable conduct;

- follow the complaint procedure in this Policy and other relevant Policies if they experience or witness any unlawful and/or unacceptable conduct;
- report any unlawful and/or unacceptable conduct they see occurring to others in the workplace in accordance with the complaint procedure in this Policy and other relevant Policies; and
- 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.
- In addition to the responsibilities of workers, managers and supervisors must:
- understand that as a leader at Council their obligations to model acceptable and appropriate workplace conduct and behaviour is an expected requirement of their position;
- ensure that they do not discriminate against, bully, harass, victimise or vilify (unacceptable behaviour) workers, members of the public or others with whom they come into contact with through work or whilst representing Council;
- ensure that they do not aid, abet or encourage other persons to engage in unlawful and/or unacceptable behaviour;
- ensure all staff who report to them are aware and understand this policy and their responsibility to comply with it, including reporting of unlawful and/or unacceptable conduct;
- ensure that all staff who report to them are appropriately trained and understand that partaking in any of the above mentioned unlawful and/or unacceptable behaviour, or any unacceptable conduct anticipated by the Code of Conduct, will not be tolerated by Council;
- act promptly and appropriately if they observe unacceptable conduct as detailed in this policy or as anticipated under the Code of Conduct;
- act promptly if a complaint is made. If this is not possible, or is inappropriate, inform Human Resources, as soon as possible, and put risk mitigation measures in place to ensure the safety and wellbeing of those impacted.

3.7 Breach of Policy

Discrimination, workplace bullying, sexual harassment, victimisation and vilification is taken very seriously by Council and will not be tolerated. Employees found in breach of this policy and to have participated or abetted discrimination, workplace bullying, sexual harassment, victimisation and/or vilification of another worker, or member of the public in the carrying out of their duties or whilst identifiable as a Council employee, may be subject to disciplinary action up to and including dismissal. Agents and contractors who are found to have breached this Policy may have their contracts with Council terminated or not renewed.

3.8 Complaint Handling Process

If a worker feels that they have been discriminated against, subjected to workplace bullying, sexually harassed, victimised or vilified, they should not ignore it. Workers are instructed to follow the below steps:

- (i) Council encourages workers to try to resolve the matter with the person involved in the first instance. However, Council acknowledges that employees may not always feel confident with this approach or that this may not resolve the matter.
- (ii) Where a worker feels they cannot address the matter directly with the person involved, or they have done so, and this has not stopped the conduct/behaviour, they can make a complaint to their manager, Human Resources, or a Director.
- (iii) Matters of sexual harassment or serious vilification inciting harm, should be reported immediately to the Director or the Chief Executive Officer.

If a worker witnesses discrimination, workplace bullying, sexual harassment, victimisation or vilification in the workplace they should encourage the other person to speak up or seek support. Where the witness is uncertain as to whether the incident has been reported, they should report the matter to their manager.

All complaints will be dealt with confidentially and all participants must maintain confidentiality, subject to section 3.9.

No worker will be subject to adverse actions or victimisation, as a result of making a complaint.

Workers can also make a complaint and seek remedies or orders from an external organisation, depending on the specifics of their matter.

External complaints can be directed to:

- Queensland Industrial Relations Commission;
- Work Health and Safety Queensland;
- Human Rights Commission; and
- the Police.

3.9 Confidentiality

Human Resources will endeavour to maintain confidentiality as far as possible. However, it may be necessary to speak with other workers to determine what happened, to afford procedural fairness to those whom the complaint has been made against and to resolve the complaint. If a complaint is raised and it appears that unlawful and/or unacceptable conduct has potentially occurred, Council will take appropriate action in relation to the complaint.

All workers involved in the complaint must also maintain confidentiality, including the complainant, witnesses and the respondent to the complaint. Spreading rumours or gossip, victimising or taking any form of reprisal action against a worker because of a complaint or their involvement in an investigation will not be tolerated.

Workers involved in a complaint or investigation may discuss the complaint with a designated support person or representative (who must not already be involved in the matter as a witness, complainant, respondent or the support person of another witness, complainant or respondent). The support person or representative must also maintain confidentiality.

3.10 Questions

If a worker is unsure about any matter covered by this Policy, the worker should seek the assistance of their manager or Human Resources.

4. Application

This policy applies to all employees, volunteers and contractors (workers) of Council.

This Policy does not form part of any employee's contract of employment. The Policy is not intended to override the terms of any Award or contract that applies to an employee.

Council undertakes to regularly review this policy to take account of changes in legislation, activities, services and products. As a result of this review, changes may be made to this policy from time to time and all employees and contractors are required to comply with those changes.

5. Associated Policies

- Code of Conduct for Employees
- Performance and Misconduct Policy /Disciplinary Procedure
- Work Health & Safety Policy
- Personal Grievance Policy

6. Relevant Legislation

- Industrial Relations Act 2016
- Anti-Discrimination Act 1991
- Work Health and Safety Act 2011
- Local Government Act 2009
- Local Government Regulations 2012
- Sex Discrimination Act 1984
- Age Discrimination Act 2004
- Racial Discrimination Act 1975
- Disability Discrimination Act 1992
- Human Rights Commission Act 2019
- Public Sector Ethics Act 1994

7. Review

Council will formally review this policy every two years.



Kiley Hanslow

Chief executive Officer

Wujal Wujal Aboriginal Shire Council