

ADMINISTRATION POLICIES



HARASSMENT, ANTI-DISCRIMINATION AND WORKPLACE BULLYING POLICY

Objective

Walcha Council aims to provide an environment where employees and others in the workplace are treated fairly and with respect, and are free from unlawful discrimination, harassment, and vilification and bullying.

Harassment and Bullying constitute unacceptable behaviour in the workplace. Employers such as Council must institute policy and process to outlaw such behaviour and provide a means to assist staff to report instances of harassment or bullying.

The purpose of this policy is to:

- Ensure compliance with the required employer duties under the *Work Health and Safety Act 2011* regarding the provision of a safe workplace; and
- To help provide employees provide clear definition, direction, and process to eradicate harassment and bullying in the workplace.

Scope

This policy applies to all employees, councillors, volunteers and contractors of Council.

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

POLICY

All forms of harassment, which relate to a person's sex or sexual preference, physicality, race, marital status, disability, age, or pregnancy which victimises, humiliates, undermines or threatens another person or group are illegal and discriminatory will not be tolerated in the workplace.

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

Council's EEO Management Plan and Code of Conduct require that council employees are not to harass, discriminate against, or support others who harass and discriminate against colleagues or members of the public. This includes, but is not limited to harassment and discrimination, on the grounds of sex, pregnancy, age, race (including their colour, nationality, descent, ethnic or religious background), medical reasons, political affiliation, industrial/trade union membership, non-membership or activity, carers' responsibilities, family responsibilities, parental status or being childless, marital status, disability, homosexuality, transsexuality, sexuality, lawful sexual activity or gender identity.

All Council employees are to work professionally and cooperatively. They are to maintain open and constructive communication without malice or bias. The principles of fairness and respect are to predominate. Attendance at work should be a positive, comfortable, and productive experience.

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1. HARASSMENT

Harassment is behaviour that offends, upsets, humiliates, or scares another person. It makes the workplace uncomfortable and unpleasant.

Harassment is not always intended – acts or behaviour, which are funny or do not mean much to one person may hurt or offend another. A workplace without harassment is a workplace where people respect and tolerate the rights and differences of others.

Types of Harassment

Harassment in the workplace can take many forms. It can be overt (obvious) or subtle, direct or indirect (for example, where a hostile feeling/environment is created without any direct attacks being made on a person).

Some forms of verbal harassment:

- Sexual or suggestive remarks;
- Making fun of someone;
- Yelling or screaming;
- Imitating someone's accent;
- Propositions (sexual invitations);
- Spreading rumours;
- Obscene telephone calls/unsolicited letters, faxes or e-mail messages;
- Repeated unwelcome invitations;
- Offensive jokes;
- Repeated questions about personal life;
- Threats or insults;
- The use of language that is not suitable in the workplace;
- Name calling;
- Calling someone who is transgender (transsexual) "it" or refusing to refer to them by their preferred gender or name.

Some forms of non-verbal harassment:

- Putting sexually suggestive, offensive or degrading/insulting material on walls, computer screen savers, E-mail and so on;
- Unwelcome practical jokes;
- Suggestive looks or leers;
- Displaying or circulating racist, sexist or offensive cartoons or literature;
- Mimicking someone with a disability;
- Following someone home from work;
- Ignoring someone or being particularly cold or distant with them;
- Not sharing information;
- Offensive hand or body gestures;
- Unnecessarily leaning over someone;
- Sending offensive material through computer, fax or E-mail;
- Wolf whistling;
- Continually ignoring or dismissing someone's contribution in a meeting/discussion.

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Some forms of physical harassment:

- 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

2. VILIFICATION

Vilification is a public act which incites hatred, severe contempt or severe ridicule of a person or group, because of race, sex, homosexuality, transgender, transexuality or HIV/AIDS.

Vilification is a particularly serious breach of EEO laws and will be dealt with accordingly.

3. BULLYING

Bullying is repeated, unreasonable behaviour directed towards an individual or group that creates a risk to health and safety. Unreasonable behaviour means behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine, or threaten. Single incidents of unreasonable behaviour can also create a risk to health and safety and may escalate into bullying. There is no requirement that bullying be intentional.

Generally, for conduct to constitute bullying the conduct has to be repeated. A one-off incident would not normally be considered workplace bullying. There is no requirement that the person deliberately or intentionally bully the person, however, intention may be a relevant consideration in assessing the level and severity of the conduct. Some commonly reported effects of bullying include:

- Stress, anxiety and tension
- Headaches, backaches, stomach cramps
- Feelings of social isolation at work
- Loss of confidence and self esteem
- Depression
- Loss or deterioration of personal relationships

It is not bullying for a Manager or Supervisor to counsel a Council employee about their performance. Performance counselling is a necessary part of ensuring that Council employee meet the Council's standards of work and behaviour. In addition, other reasonable managerial actions such as disciplinary action, work directions and orders, and allocation of work in compliance with business needs and systems do not constitute bullying.

4. 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. Council employees must not retaliate against a person who raises a complaint or subject them to any detriment.

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5. RIGHTS AND RESPONSIBILITIES

All Council employees must:

- Understand and comply with this Policy;
- Comply with the Council's Code of Conduct;
- Ensure they do not engage in any unlawful conduct towards other Council employees, 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 complaints 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.

Legally, an employer is responsible for what happens in the workplace. Management is responsible for making sure that all staff and supervisors understand that harassment or bullying will not be allowed in the workplace, that complaints will be taken seriously and resolved expeditiously. Managers and Supervisors must:

- Demonstrate appropriate behaviour;
- Follow established policies and procedures;
- Abide by procedural fairness principles;
- Monitor work environment;
- Respond to all complaints seriously;
- Handle complaints promptly, impartially and confidentially;
- Ensure employees feel able to make complaints without fear of recrimination;
- Ensuring all employees are aware of Council's harassment policy and procedures;
- Take early corrective action to deal with behaviour which may be offensive or intimidating to some employees.

Any employee found to instigate, aid, abet or encourage acts of harassment; discrimination, bullying or victimisation will be subject to Council's disciplinary procedures, and can also be legally liable.

6. COMPLAINT HANDLING PROCEDURE

If a Council employee feels that they have been subjected to any form of unlawful conduct contrary to EEO laws, this Policy or the Council's Code of Conduct, they should not ignore it. The Council has a Grievance Procedure for dealing with these issues.

The complaint procedure has numerous options available to suit the particular circumstances of each individual situation. The manner in which a complaint will be handled is solely at the discretion of the General Manager.

If a person makes an unfounded complaint or a false complaint in bad faith (e.g. making up a complaint to get someone else in trouble or making a complaint where there is no foundation for the complaint), that person may be disciplined and may be exposed to a defamation claim.

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7. HOW WILL MY COMPLAINT BE DEALT WITH?

Council supports the resolution of complaints at the lowest possible level, as this is most often the most effective means of resolution.

Confront the Issue

If a Council employee feels comfortable doing so, they should address the issue with the person concerned. A Council employee should identify the offensive behaviour, explain that the behaviour is unwelcome and offensive and ask that the behaviour stop. It may be that the person was not aware that their behaviour was unwelcome or caused offence.

This is not a compulsory step. If a Council employee does not feel comfortable talking to the person, or the Council employee confronts the person and the behaviour continues, the Council employee should report the issue to the Council's Human Resources Manager.

If a Council employee is unsure about how to handle a situation and is also unsure if they want to make a complaint they should contact the Human Resources Manager for support and guidance. The Human Resources Manager aims to assist people uncertain about their rights.

Report the Issue

A Council employee should report the issue to a Complaints Officer. The Complaints Officer(s) in Council's workplace is the Human Resources Manager or Karen Kermode.

The Human Resources Manager will aim to deal with the Council employee's complaint in accordance with this Policy. There are two complaint procedures that can be used: informal and formal (detailed further below). The type of complaint procedure used will be determined by the nature of the complaint that is made.

Informal Complaint Procedure

Under the informal complaint procedure there is a broad range of options for addressing the complaint. The procedure used to address the issue will depend on the individual circumstances of the case.

Possible options include, but are not limited to:

- (a) the Human Resources Manager discussing the issue with the person against whom the complaint is made; and/or
- (b) the Human Resources Manager facilitating a meeting between the parties in an attempt to resolve the issue and move forward.

The informal complaint procedure is more suited to less serious allegations that if founded, would not warrant disciplinary action being taken.

Formal Complaint Procedure

The formal complaint procedure may involve a formal investigation of the complaint. Formal investigations may be conducted by the Human Resources Manager or a person from outside the Council, appointed by the Council.

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An investigation generally involves collecting information about the complaint and then making a finding based on the available information as to whether or not the alleged behaviour occurred. Once a finding is made, the Human Resources Manager or the external investigator will make recommendations about resolving the complaint.

If the Council considers it appropriate for the safe and efficient conduct of an investigation, Council employees may be required not to report for work during the period of an investigation. The Council may also provide alternative duties or work during the investigation period. Generally, Council employees will be paid their normal pay during any such period.

8. DISCIPLINARY ACTION

Disciplinary action will be in accordance with the Local Government (State) Award 2017 and Council's Performance and Misconduct Policy.

ASSOCIATED DOCUMENTS

- Walcha Council Harassment, Anti-Discrimination and Workplace Bullying Procedure
- Walcha Council Sexual Harassment Policy
- Walcha Council Code of Conduct
- Walcha Council EEO Management Plan
- Walcha Council Performance and Misconduct Policy
- Walcha Council Grievance Procedure

POLICY ADMINISTRATION

This policy is administered by the Human Resources Manager and will be reviewed every two years and updated where applicable. Council reserves the right to vary or revoke this policy from time to time.

POLICY VERSION AND REVISION INFORMATION

Policy Authorised by:

Current Version: 1

Adoption Date: 13 February 2019 – Resolution: 123/20182019

Review Date: October 2020