



1. OBJECTIVE

To maintain a positive, constructive and healthy workplace culture free from the negative impacts of harassment, sexual harassment and discrimination.

Wujal Wujal Aboriginal Shire Council (Council) is committed to ensuring that harassment, sexual harassment and discrimination does not occur, but in the event that it does, Council will treat reports seriously and respond promptly, impartially and confidentially.

2. SCOPE

This Policy applies to all employees, contractors and volunteers, who perform work for or on behalf of Council. It applies to all employees in all their work-related interactions with each other, and with customers or contacts. Any reference to staff or employee is to be taken as a reference to a contractor or volunteer.

3. WORKPLACE HARASSMENT

3.1 What is Workplace Harassment?

According to the Anti-Discrimination Commission of Queensland's *Preventing & Resolving Workplace Harassment* a person is subjected to workplace harassment if the person is subjected to repeated behaviour, other than behaviour amounting to sexual harassment, by a person, including the person's employer or a co-worker or group of co-workers of that person that:

- Unwelcome and unsolicited; and
- The person considers to be offensive, intimidating, humiliating or threatening; and
- A reasonable person would consider to be offensive, intimidating, humiliating or threatening.

Repeated behaviour refers to the constant nature of the behaviour, not the specific type of behaviour and it may involve a series of diverse events.

3.2 Examples of Workplace Harassment

The following behaviour, if it is repeated or occurs as part of a pattern of behaviour, are examples of workplace harassment:

- abusing a person loudly, usually when others are present;
- repeated threats of dismissal or other severe punishment for no reason;
- constant ridicule and being put down;
- leaving offensive messages on email or the telephone;

- sabotaging a person's work, for example, by deliberately withholding information or supplying incorrect information, hiding document or equipment, not passing on messages, and getting a person in trouble in other ways;
- persistent and unjustified criticisms, often about petty or irrelevant or insignificant matters;
- humiliating a person through gestures, sarcasm, criticism and insults, often in front of clients, management or other workers; and
- spreading gossip or false, malicious rumours about a person with the intent to cause the person harm.
- Other behaviour of a similar offensive, humiliating, intimidating or threatening nature.

3.3 Actions that are not workplace harassment

A single incident of workplace harassing type behaviour is not considered to be workplace harassment, however, must still be reported and investigated to prevent the situation from escalating.

Legitimate and reasonable management actions that are taken in a reasonable way are not workplace harassment. For example, actions such as performance management and disciplinary actions, demotion or redeployment of workers, or actions taken in accordance with Council policies.

4. SEXUAL HARASSMENT

The Anti-Discrimination Commission of Queensland states that sexual harassment is *any unwelcome conduct of a sexual nature that is done either to offend, humiliate or intimidate another person, or where it is reasonable to expect the person might feel that way*".

Sexual harassment does not have to be deliberate or repeated. Some forms of sexual harassment, such as indecent exposure and stalking is also considered to be a criminal offence.

4.1 Examples of Workplace Sexual Harassment

Examples of sexual harassment include, but are not limited to:

- Displays of offensive or pornographic material, including posters, photographs, calendars, cartoons, etc.
- Offensive material downloaded from the internet.
- Offensive communications, including e-mail messages, screensavers, letters, phone calls, etc.
- Humour such as sexual jokes.
- Uninvited and unnecessary physical contact or gestures such as patting, pinching, deliberate brushing against someone.
- Innuendo, including suggestive or derogatory comments.
- Sexual propositions.
- Unwelcome and uncalled for remarks or insinuations about a person's sex or private life.
- Suggestive comments about a person's appearance or body.

5. DISCRIMINATION

5.1 What is Discrimination?

Discrimination occurs when an employee is treated less favourably in their employment because of an attribute or characteristic that the employee has or exhibits. If the basis for that less favourable treatment is prohibited under state or federal law, then unlawful discrimination may have occurred.

The *Anti-Discrimination Act 1991 (QLD)* prohibits discrimination on the following grounds:

- 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;
- association with, or relation to, a person identified on the basis of any of the above attributes.

Discrimination can be both direct and indirect.

Direct discrimination occurs if a person treats, or proposes to treat, a person with an attribute less favourably than another person without the attribute.

An example of direct discrimination is where a person applies for a vacant position, however their application is not progressed by the employer because the applicant is “too old”. Such a decision by the employer would be unlawful discrimination.

Indirect discrimination is where a policy, rule or practice, which seems to be fair because it applies to everyone equally, actually results in some people being treated unfairly. This is because some people or groups of people, are unable or less able to comply with the requirement or practice.

An example of indirect discrimination is where a requirement for a job is that all applicants have ten years’ experience in the field. However, a young person could be well qualified, but ineligible for the job.

Not all discrimination is unlawful. In some cases, exemptions recognise that in some circumstances discrimination can be acceptable provided it occurs for specific reasons or purposes. For examples, an exemption can allow employers to boost the employment opportunities for people from disadvantaged groups through equal employment opportunity policies.

Equal employment opportunity

Council is an equal opportunity employer. Equal employment opportunity exists when people are treated on their merits at every stage of the employment relationship. This includes; recruitment and selection, promotion and transfer, training and development opportunities and redundancy.

6. COMPLAINT HANDLING PROCESS

6.1 What to do if you feel you have been harassed, sexually harassed or discriminated against?

Council will not tolerate workplace harassment, sexual harassment and/or discrimination under any circumstances. There are a number of ways to deal with these behaviours.

In the first instance, only if the employee is comfortable, it may be appropriate for the employee to tell the offender that their behaviour is unacceptable, and that you would like it to stop.

If an employee is not comfortable raising the matter directly with the offender, employees should follow the process outlined in Council's Grievance Policy.

Employees can lodge a complaint of harassment or discrimination with:

- their immediate supervisor; or
- their Manager; or
- the Chief Executive Officer; or
- Anti-Discrimination Commission Queensland

The person receiving the complaint, in consultation with the complainant, can decide whether the matter can be resolved informally with the assistance of the immediate supervisor, a Human Resources representative, or whether it needs to be referred to a more senior level of management.

Once Management are aware of concerns or matters, they have a duty of care to act on behalf of Council to ensure the behaviour stops or prevent it from reoccurring.

Depending on the circumstances surrounding the complaint, it may be necessary for Council to conduct an investigation into the incidents and/or allegations. Investigations will be conducted by an appropriate officer.

Council advocates that at anytime during this process employees can contact the Employee Assistance Program (EAP). Information regarding Council's EAP, including contact details can be found (Please complete - intranet, staff notice boards, by contacting ???).

6.2 Responsibilities of Managers

Council expects that Managers will take appropriate steps to reduce the risk of harassment, sexual harassment and discrimination, for instance through promotion of high standards of employee conduct. Management will take complaints of harassment, sexual harassment and discrimination seriously and ensure that any instances are appropriately investigated and dealt with promptly, confidentially and impartially. They must also ensure that people who make complaints, or who are witnesses, are not victimised in any way.

6.3 Responsibilities of Employees

Employees are responsible for relating to fellow employees, management and customers in a professional and respectful manner. Employees are responsible for reporting suspected instances of harassment, sexual harassment and discrimination to management for investigation, assisting in the investigation process as required, and maintaining confidentiality of the complaint and investigation process.

7. VICARIOUS LIABILITY

Council, as an employer, as well as senior managers can be held vicariously liable for exposing employees to unsafe or unsatisfactory working environments, unless Council can show it has taken reasonable steps to prevent it. Any reports of harassment, sexual harassment, discrimination, victimisation and vilification will be treated seriously and investigated promptly.

8. LIMITATIONS

This Policy does not cover situations where a worker has a grievance about reasonable management actions, taken in a reasonable way. Reasonable management actions undertaken in a constructive way may include, but are not limited to:

- Performance management processes, such as setting realistic and achievable performance goals,
- Deciding not to select a worker for promotion where a fair and transparent process is followed,
- Transferring a worker to another area or role for operational reasons,
- Implementing organisational changes or restructuring, and
- Taking appropriate or justified disciplinary action.

9. BREACH OF THE POLICY

Suspected breaches of this Policy will be investigated and dealt with in accordance with the process in Council's Grievance Policy. All suspected breaches will be dealt with on a case by case basis. Depending on the severity of the breach, Council may take formal disciplinary action against the employee, up to and including termination of employment. When investigating suspected breaches, the principles of natural justice will apply.

10.RELEVANT LEGISLATION

- *Anti-Discrimination Act 1991 (QLD)*
- *Industrial Relations Act 2016 (QLD)*
- *Local Government Act 2009 (QLD)*
- *Equal Employment Opportunity Act 1987*
- *Sex Discrimination Act 1984*
- *Age Discrimination Act 2004*
- *Racial Discrimination Act 1975*
- *Disability Discrimination Act 1992*
- *Human Rights and Equal Opportunity Act 1986*
- *Workplace Health & Safety Act 2011*

11.RELATED COUNCIL POLICIES

- Employee Code of Conduct
- Grievance Policy
- Recruitment and Selection Policy
- Grievance Procedure

This Policy is to remain in force until otherwise determined by Council.

**Eileen Deemal-Hall
Chief Executive Officer**

DATE OF ADOPTION:	(insert)
TIME PERIOD OF REVIEW:	2 Years
DATE OF NEXT REVIEW:	(insert)