



POLICY – 6.2 – Discrimination, Harassment and Bullying

Relevant Delegation

N/A

Objective

The Shire of Menzies is committed to providing a working environment where every employee is treated equally, fairly and without prejudice.

Policy Statement

1. Unlawful discrimination

An employee is directly discriminated against if they are treated less favourably than another person in the same or similar circumstance, because of any one of the grounds of discrimination outlined below. Indirect discrimination can occur where a practice or requirement is imposed upon all employees but where a high proportion of employees with a protected ground cannot comply with, or are affected by, that practice or requirement.

The Shire acknowledges its responsibilities and obligations pursuant to the *Equal Opportunity Act 1984 (WA)*, *Racial Discrimination Act 1975 (Cth)*, *Disability Discrimination Act 1992 (Cth)*, *Age Discrimination Act 2004 (Cth)*, *the Australian Human Rights Commission Act 1986 (Cth)* and the *Sex Discrimination Act 1984 (Cth)* (with the exception of sections 14 and 28B of that Act). The Shire strongly supports the concept that every employee, elected member and member of the public employed by or engaged in business with the Council, has a right to do so in an environment which is free from harassment and the Council is committed to providing such an environment.

2. Grounds of discrimination

The following is a non-exhaustive list of the grounds of discrimination for which it is unlawful to discriminate against an individual:

- age;
- family responsibility or status;
- race, colour or ethnic origin;
- sex including gender identity, sexual orientation and intersex status;
- physical or mental disability;
- marital status;
- political or religious conviction;
- pregnancy;
- criminal record;
- breastfeeding;
- gender history;
- impairment;
- national extraction or social origin; and
- trade union activity.

3. Sexual harassment

The *Equal Opportunity Act 1984 (WA)* provides that it is unlawful to engage in sexual harassment. Sexual harassment can be defined as any unwelcome conduct of a sexual nature, such as an unwelcome sexual advance or an unwelcome request for sexual favours, in circumstances in which a reasonable person would anticipate that the person harassed would be offended, humiliated or intimidated.

Some examples of sexual harassment include, but are not limited to:

- physical contact (touching, rubbing, patting, embracing, brushing up against, etc.);
- gestures of a sexual nature;
- leering or staring;
- offensive telephone calls, emails, text messages or notes;
- sexual suggestive jokes or comments;
- sexually explicit posts on social networking sites;
- tales of sexual exploits;
- repeated requests for a date;
- unwelcome comments or questions about a person's sex life, appearance or dress; and
- displaying sexually graphic material (poster, calendars, cartoons, graffiti, messages, emails).

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

4. Bullying

Bullying is defined as repeated and unreasonable behaviour directed towards an employee or a group of employees that creates a risk to health and safety. Unreasonable behaviour amounts to behaviour that a reasonable person in the circumstances would see as unreasonable including behaviour that is victimising, humiliating, intimidating or threatening.

Some examples of bullying include, but are not limited to:

- loud, abusive or offensive language or comments;
- yelling and screaming;
- unjustified criticism and insults;
- unjustified threats of dismissal or other disciplinary action;
- acts of sabotaging another's work by withholding information which is required to fulfil tasks;
- spreading malicious rumours or misinformation;
- inappropriate comments about an employee's appearance, lifestyle or family;
- deliberately excluding an employee from workplace meetings or activities;
- hiding documents or equipment or withholding vital information required for effective work performance;
- constantly changing targets or work guidelines;
- overloading an employee with work and impossible deadlines;
- setting tasks that are unreasonably below or beyond an employee's level of skill;
- threats of assault or violence or actual violence;
- teasing and practical jokes; and
- isolating or ignoring an employee on a constant basis.

Where an employee makes a threat of violence or assaults another employee, the police should be called.

5. What are the ways in which bullying can occur?

There are a variety of ways bullying behaviour can occur in the workplace such as verbally, through email or text message or via social media. Bullying can be directed at an individual employee or a group of employees, and can be carried out by one or more employees. Bullying can occur between employees, downwards from managers or supervisors to employees or upwards from employees to managers or supervisors.

6. Reasonable management action

The Shire of Menzies has the right to take reasonable management action to direct the way in which work is conducted and to give employees lawful and reasonable directions to complete work in a certain manner. Reasonable management action is not workplace bullying.

Some examples of reasonable management action include, but are not limited to:

- the establishment and regular use of performance management systems;
- the setting of reasonable performance targets and deadlines;
- providing employees with constructive feedback or counselling to assist workers to improve their work performance or the standard of their behaviour;
- issuing a lawful and reasonable direction to an employee to complete a work task;
- preparing and amending a roster for employees;
- transferring an employee to a different work location for operational reasons;
- implementing organisational change;
- informing an employee about inappropriate behaviour in a confidential manner; and
- taking disciplinary action against an employee.

7. Other behaviours not considered to be bullying

Where two or more employees have a difference of opinion and disagree on an issue, this is not usually considered to be workplace bullying. However, where conflict escalates and is repeated, it may meet the definition of workplace bullying.

Bullying does not occur where the bullying behaviour is a one-off occurrence and if that behaviour does not create a risk to health or safety.

8. What should you do if you think you are being discriminated against, sexually harassed or bullied?

Refer to the Shire of Menzies Grievance Policy for steps to take if you think you are being discriminated against, sexually harassed or bullied, or if you suspect another employee is experiencing any of those things.

– *End of Policy*

ADOPTED: 29 JUNE 2023