

Purpose

To identify unacceptable workplace behaviour such as bullying and harassment and to outline the means by which such inappropriate behaviour can be addressed.

Scope

This policy applies to all employees, contractors, agent workplace participants at Council within their work life which also includes staff functions.

Definitions

Direct Discrimination – Direct discrimination occurs when someone is treated unfairly compared to someone else in the same or similar circumstances and it is because of sex, pregnancy, breastfeeding, race, age, marital or domestic status, homosexuality, disability, transgender status or carer's responsibilities.

Indirect Discrimination – Indirect discrimination may occur when an employer has a rule or requirement that is applied to everyone, but it disadvantages more people from a particular group than people who are not in that group – unless the employer can show that the rule or requirement is 'reasonable in all the circumstances'. The rule may be written or unwritten.

Harassment – Harassment is defined as any form of behaviour that:

- A person does not want
- Offends, humiliates or intimidates them and
- Creates a hostile environment

It is also against the law to harass someone because of the characteristics of their relatives, friends or associates. Anyone can be harassed, including women, men, and people of any age or race. Harassment may be an on-going pattern of behaviour, or it may be just a single act.

Policy Content

All employees of Greater Hume Shire Council have a right to work in an environment that supports productivity, dignity and self-esteem and is free of bullying and harassment. Equally each of us has a responsibility to ensure that our behaviour at all times is courteous and respectful to our fellow employees.

It is Council policy that:

- Bullying and harassment is unacceptable and will not be tolerated under any circumstances
- Any staff member can raise a concern about bullying or harassment to their Supervisor, Manager, Human Resources Officer or other senior member of staff
- All bullying and harassment complaints will be treated confidentially, sympathetically, quickly and with the utmost seriousness
- Complaints will be investigated fairly and impartially

- All reasonable steps are taken to ensure that harassment and bullying does not re-occur
- All reasonable care will be taken to ensure that complainants and witnesses are not victimised for making a complaint
- Every effort will be made to ensure that complaints are resolved at the lowest level possible in the first instance
- Any staff member found to be in breach of this policy may be subject to disciplinary action
- Any staff member who lodges a complaint of bullying or harassment and is found to have been motivated by ill will or malice risks disciplinary action
- Supervisors and Managers have a right to give lawful instructions and provide counselling for poor performance. This of itself is not bullying and harassment behaviour. (refer Appendix 1)

Council has a legal obligation to ensure that employees are free from discriminatory and harassing behaviour on the following grounds: (Refer Appendix 2)

- Sex
- Pregnancy
- Breast feeding
- Age
- Race
- Transgender (actual or presumed)
- Homosexuality (actual or presumed)
- Disability (actual or presumed)
- Marital or domestic status
- Carer's responsibilities (actual or presumed).

Responsibilities

General Manager, Directors, Managers, Supervisors and Staff

- Be approachable
- Be a good role model
- Ensure that bullying and harassment does not occur in the workplace
- Act immediately if they witness inappropriate behaviours
- Cooperate with investigations of suspected or alleged bullying and harassment and to maintain confidentiality when providing information for an investigation
- Not take part in, or condone victimisation
- Not raise malicious or vexatious complaints

Additional key responsibilities of General Manager, Directors, Manager and Supervisors include:

- Providing a safe workplace which is free of bullying and harassment which includes taking measures to prevent such behaviour
- Ensuring staff are aware of Council's policy and that any behaviour in breach of the policy may result in disciplinary action
- Ensuring staff have received training in bullying and harassment in line with Council's policies and procedures

Procedures

Depending on the seriousness of the incident or behaviour that a staff member has experienced or witnessed, it can possibly be resolved in one of two ways. For more minor incidences staff can try to resolve initially at a local level and follow the **Grievance Procedure**. For more serious matters, staff should report the matter immediately to the General Manager or Director Corporate & Community Services.

When harassment or bullying is identified, management must deal with all incidents immediately in an impartial, fair and confidential manner.

Minor Incidences – follow Grievance Procedure

If the alleged bullying or harassment is at a level that can be dealt with locally, the **Grievance Procedure** should be followed.

This would initially involve, if at all possible, the staff member telling the person concerned that they strongly object to their behaviour and do not want it repeated. More often than not that is all that is required. Often the person involved is not aware that their behaviour is upsetting or intimidating and will stop immediately once they are told.

If a staff member is not comfortable approaching the person directly or when approaching them directly has been ineffective, staff should follow the formal resolution process as outlined in Council's Grievance Procedure. This would involve the staff member raising the matter initially with their Supervisor.

If the matter still remains unresolved the matter can be raised with the relevant Manager, or later, with the General Manager or Director Corporate & Community Services.

MORE SERIOUS MATTERS – NOTIFY THE GENERAL MANAGER OR DIRECTOR CORPORATE & COMMUNITY SERVICES

Should the allegation be considered of a more serious nature, or after initial investigations it is revealed that the issue is serious misconduct or of a criminal nature then the General Manager or Director Corporate & Community Services must be notified **immediately**.

Possible Outcomes

Where the complaint is substantiated, the severity of the harassment or bullying behaviour will determine the level of disciplinary action taken. This may include an official warning, counselling, suspension, transfer, demotion or even possibly dismissal.

Links to Policy

- Grievance Policy & Procedure
- Grievance Policy Procedure
- Performance & Misconduct Policy
- Code of Conduct
- Employee Assistance Program
- EEO Management Plan

Links to Procedures

References

Responsibility

Director Corporate & Community Services

Relevant Legislation

- Anti Discrimination Act 1977 (NSW)
- Work Health & Safety Act 2011
- Government Information (Public Access) Act 2009
- NSW Industrial Relations Act 1996
- Local Government Act 1993 (NSW)
- Local Government (State) Award 2010 – 'The Award'

Associated Records

Appendix 1

Identifying lawful directions from bullying and harassment behaviour

It is important to draw a distinction between a person's legitimate authority at work and bullying. All employers have a legal right to direct and control how work is done. Managers, supervisors and team leaders have a responsibility to monitor workflow, give feedback and manage performance. This is not bullying.

Feedback or counselling on work performance or behaviour is intended to assist staff improve work performance and/or the standard of their behaviour. If an employee has performance problems, these should be dealt with in a constructive way that is not humiliating or threatening. Performance managing is not bullying.

Examples of acceptable behaviour, that is **not** bullying, include:

- Performance Management Process
- Action taken to transfer, make redundant or terminate an employee in a fair and equitable manner
- Justified decisions not to provide a promotion in connection with an employee's employment
- Disciplinary procedures for proven misconduct, and other behaviours or actions involving breaches of discipline in accordance with Council policies and procedures.

Appendix 2

Examples of typical bullying and harassment behaviour

Typical Bullying behaviours	Typical Harassment behaviours
<ul style="list-style-type: none"> • Yelling, screaming, abuse, offensive language, insults, inappropriate comments about a person’s appearance, lifestyle • sending offensive emails • sending offensive SMS messages • teasing or regularly being made the brunt of pranks or practical jokes • unfairly criticising or degrading another person’s work • setting unreasonable workloads, tasks or deadlines and then criticising the staff member when they do not complete them • unexplained job changes, meaningless tasks, under work, tasks beyond a person’s skills and failure to give credit where due • undermining work performance, deliberately with holding work related information or resources, sabotaging the staff members work, not passing on messages and withholding information with the intent of deliberately affecting a staff members performance • unjustified over monitoring a staff member’s performance, or whereabouts in comparison with other staff members • ostracising and marginalising a person by ignoring or excluding them from conversations • spreading malicious rumours • constantly undervaluing effort • persistent criticism • threatening gestures such as finger pointing, fist shaking, arm waving and hostile facial expressions • sexual or other unwanted advances • physical assault 	<p><u>Verbal harassment includes:</u></p> <ul style="list-style-type: none"> • sexual or suggestive remarks • making fun of someone • imitating someone’s accent • propositions (sexual invitations) • spreading rumours • obscene telephone calls/unsolicited letters, faxes or email messages • repeated unwelcome invitations • offensive jokes • repeated questions about personal life • threats or insults • name calling <p><u>Non verbal harassment includes:</u></p> <ul style="list-style-type: none"> • putting sexual suggestive, offensive or degrading/insulting material on walls, computer screen savers, email and so on • suggestive looks or leers • unwelcome practical jokes • displaying or circulating racist, sexist and so on cartoons or literature • mimicking someone with a disability • following home from work • not sharing information • offensive hand or body gestures • unnecessarily leaning over someone • sending offensive material through computer, fax or email • wolf whistling • continually ignoring or dismissing someone’s contribution in a meeting/discretion <p><u>Some forms of physical harassment</u></p> <ul style="list-style-type: none"> • unnecessary physical contact (pinching, patting, brushing up against a person, touching, kissing, hugging against a person’s will) • indecent or sexual assault or attempted assault • pushing, shoving or jostling • putting your hand or an object (like a payslip) into someone’s pocket (especially breast, hip or back pocket)

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