

POLICY



Date adopted: 17/04/2018
File no: 271658-1
Minute number: 115/2018

Policy title: **WORKPLACE BULLYING, HARASSMENT AND ANTI-DISCRIMINATION**

Directorate: ORGANISATIONAL SERVICES

Branch: PEOPLE & CULTURE

Policy objective: To ensure that persons engaged in Council workplaces may work safely and productively in the knowledge that the Council will not accept bullying, harassment or discrimination in the workplace under any circumstances.

Policy scope:

The policy shall have application to all Council employees, councillors, and other persons providing services to Council including temporary staff.

Definitions:

TERM	DEFINITION
IR Act	<i>Industrial Relations Act 2016</i> (Qld)
Anti-Discrimination Act	<i>Anti-Discrimination Act 1991</i> (Qld)
Workplace bullying and harassment	The <i>Industrial Relations Act 2016</i> (Qld) states that an act of workplace bullying may have occurred if: (a) whilst an employee is at work, an individual, or a group of individuals, repeatedly behaves unreasonably towards: (i) the employee; or (ii) a group of employees of which the employee is a member; and (b) the behaviour from the alleged perpetrator/s created a risk to the health and safety of the employee. Workplace bullying does not include reasonable management action taken by the employee's manager or supervisor carried out in a reasonable manner.
Sexual Harassment	An act of sexual harassment may have occurred if a person: (a) subjects another person to an unsolicited act of physical intimacy; or (b) makes an unsolicited demand or request (whether directly or by implication) for sexual favours from the other person; or (c) makes a remark with sexual connotations relating to the other person; or (d) engages in any other unwelcome conduct of a sexual nature in relation to the other person;

TERM	DEFINITION
	and the person engaging in the conduct described in paragraphs (a), (b), (c) or (d) does so: (a) with the intention of offending, humiliating or intimidating the other person; or (b) in circumstances where a reasonable person would have anticipated the possibility that the other person would be offended, humiliated or intimidated by the conduct.
Unlawful Vilification	Means a public act capable of inciting hatred towards, serious contempt for, or severe ridicule of a person or group of persons on the ground of race, religion, sexuality or gender identity of the person or group.
Direct discrimination	If a person treats, or proposes to treat, a person with an attribute (as listed in section 5 below) less favourably than another person without the attribute.
Indirect discrimination	Happens if a person imposes, or proposes to impose, a term— (a) with which a person with an attribute does not or is not able to comply; and/or (b) with which a higher proportion of people without the attribute comply or are able to comply that is not reasonable.

Policy statement:

1. Behaviours that may constitute workplace bullying and/or harassment:

Behaviours that may be regarded as workplace bullying and harassment in circumstances where that behaviour is repeated or occurs as part of a pattern of different behaviours include:

- use of abusive, insulting or offensive language;
- repeated threats of dismissal or other severe punishment without a valid reason;
- constant ridicule and being put down;
- practical jokes or initiation;
- leaving offensive messages on email or the telephone, or on social networking sites;
- sabotaging a person’s work, for example, by deliberately withholding information or supplying incorrect information, hiding documents or equipment;
- setting unreasonable timelines or constantly changing deadlines;
- setting tasks that are unreasonably below or beyond a person's skill level;
- changing work arrangements such as rosters and leave to deliberately inconvenience a particular worker or workers;
- deliberately excluding or isolating a person from work-related activities;
- persistent and unjustified criticisms, often about petty, irrelevant or insignificant matters;
- humiliating a person through gestures, sarcasm, criticism and insults, often in front of customers, management or other workers;
- spreading gossip or false, malicious rumours about a person;
- targeting or threatening harm to a person or their property due to their race, religious beliefs or gender identity; and/or

- workplace mobbing - deliberate attempt to force a person out of their workplace by humiliation, general harassment, emotional abuse for other types of workplace bullying by a group and executed by a leader.

Certain types of harassment may constitute a criminal offence. Examples include:

- stalking; and/or
- threatening harm to a person or their property.

2. Behaviours that may constitute sexual harassment:

Behaviours that may be regarded as sexual harassment include:

- unwelcome touching;
- staring or leering;
- suggestive comments or jokes;
- sexually explicit emails, pictures or posters;
- requests for sex or physical affection;
- intrusive questions about a person's private life or body;
- unnecessary familiarity, such as deliberately brushing up against someone;
- insults or taunts based on sex or sexuality; and/or
- sexually explicit emails.

Importantly, the intention of the perpetrator does not define whether certain conduct constitutes workplace bullying or sexual harassment. It is sufficient that a reasonable person would consider the behaviour in question likely to offend, intimidate or humiliate.

Certain types of sexual harassment may constitute a criminal offence. Examples include:

- sexual assault; and/or
- indecent exposure.

3. What is not considered workplace bullying or harassment:

Constructive feedback and counselling received on work performance does not constitute workplace bullying or harassment.

A non-exhaustive list of situations that would generally constitute reasonable management action may include:

- setting realistic and achievable performance goals, standards and deadlines;
- fair and appropriate rostering and allocation of working hours;
- transferring a worker to another area or role for operational reasons;
- bypassing someone for a promotion where a fair and transparent process is followed;
- highlighting unsatisfactory work performance in an honest, fair and constructive way;
- informing a worker about unreasonable behaviour in an objective and confidential way;
- implementing organisational changes or restructuring; and/or
- taking disciplinary action where it is appropriate or justified in the circumstances.

Occasional differences of opinion, conflicts and problems may arise in working relationships – these are part of working life and will not necessarily constitute workplace bullying or harassment.

4. Strategies to eliminate workplace bullying and harassment:

Council aims to eliminate workplace bullying and/or harassment by implementing measures to support staff which include:

- providing access to trained, dedicated contact officers;
- access to Council’s employee assistance program;
- providing all staff with workplace bullying and harassment awareness training;
- implementation and regular reviews of a workplace bullying and harassment policy, guidelines on dealing with workplace harassment and bullying, Code of Conduct policies and a Grievance Procedure; and/or
- use of survey tools for identifying unproductive behaviours and coaching staff to change these to constructive behaviours.

5. What is considered discrimination?

The *Queensland Anti-Discrimination Act 1994* (Qld) defines unlawful discrimination as discrimination against any person due to their:

- gender or gender identity;
- marital status;
- pregnancy;
- parental status;
- breastfeeding;
- race;
- age;
- impairment;
- religion;
- political belief or activity;
- trade union activity;
- lawful sexual activity;
- sexuality;
- family responsibilities; and/or
- association with a person who has any of the attributes listed above.

6. Responsibilities of Councillors, management and employees:

Council requires all Councillors, management and employees to:

- comply with this policy to;
- not tolerate unacceptable behaviour;
- maintain privacy during investigations; and
- immediately report incidents of workplace bullying, harassment or discrimination to the appropriate contact person, as outlined in the Guidelines on Workplace Harassment and Bullying - Working Together.

Managers shall promote obligations that arise from the Workplace Bullying, Harassment and Anti-Discrimination policy, treat complaints seriously, and will ensure that a person who lodges a complaint, or any witness to the behaviour complained of, is not victimised.

In the event of a claim of discrimination by an employee, or from a member of the public alleging unlawful discrimination by a Council employee being proven, Council will follow the disciplinary procedures under Council's 'Conduct and Discipline' management directive.

In the event that a complaint made under this policy is investigated and later found to be deliberately false or vexatious, disciplinary action may be taken against the employee concerned in accordance with Council's Code of Conduct.

Related policies/legislation/other documents:

DOC ID	DOCUMENT	DOCUMENT NAME
10999999	Legislation	<i>Anti-Discrimination Act 1991 (Qld)</i>
10988506	Legislation	<i>Industrial Relations Act 2016 (Qld)</i>
6371278	Guideline	Guidelines on Workplace Harassment and Bullying - Working Together
5901705	Management Directive	Grievance Procedure
5903300	Management Directive	Official Social & Staff Functions
10191226	HR Procedure	Managing Diminished Performance
10884984	Policy	Health and Safety
5986681	Policy	Equal Employment Opportunity
5979417	Policy	Code of Conduct for Staff
6420779	Administrative	Contact Officers