



ANTI-DISCRIMINATION, BULLYING, SEXUAL HARRASSMENT AND EQUAL EMPLOYMENT OPPORTUNITY POLICY

1. POLICY PURPOSE

McKinlay Shire Council (“MSC”) aims to provide an environment where employees and others in the workplace are treated fairly with dignity and respect, and are free from unlawful discrimination, harassment, vilification and bullying.

MSC aims to ensure that when employment decisions are made, they are based on merit, not on irrelevant attributes or characteristics that an individual may possess. MSC also tries to create a work environment which promotes good working relationships.

2. APPLICATION OF THE POLICY

This Policy applies to employees, agents and contractors (including temporary contractors) of MSC, collectively referred to in this Policy as ‘workplace participants’.

This Policy is not limited to the workplace or work hours. This Policy extends to all functions and places that are work related. For example, work lunches, conferences, Christmas parties and client functions. Equal Employment Opportunity (EEO) laws apply to all areas of employment, as well as the provision of goods and services.

This Policy does not form part of any employee’s contract of employment. Nor does it form part of any other workplace participant’s contract for service. This policy is not intended to override the terms of any award, certified agreement or contract that applies to an employee.

3. POLICY CONTENT

EEO Laws

Under EEO laws, discrimination, vilification, sexual harassment, bullying and victimisation are unlawful and strictly prohibited.

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:

- 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 can occur in all 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.

BULLYING

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.

Bullying Examples

Examples of bullying, include:

- language or comments that are:
 - ✓ abusive;

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- ✓ insulting;
- ✓ 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 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 working 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.

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:

- 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 both men and women. Sexual harassment such as obscene phone calls, indecent exposure or sexual assault may be a criminal offence.

VILIFICATION

Vilification involves publicly inciting hatred, serious contempt or severe ridicule of someone because of their race, religion, sexuality or gender identity. Vilification is an offence if it includes actual or threatened physical harm to someone or their property.

It can include:

- writing letters to the public;
- speaking in a public place;
- putting up notices;
- posts on the internet or social networking sites; and
- publicly wearing or displaying clothing, signs, emblems or insignias in order to vilify.

VICTIMISATION

Victimisation is where a person is retaliated against or subjected to a detriment because they have lodged a complaint, they intend to lodge a complaint or they are involved in a complaint of unlawful conduct. Workplace participants must not retaliate against a person who raises a complaint or subject them to any detriment.

Rights and Responsibilities

All workplace participants must:

- ensure they do not engage in any unlawful conduct towards other workplace participants, customers/clients or others with whom they come into contact through work;
- ensure they do not aid, abet or encourage other persons to engage in unlawful conduct;
- follow the complaint procedure in this Policy if they experience any unlawful conduct;
- report any unlawful conduct they see occurring to others in the workplace in accordance with the complaint procedure in this Policy; and
- maintain confidentiality if they are involved in the complaint procedure.

Workplace participants should be aware that they can be held legally responsible for their unlawful conduct.

Workplace participants, who aid, abet or encourage other persons to engage in unlawful conduct, can also be legally liable.

COMPLAINT PROCESS

If an employee feels that they have been discriminated against, bullied, sexually harassed, or vilified, they should not ignore it.

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Council encourages employees 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.

Where an employee feels they cannot address the matter directly with the person involved, or they have done so, and this has not stopped the behaviour, they can make a complaint to their manager, Human Resources, or a Director.

If an employee or contractor witnesses discrimination, bullying, sexual harassment or vilification in the workplace they should encourage the other person to speak up or seek support. Otherwise, the person who witnessed the incident could also make a complaint.

All complaints will be dealt with confidentially and all participants must maintain confidentiality.

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

Employees and contractors 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;
- Anti-Discrimination Commission Queensland;
- Australian Human Rights Commission; and
- the Police.

BREACHES OF POLICY

Discrimination, bullying, sexual harassment 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, bullying, sexual harassment and/or vilification of another employee, employee group or contractor, will be subject to disciplinary action up to and including dismissal.

4. CONTACTS FOR OUTSIDE AGENCIES

Australian Human Rights Commission
Toll Free: 1300 656 419

Queensland Government website on Workplace

Rights: <https://www.qld.gov.au/law/your-rights/workplace-rights/harassment-and-bullying>

Anti-Discrimination Commission (QLD)
Toll free: 1300 130 670

5. ASSOCIATED DOCUMENTS

- Code of Conduct

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- Complaints Procedure

6. RELEVANT INFORMATION

Industrial Relations Act 2016

Anti-Discrimination Act 1991

Work Health and Safety Act 2011

Local Government Act 2009

Sex Discrimination Act 1984 Cth

Age Discrimination Act 2004 Cth

Racial Discrimination Act 1975 Cth

Disability Discrimination Act 1992 Cth

Australian Human Rights Commission Act 1986 Cth

Local Government Regulations 2012

Public Sector Ethics Act 1994