

## EQUAL EMPLOYMENT OPPORTUNITY AND WORKPLACE BEHAVIOURS

### 1. STATEMENT OF POLICY INTENT

The intent of this policy is empower staff and help them meet their full potential by providing a workplace free of discrimination and harassment. This policy applies to all employees including contract/ agency staff, volunteers and work experience students.

### 2. DEFINITIONS AND ABBREVIATIONS

GM	General Manager
MHR	Manager Human Resources
EEO	Equal Employment Opportunity
EEO Officer	Staff member appointed by the GM to be responsible for the day-to-day coordination of EEO activities and the execution of the EEO Management Plan. Currently this person is the MHR.
Bullying	<p>Repeated, unreasonable behaviour directed toward a worker, or group of workers, that creates a risk to health and safety. Examples of bullying can include, but is not limited to:</p> <ul style="list-style-type: none"> <li>• Behaviour or language that frightens, humiliates, belittles or degrades;</li> <li>• Loud verbal criticism;</li> <li>• Encouragement to other employees to participate in bullying behaviour;</li> <li>• Spreading malicious rumours, or innuendo;</li> <li>• Deliberate exclusion of a person from workplace activities;</li> <li>• Interference with personal property or work equipment;</li> <li>• Intimidation by inappropriate personal comment, belittling opinions or unjustified criticism;</li> <li>• Offensive jokes, whether by spoken word or email</li> <li>• Giving someone the majority of unpleasant or meaningless tasks unrelated to the job;</li> <li>• Deliberately changing work arrangements, such as rosters and leave, to inconvenience a</li> </ul>

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	<ul style="list-style-type: none"> <li>• particular worker or workers</li> <li>• Constant criticism, nit picking or fault finding of a trivial nature;</li> <li>• Undermining professional ability in front of other staff;</li> <li>• Sabotaging someone's work;</li> <li>• Inappropriate initiation practices.</li> </ul>
Unreasonable Behaviour	Behaviour that a reasonable person would find offensive, humiliating, intimidating, degrading or threatening.
Occupational Violence	<p>Any incident where an employee is physically attacked or threatened in the workplace. Examples of Occupational Violence can include, but is not limited to:</p> <ul style="list-style-type: none"> <li>• Striking, kicking, scratching, biting, spitting, pushing or any other type of intended direct physical contact;</li> <li>• Throwing objects;</li> <li>• Attacking with a knife, gun, spray, syringe or any other item that could cause harm to another person;</li> <li>• Pushing, shoving, tripping, grabbing; and</li> <li>• Any form of indecent or criminal/physical assault.</li> </ul>
Threat	A statement or behaviour that causes a person to believe they are in danger of being physically attacked.
Physical Attack	The direct or indirect application of force by a person to the body of, or to clothing or equipment worn by another person, where that force creates a risk to health and safety.
Discrimination	Discrimination is any choice of one person over another person for employment, training and promotion based on unlawful grounds.
Harassment	<p>Harassment is any behaviour towards another person, which is intimidating, embarrassing, offensive or threatening.</p> <p>Unlawful harassment is behavior that targets someone because of an attribute that is protected by law.</p>

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Sexual Harassment	<p>Sexual harassment is any unwanted or unwelcome sexual practice that makes a person feel offended or humiliated. It covers a range of physical, verbal and non-verbal behaviour of a sexual nature.</p> <p>Examples include:</p> <ul style="list-style-type: none"> <li>• Uninvited physical contact or gestures</li> <li>• Unwelcome requests for sex</li> <li>• Sexual comments, jokes and innuendos</li> <li>• Intrusive questions or insinuations about a persons private life</li> <li>• Displays of sexually explicit material such as posters, pin ups, cartoons, graffiti, computer images or calendars</li> <li>• Suggestive comments</li> </ul>
Racial Discrimination	<p>Racial discrimination makes it unlawful to discriminate on the basis of a persons colour, descent, nationality and ethnic origin. Discrimination on the basis of:</p> <ul style="list-style-type: none"> <li>• presumed race</li> <li>• characteristics associated with a particular race is also illegal under the act.</li> </ul>
Direct Discrimination	<p>Direct discrimination is when a person with attributes that are protected by law are treated less favourably than a person without those attributes.</p>
Indirect Discrimination	<p>Indirect discrimination occurs when a requirement, condition or practice which appears fair, but discriminates against a person or group because of their attributes or the inherent beliefs/ values of their particular race / religion group. Awareness of the discrimination is irrelevant.</p>
Disability Discrimination	<p>Disability discrimination act makes it unlawful to discriminate on the basis of a person's disability. Disability refers to:</p> <ul style="list-style-type: none"> <li>• total or partial loss of a bodily function</li> <li>• the presence in the body of organisms that may cause disease</li> <li>• total or partial loss of a part of the body</li> <li>• malformation or disfigurement of a part of the body</li> <li>• malfunction of a part of the body including:</li> </ul>

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	<ul style="list-style-type: none"> <li>• a mental or psychological disease or disorder</li> <li>• a condition or disorder that results in a person learning more slowly than people who do not have that condition or disorder</li> </ul> <p>It is unlawful to discriminate on the basis of a person's:</p> <ul style="list-style-type: none"> <li>• present disability, eg a person who uses a wheelchair</li> <li>• past disability, eg a person who has a broken leg or a period of psychiatric illness</li> <li>• imputed disability, eg assumption that a person has an intellectual disability because she or he speaks slowly</li> </ul>
Contact Officers	<p>A nominated staff member who will be trained and given the appropriate resources to:</p> <ul style="list-style-type: none"> <li>• Assist with setting a standard of acceptable behavior in the workplace.</li> <li>• Assist staff who may have a perceived issue related to unlawful discrimination or bullying in the workplace. This includes helping them to deal with the emotion and providing them with Council's options and processes for dealing with issues.</li> <li>• Assist the organization to promote Equal Employment Opportunity and Anti-Bullying policies and procedures.</li> </ul>
Contract Employees	<p>Any persons working for Council who are not paid through Councils payroll such as labour hire staff, apprentices / trainees employed through agencies and companies providing contracted services to Council.</p>

### 3. POLICY

#### EQUAL OPPORTUNITY (EO)

EO is for the employer, all employees including casual, volunteer, contractors, potential partners and the Union and seeks to ensure no discrimination on the basis of:

- sex
- marital status
- pregnancy or potential pregnancy
- race, colour, nationality, ethnic or national origin
- impairment/disability (past, present or future)
- parental status

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- lawful religious belief or activity
- lawful political belief or activity
- age
- industrial activity
- lawful sexual activity
- physical features
- career status
- breastfeeding
- gender identity
- sexual orientation
- personal association with person identified by reference to one of the above attributes

Council is committed to providing a safe and enjoyable workplace for all employees and encourages good working relationships across the organisation and within the wider community.

Council will take all reasonable steps to ensure that its working environment is free from unacceptable workplace behaviour such as bullying, discrimination, harassment, vilification and occupational violence.

Selection of individuals for employment, promotion or advancement, training and staff development will be on the basis of personal merit in fair and open competition according to the skills, qualifications, knowledge, efficiency and effectiveness relevant to the position.

The MHR in conjunction with the Staff Consultative and EEO Committee shall develop, implement, monitor and evaluate an EEO Management Plan consistent with the requirements under the Act.

## **WORKPLACE BEHAVIOURS**

Council Corporate values set out the core principles and ethics that guide the Council's operations. These are:

- Honesty and Integrity
- Accountability and Transparency
- Respect
- Quality
- Commitment

It is expected that employees behave in a way which represent these values during their duties while at work.

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## Bullying

Bullying in the workplace is harmful to the victims and the culture of the organisation. Our clear policy is to totally oppose bullying.

Poor or bad management practices on their own are not considered to be bullying. Bullying does not cover situations where an employee has a grievance about legitimate and reasonable:

- Performance management processes;
- Disciplinary action/s; and
- Associated work in compliance with appropriate systems and policies.

## MAKING A COMPLAINT

Please refer to Councils **EEO Grievance** procedure.

All complaints will be treated seriously and privately. It will then be investigated impartially and dealt with as quickly as possible. No action will be taken against anyone for making a complaint or someone who is a witness to a complaint.

## COMMUNICATION

All new employees will be required to participate in Councils Corporate Induction program, which will include information regarding this policy and associated procedure.

A communication program will run yearly for all staff to ensure employees are aware of their rights and obligations relating to the EEO and Workplace Behaviour Policy.

Staff will also be made aware of Council's Corporate Values and what behaviors are expected by employees.

## DATA COLLECTION

EEO information will be collected and reported to Manex on a yearly basis to help determine strategies for addressing EEO issues in particular historically-disadvantaged groups such as Women, Aboriginal and Torres Strait Islanders, people from culturally and linguistically diverse origin and people with a disability.

A yearly report will be submitted for inclusion in the Annual Report.

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#### 4. RESPONSIBILITY/ACCOUNTABILITY

##### EEO Officer (MHR)

- The development and coordination of the EEO Management Plan in conjunction with the Staff Consultative and EEO Committee;
- The implementation and administration of the EEO and Workplace Behaviours policy;
- Keeping statistics on any EEO and Workplace Behaviours issues;
- Co-ordination of training in EEO and Workplace Behaviours policy and principles;
- Contact person for advice on EEO and Workplace Behaviours issues; and
- Arranging investigations as appropriate for EEO and Workplace Behaviours complaints.

##### Staff Consultative and EEO Committee Members / Contact Officers

The role of the Staff Consultative and EEO Committee members and other appointed Contact Officers is to have a sound knowledge of Council's EEO and Workplace Behaviours Policy and be able to assist employees as required.

The role includes:

- Assisting supervisors in workgroup meetings and at other times to reinforce the importance of EEO and Workplace Behaviours;
- Listening to any complaints and acting as a support person;
- Explaining to the employee what constitutes discrimination and harassment;
- Providing information about the options available to deal with individuals' concerns and the likely results of these options;
- Informing the individual of rights under state and federal law;
- With the assistance of the EEO Officer, discussing possible strategies that the employee can use to deal directly with an individual or an issue;
- With the assistance of the EEO Officer, refer the individual to Council's Employee Assistance Program;
- Referring complaints to the EEO Officer for investigation; and
- Providing copies of the EEO and Workplace Behaviours policy to any member of staff who requests it.

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**General Manager**

The GM will support and promote the EEO and Workplace Behaviours policy and the development, implementation and monitoring of the EEO Management Plan in conjunction with the Staff Consultative and EEO Committee and EEO Officer as a vital part of her/his role.

**Directors**

- Support and promote EEO and Workplace Behaviours principles within their areas of management;
- Attend any relevant EEO and Workplace Behaviours training courses; and
- Implement all aspects of the EEO program.

**All Employees**

- Participate in EEO and Workplace Behaviours training when required;
- Ensure that Council's EEO and Workplace Behaviours policies, practices and program are implemented in the workplace.

**5. RELATED DOCUMENTS****5.1. ASSOCIATED LEGISLATION**

Local Government (State) Award 2007  
 Local Government Act 1993  
 Occupational Health and Safety Act 2000  
 Occupational Health and Safety Regulations 2001  
 Age Discrimination Act 2004  
 Equal Employment Opportunity Act 1987  
 Sex Discrimination Act 1984  
 Racial Discrimination Act 1975  
 Disability Discrimination and Other Human Rights Act 2009  
 NSW Anti-discrimination Act 1977  
 Human Rights and Equal Opportunity Commission Act 1986  
 Industrial Relations Act 1996  
 Common law (employers' duty of care)  
 Crimes Act 1996  
 Equal Opportunity For Women In The Workplace Act 1999

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**5.2. ASSOCIATED GOVERNMENT POLICY PROVISIONS**

Preventing and Responding to Bullying at Work – Work Cover NSW  
 National Framework for Women in Local Government  
 WorkCover Violence in the Workplace Guide 2002

**5.3. ASSOCIATED COUNCIL DOCUMENTS**

Equal Employment Opportunity Management Plan  
 Recruitment and Selection Policy  
 Discipline Policy  
 EEO Grievances Procedure  
 Employee Assistance Program Policy  
 Equal Employment Opportunity Networks and Resources Contact List

**6. POLICY STATUS**

This policy was formally adopted by Council on 20 October 2010 and commenced operation on 20 October 2010. This policy replaces the previous version adopted on 15 August 2007 and includes changes to the format, definitions and workplace behaviours information.

**7. POLICY REVIEW**

This policy may be amended or revoked at any time and must be reviewed at least two (2) years since its adoption (or latest amendment).

**8. AUTHORISATION**

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 Position:       General Manager  
 Date:            ...../...../.....

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