



## CONFIRMED MINUTES

## GOVERNANCE COMMITTEE MEETING

**19 FEBRUARY 2024**

I certify that the minutes of the meeting of the Governance Committee held on Monday, 19 February 2024 were confirmed on Monday, 15 April 2024.

A handwritten signature in blue ink, appearing to read "Nem", is written over a horizontal line.

Presiding Person



**CONFIRMED MINUTES  
GOVERNANCE COMMITTEE MEETING  
19 FEBRUARY 2024**

**ATTENTION/DISCLAIMER**

The purpose of this Committee Meeting is to discuss and make recommendations to Council about items appearing on the agenda and other matters for which the Committee is responsible. The Committee has no power to make any decisions which are binding on the Council or the Shire of Mundaring unless specific delegation of authority has been granted by Council. No person should rely on or act on the basis of any advice or information provided by a Member or Employee, or on the content of any discussion occurring, during the course of the Committee Meeting.

The Shire of Mundaring expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any advice or information provided by a Member or Employee, or the content of any discussion occurring during the course of the Committee Meeting.

## CONTENTS

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<b>1.0</b>	<b>OPENING PROCEDURES</b>	<b>4</b>
1.1	ANNOUNCEMENT OF VISITORS.....	4
1.2	ATTENDANCE/APOLOGIES .....	4
<b>2.0</b>	<b>ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION</b>	<b>4</b>
<b>3.0</b>	<b>DECLARATION OF INTEREST</b>	<b>5</b>
3.1	DECLARATION OF FINANCIAL INTEREST AND PROXIMITY INTERESTS .....	5
3.2	DECLARATION OF INTEREST AFFECTING IMPARTIALITY.....	5
<b>4.0</b>	<b>CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS</b>	<b>5</b>
	GC1.02.24 .....	5
<b>5.0</b>	<b>PRESENTATIONS</b>	<b>5</b>
<b>6.0</b>	<b>REPORTS OF EMPLOYEES</b>	<b>6</b>
6.1	NEW POLICY - COMPASSIONATE WASTE SERVICE.....	6
	GC2.02.24 .....	8
6.2	NEW POLICY - DISASTER RELIEF DONATIONS .....	11
	GC3.02.24 .....	14
6.3	POLICY REVIEW - EQUAL EMPLOYMENT OPPORTUNITY AND ANTI-BULLYING .....	15
	GC4.02.24 .....	17
<b>7.0</b>	<b>URGENT BUSINESS (LATE REPORTS)</b>	<b>33</b>
<b>8.0</b>	<b>CLOSING PROCEDURES</b>	<b>33</b>
8.1	DATE, TIME AND PLACE OF THE NEXT MEETING .....	33
8.2	CLOSURE OF THE MEETING .....	33

**GOVERNANCE COMMITTEE  
COMMITTEE ROOM, SHIRE OF MUNDARING ADMINISTRATION CENTRE – 5.30PM**

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**1.0 OPENING PROCEDURES**

The Presiding Member declared the meeting open at 5.30pm.

Acknowledgement of Country

Shire of Mundaring respectfully acknowledges the Whadjuk people of the Noongar Nation, who are the traditional custodians of this land. We acknowledge Elders past, present and emerging and respect their continuing culture and the contribution they make to the region.

**1.1 Announcement of Visitors**

The Presiding Member welcomed Cr Trish Cook as an observer.

**1.2 Attendance/Apologies**

<b>Members</b>	Cr Prapti Mehta (Presiding Member)	West Ward
	Pres Paige McNeil (Deputy Presiding Member)	President
	Cr Neridah Zlatnik	East Ward
	Cr Luke Ellery	South Ward
<b>Staff</b>	Jason Whiteaker	Chief Executive Officer
	Garry Bird	Director Corporate Services
	Shane Purdy	Director Infrastructure Services
	Stan Kocian	Manager Finance and Governance
	Jeannine Bryant	Manager People and Culture
	Liz Nicholls (via electronic means)	Governance Coordinator
	Pascaline Owers	Governance Officer
<b>Apologies</b>	Nil	
<b>Leave of Absence</b>	Nil	
<b>Guests</b>	Cr Trish Cook (observer) <i>left at 5.57pm</i>	South Ward

**2.0 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

Nil

### 3.0 DECLARATION OF INTEREST

#### 3.1 Declaration of Financial Interest and Proximity Interests

Council Members must disclose the nature of their interest in matters to be discussed at the meeting (*Part 5 Division 6 of the Local Government Act 1995*).

Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting (*Sections 5.70 and 5.71 of the Local Government Act 1995*).

Nil

#### 3.2 Declaration of Interest Affecting Impartiality

A Council Member or an employee who has an interest in a matter to be discussed at the meeting must disclose that interest (*Shire of Mundaring Code of Conduct, Local Government (Admin) Reg. 34C*).

Nil

### 4.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

COMMITTEE DECISION		GC1.02.24	
Moved by	Cr Ellery	Seconded by	Pres McNeil
That the Minutes of the Governance Committee Meeting held 18 December 2023 be confirmed.			
			<b>CARRIED 4/0</b>
<b>For:</b>	Cr Ellery, Pres McNeil, Cr Mehta and Cr Zlatnik		
<b>Against:</b>	Nil		

### 5.0 PRESENTATIONS

Nil

## 6.0 REPORTS OF EMPLOYEES

### 6.1 New Policy - Compassionate Waste Service

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<b>File Code</b>	GV.OPP 1
<b>Author</b>	Shane Purdy, Director Infrastructure Services
<b>Senior Employee</b>	Shane Purdy, Director Infrastructure Services
<b>Disclosure of Any Interest</b>	Nil
<b>Attachments</b>	1. Draft Compassionate Waste Service Policy <a href="#">↓</a>

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#### **PURPOSE**

A “Compassionate Waste Service Policy” has been drafted (**Attachment 1**) and is presented to the Committee for its consideration and recommendation to Council for adoption.

#### **BACKGROUND**

The Governance Committee has scheduled the development of a new policy to provide residents who have a genuine need, to access additional general waste bins on compassionate grounds.

Residents with medical conditions or disabilities that generate significant additional waste can currently request the provision of a second mobile garbage bin (MGB) at no extra charge. This request is managed at an operational level (currently captured in a CEO approved policy, previously referred to as an organisational practice) with the charges waived by the CEO in accordance with Delegation CE-125 Write Off Debt.

Thirty properties currently access this additional service.

#### **STATUTORY / LEGAL IMPLICATIONS**

Section 2.7 of the *Local Government Act 1995* provides the role of council in relation to the determination of policies.

#### **POLICY IMPLICATIONS**

The “Compassionate Waste Service Policy” will be adopted if the recommendation is adopted by Council.

#### **FINANCIAL IMPLICATIONS**

The Shire’s adopted Fees and Charges Schedule provides for an additional general waste bin charge for 2023/24 is \$200 pro rata for the financial year together with one off charge of \$72.50 for bin establishment. The Shire waives around \$6,000 of income per year to provide the current compassionate bin service.

#### **STRATEGIC IMPLICATIONS**

Mundaring Strategic Community Plan 2020 - 2030

Priority 2 - Natural Environment

Objective 2.3 – Waste management that is efficient and sustainable

Strategy 2.3.3 – Provide and support community education on waste avoidance, reduction and reuse

## SUSTAINABILITY IMPLICATIONS

Nil

## RISK IMPLICATIONS

<b>Risk:</b> Reputation – Should a similar service not continue current persons getting the additional bin service are likely to be aggrieved if required to pay for an additional bin		
Likelihood	Consequence	Rating
Almost Certain	Minor	High
<b>Action / Strategy</b>		
Any changes to the current service would require explanation to those affected		

## EXTERNAL CONSULTATION

Nil

## COMMENT

Eligible residents who have a medical condition or disability as certified by a medical practitioner and require an additional general waste bin may request a bin free of charge. This is limited to one general waste bin only.

Any additional bins that may be required can be purchased consistent with the Shire's adopted fees and charges.

## VOTING REQUIREMENT

Simple Majority

## COMMITTEE OFFICER RECOMMENDATION

That Council adopts the "Compassionate Waste Service Policy" (**Attachment 1**).

## AMENDMENT

Moved by Cr Ellery

That Council adopts the “Compassionate Waste Service Policy” (**Attachment 1**) subject to the following amendments:

- a. Update 1. Purpose to state: “To enable residents who have a genuine need based on medical grounds **or a newborn child** that generate significant waste to access additional kerbside general waste **capacity up to a maximum to 280 litres** free of charge.”
- b. Update 2. Scope to state: “This policy applies to all residents within the shire living at a residential property with a kerbside bin collection service.”  
Deleting “...with personal physical circumstances that generate significant additional waste”.
- c. Under paragraph one of 4. Policy, amend to state “...may apply for additional kerbside general waste **capacity up to a maximum to 280 litres free of charge** on compassionate grounds...”
- d. Update dot point three under 4. Policy to: “**have** a disability.”
- e. Include an additional dot point under 4. Policy to state: “**or on the presentation of a birth certificate.**”

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## COMMITTEE RECOMMENDATION

**GC2.02.24**

Moved by Cr Zlatnik                      Seconded by Pres McNeil

That Council adopts the “Compassionate Waste Service Policy” (**Attachment 1**) subject to the following amendments:

- a. Update 1. Purpose to state: “To enable residents who have a genuine need based on medical grounds that generate significant waste to access additional kerbside general waste **capacity up to a maximum to 280 litres** free of charge.”
- b. Update 2. Scope to state: “This policy applies to all residents within the shire living at a residential property with a kerbside bin collection service.”  
Deleting “...with personal physical circumstances that generate significant additional waste”.
- c. Under paragraph one of 4. Policy, amend to state “...may apply for additional kerbside general waste **capacity up to a maximum to 280 litres free of charge** on compassionate grounds...”
- d. Update dot point 3 under 4. Policy to: “**have** a disability.”

**CARRIED 3/1**

**For:** Pres McNeil, Cr Mehta and Cr Zlatnik

**Against:** Cr Ellery





## 2.X COMPASSIONATE WASTE SERVICE POLICY

<b>Responsible Directorate</b>	Infrastructure Services
<b>Responsible Service Area</b>	Operations Services
<b>Adopted</b>	<month/ year> <Council resolution
<b>Reviewed</b>	N/A
<b>Procedure Ref</b>	TBC

### 1. PURPOSE

To enable residents who have a genuine need based on medical grounds that generate significant waste to access an additional kerbside general waste bin free of charge.

### 2. SCOPE

This policy applies to all residents within the shire living at a residential property with a kerbside bin collection service with personal physical circumstances that generate significant additional waste.

### 3. POLICY

A Shire of Mundaring resident, residing at a rateable residential property with a kerbside bin service, may apply for an additional kerbside general waste bin on compassionate grounds if they:

- have medical condition(s), and/or
- receive in home caring, and/or
- a disability

Residents who would like to access this service must submit an application providing all required information and supported by a medical professional certificate

An updated supporting medical certificate will be required at least once every two years.

Alternatively, residents can request additional waste bins in accordance with the Shire's Rubbish and Waste Fees and Charges.

General Waste bin collection cycles will remain the same.

### 4. RELATED LEGISLATION

*Local Government Act 1995*

*Waste Avoidance and Resource Recovery Act 2007*

*Waste Avoidance and Resource Recovery Regulations 2008*

**5. RELATED DOCUMENTS**

State Waste Avoidance and Resource Recovery Strategy 2023 and Action Plan  
2020-21

Shire of Mundaring Waste Plan March 2021

DRAFT



## 6.2 New Policy - Disaster Relief Donations

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<b>File Code</b>	GV.OPP 1
<b>Author</b>	Garry Bird, Director Corporate Services
<b>Senior Employee</b>	Garry Bird, Director Corporate Services
<b>Disclosure of Any Interest</b>	Nil
<b>Attachments</b>	Nil

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### **PURPOSE**

To consider the creation and adoption of a “Disaster Relief Donations Policy”.

### **BACKGROUND**

In August 2023, a Notice of Motion from Cr Cook was adopted by Council as follows:

*That:*

- 1. Council refers the item to the Governance Committee to develop a Disaster Relief Donations Policy, to be scheduled in the Governance Committee Work Plan during the 2023/24 financial year.*
- 2. The purpose and scope of the proposed Disaster Relief Donations Policy includes, but is not limited to, as follows:*

*Purpose:*

- a. To provide criteria for the equitable assessment for donations,*
- b. Incorporates options and flexibility in the amount to be donated, based on the circumstances of the event conditions and processes,*
- c. To ensure accountability for the funds expended.*

*Scope:*

- a. The policy applies to all Council donations for disaster relief in respect of disasters affecting countries, regions or community groups, and excludes events covered by the Shire’s Emergency Management Plan.*
- b. Provides options for CEO delegation on behalf of Council.*

Council has previously resolved to provide donations as follows:

- Notice of Motion - Kimberley Floods - Donation to Lord Mayors Distress Relief Fund - Cr Trish Cook (C12.01.23)  
*That Council, by absolute majority, approves a budget amendment of \$10,000 to the donations expenditure account in order to fund a donation to the City of Perth Lord Mayors Distress Relief Fund to assist individuals with recovery from the impacts of the recent Kimberley Flood.*
  - Cyclone Seroja - Donation to Lord Mayors Distress Relief Fund (C19.05.21)  
*That Council, by absolute majority, approves a budget amendment of \$5000 increase to the donations expenditure account in order to fund a donation to the Lord Mayor’s Distress Relief Fund to assist with recovery from the impacts of Cyclone Seroja.*
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## STATUTORY / LEGAL IMPLICATIONS

Section 2.7 of the *Local Government Act 1995* provides the role of council in relation to the determination of policies.

## POLICY IMPLICATIONS

A “Disaster Relief Donations Policy” will be created and adopted if the recommendation is adopted by Council.

## FINANCIAL IMPLICATIONS

There may be financial implications of a policy is to be created, depending on the amount and number of donations that may be made.

## STRATEGIC IMPLICATIONS

Mundaring Strategic Community Plan 2020 - 2030

Priority 1 - Community

Objective 1.1 – Healthy, safe, sustainable and resilient community

Strategy 1.1.7 – Provide emergency management planning, disaster management and disaster recovery, and associated community liaison and education

## SUSTAINABILITY IMPLICATIONS

The Shire is a high risk fire area and has been the beneficiary of a number of public appeals for donations by the Lord Mayors Distress Relief fund in response to significant bushfire events.

## RISK IMPLICATIONS

<b>Risk:</b> The Shire may be viewed poorly for being a significant beneficiary of public generosity in the past (including other local governments) in response to disaster events but is perceived as not supporting other communities who experience similar disaster events.		
Likelihood	Consequence	Rating
Possible	Moderate	Moderate
Action / Strategy		
Adopt a policy that provides criteria by which the Shire may make donations for disaster events or continue to respond to these events as they occur.		

## EXTERNAL CONSULTATION

Nil

## COMMENT

It is common for local governments to make donations to assist communities recover from emergencies and/or disaster events. The Shire has been the recipient of donations for disaster relief following the Parkerville Stoneville Bushfire in 2023, the Wooroloo Bushfire in 2021 and Parkerville Stoneville Mt Helena bushfire in 2014.

If it is determined that a policy should be created, some issues and officer suggestions that need to be considered are:

- The definition of a disaster.

Suggested definition: a declared Emergency Situation or State of Emergency under the *Emergency Management Act 2005* that initiates the City of Perth Lord Mayors Distress Relief Fund accepting donations or any other disaster not subject to the above *Emergency Management Act 2005* declarations that initiates the City of Perth Lord Mayors Distress Relief Fund accepting donations.

- The value of any donation, and if the value should differ for state, federal or international disasters.

\$5000 would be in keeping with previous donations and should only be paid for state based emergencies in WA.

Council can determine via a resolution to donate any monetary amount, to suit specific circumstances or to provide donations to federal and international disasters.

- Donation of non-cash assistance.

The provision of in-kind officer time could be beneficial given the Shire's experience in emergency recovery.

This resource sharing already exists via a formal arrangement known as the North and East Metro Recovery Group Agreement. Similar assistance has previously been provided to other local governments experiencing a disaster or emergency.

- Who donations should be paid to.

Donations should be limited to being paid to the Lord Mayors Disaster Relief Fund, in keeping with State Emergency Management Framework guidelines. An item can be presented to Council if there was a wish to donate to an alternative fund.

- Provisions for donations included in the annual budget.

A budget provision of \$10,000 can be included in the annual budget with unused funds allocated to the Environmental Reserve at the end of the financial year.

Council members appointed to the Governance Committee considered the above and other related issues at a workshop on 29 January 2024. Officers are of the view that a policy is not required and it would be preferred that donations be made in response to Councillor Notice of Motion or Officer Report (as has occurred previously) to an Ordinary Meeting of Council.

**VOTING REQUIREMENT**

Simple Majority

<b>COMMITTEE OFFICER RECOMMENDATION</b>
That Council not adopt a “Disaster Relief Donations Policy” as request per Council Decision C23.08.23 and that any future donations be considered as they occur in the future and based on the circumstances and impact of a specific disaster event.

<b>COMMITTEE DECISION</b>	<b>GC3.02.24</b>
Moved by Pres McNeil	Seconded by Cr Zlatnik
That consideration of this matter be deferred until the next Governance Committee Meeting to be held Monday 15 April 2024.	
<b>CARRIED 4/0</b>	
<b>For:</b> Cr Ellery, Pres McNeil, Cr Mehta and Cr Zlatnik	
<b>Against:</b> Nil	

*Cr Cook left the meeting at 5.57pm*

## 6.3 Policy Review - Equal Employment Opportunity and Anti-Bullying

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<b>File Code</b>	GV.OPP 1
<b>Author</b>	Jeannine Bryant, Manager People & Culture
<b>Senior Employee</b>	Garry Bird, Director Corporate Services
<b>Disclosure of Any Interest</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"><li>1. Draft - Equal Employment Opportunity and Anti-Bullying Policy <a href="#">↓</a></li><li>2. Equal Employment Opportunity and Anti-Bullying Policy - HR-01 <a href="#">↓</a></li></ol>

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### PURPOSE

The “Equal Employment Opportunity and Anti-Bullying Policy” has been reviewed (**Attachment 1**) and is presented to the Committee for its consideration and recommendation to Council for adoption.

### BACKGROUND

The “Equal Employment Opportunity and Anti-Bullying Policy” (HR 01) (**Attachment 2**) was last reviewed June 2020.

A range of legislative changes have occurred impacting equal employment opportunity (EEO) and anti-bullying.

Model policies from the Western Australian Local Government Association (WALGA) and EEO Specialists were utilised to inform proposed changes to this policy.

### STATUTORY / LEGAL IMPLICATIONS

Section 2.7 of the *Local Government Act 1995* provides the role of council in relation to the determination of policies.

Proposed changes to terminology and inclusion of provisions is based on:

- *Work Health and Safety Act 2020* (WA)
- *Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022* (Ct)
- Local Government transition to the State Industrial Relations system:
  - *Industrial Relations Act 1979* (WA)
  - *Minimum Conditions of Employment Act 1993* (WA)

### POLICY IMPLICATIONS

The “Equal Employment Opportunity and Anti-Bullying Policy” will be adopted if the recommendation is adopted by Council.

### FINANCIAL IMPLICATIONS

NIL

### STRATEGIC IMPLICATIONS

Mundaring Strategic Community Plan 2020 - 2030

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## Priority 4 - Governance

Objective 4.4 – High standard of governance and accountability

Strategy 4.4.7 – Be an employer of choice, attracting and retaining the right people with the right skills in a diverse and productive workplace

### **SUSTAINABILITY IMPLICATIONS**

NIL

### **RISK IMPLICATIONS**

<b>Risk:</b> Failure to meet legislative requirements may result in employee disengagement, legal action, penalties, reputational damage and adverse publicity		
<b>Likelihood</b>	<b>Consequence</b>	<b>Rating</b>
Possible	Moderate	Moderate
<b>Action / Strategy</b>		
To endorse the reviewed Equal Employment Opportunity and Anti-Bullying Policy which includes all recent changes in legislation.		

### **EXTERNAL CONSULTATION**

Western Australian Local Government Association (WALGA)

Equal Employment Opportunity (EEO) Specialists

### **COMMENT**

The scope has been updated to be consistent with the *Work Health and Safety Act 2020* and will apply to everyone who works at the Shire, including employees, potential employees, trainees, contractors and labour-hire staff, regardless of whether they work full time, part-time or casual as well as council members, volunteers, visitors, clients and service providers at all Shire workplaces and work related events.



**VOTING REQUIREMENT**

Simple Majority

<b>COMMITTEE OFFICER RECOMMENDATION</b>
That Council adopts the reviewed “Equal Employment Opportunity and Anti-Bullying Policy” ( <b>Attachment 1</b> ).

<b>COMMITTEE RECOMMENDATION</b>	<b>GC4.02.24</b>		
Moved by	Cr Ellery	Seconded by	Cr Zlatnik
That Council adopts the reviewed “Equal Employment Opportunity and Anti-Bullying Policy” ( <b>Attachment 1</b> ) subject to the following amendments:			
a. Delete the last sentence under 4.2.3: “Line managers may be secondary liable for their actions if they do not comply with the above requirements.”			
b. Update third dot point under 4.2.4 to state: “Include discussion of this policy in the employee <b>and council member</b> induction programs.”			
<b>CARRIED 4/0</b>			
<b>For:</b>	Cr Ellery, Pres McNeil, Cr Mehta and Cr Zlatnik		
<b>Against:</b>	Nil		



## 2.X EQUAL EMPLOYMENT OPPORTUNITY AND ANTI-BULLYING

<b>Responsible Directorate</b>	Corporate Services	
<b>Responsible Service Area</b>	People and Culture	
<b>Adopted</b>	August 2003	R25410 (HR-01)
<b>Reviewed</b>	March 2016 June 2020 March 2024	C3.03.16 (HR-01) C6.06.20 (HR-01) res #
<b>Policy Ref</b>	<del>OR-12 Code of Conduct AS-02 Complaints Management System</del>	
<b>Procedure Ref</b>	<del>N/A HR-09 Management of Grievances HR-25 Management of Suspected Misconduct</del>	

### 1. PURPOSE

To provide a positive, inclusive and harassment free workplace culture and environment.

### 2. SCOPE

This policy applies :

~~To~~ everyone who works at the Shire of Mundaring, including employees, potential employees, trainees, ~~volunteers and~~ contractors and labour-hire staff, regardless of whether they work full time, part-time or as casual ~~staff as well as council members, volunteers, visitors, clients and service providers~~.

~~This policy applies in~~ the workplace including work outside normal work hours and at ~~any other place where a person is a representative of Shire of Mundaring including work outside normal work hours and at~~ work related events such as conferences, training events and social functions (e.g. after hours drinks, end of year functions and at any other place where you are a representative of the Shire) and where it can be shown that there is a workplace connection or workplace impact.

### 3. DEFINITIONS

#### bullying

unreasonable or inappropriate behaviour that is directed towards an employee, or group of employees, that creates a risk to health and safety.

#### Chief Executive Officer

the Chief Executive Officer (CEO) of the Shire.

#### contact officer

someone who has been specially trained and is available to provide support and assistance on a strictly confidential basis.

<b><u>council member</u></b>	<u>a person elected under the Act as a member Council. The Shire's council members includes the Shire President, Deputy Shire President and Councillors (as defined by the <i>Local Government Act 1995</i>).</u>
<b><u>discrimination</u></b>	<u>when a person is treated less favourably than another person in the same or similar circumstances based on one or more of the grounds and in one of the areas of public life covered by the <i>Equal Opportunity Act 1984</i> (the Act).</u>
<b><u>indirect discrimination</u></b>	<u>occurs when an <b>unreasonable</b> <del>apparently neutral</del> rule (policy, procedure or practice) <b>that appears to be neutral but</b> has a negative effect on a <b>substantially higher proportion of people with a particular group of peoples with attribute or characteristics</b> that would fit into one of the grounds and the discriminated person is not able to comply with the rule. <del>eg race, compared to people without that attribute or characteristic, and the rule is unreasonable in the circumstances.</del></u>
<b><u>employee</u></b>	<u>everyone who works for or with the Shire of Mundaring (workers) including line managers, full-time, part-time, or casual, temporary, or permanent employees, student placements apprentices, trainees, contractors, sub-contractors, and volunteers, with the exception of council members.</u>
<b><u>grievance officer</u></b>	<u>a person trained to conduct formal investigations and resolve informal complaints.</u>
<b><u>line manager</u></b>	<u>persons responsible for day-to-day supervision of workers, including supervisors, coordinators, managers, Directors, eChief eExecutive eOfficer and eShire pPresident.</u>

#### 4. POLICY

##### 4.1. Overview

The Shire of Mundaring is an Equal Opportunity Employer committed to providing a safe workplace that is free from workplace behaviours that are unlawful or a risk to health and safety harassment, discrimination and bullying; and one where diversity is valued and encouraged. The Shire is committed to making decisions in relation to recruitment, selection and

promotions based on merit only and not affected by irrelevant personal characteristics.

This policy is part of the Shire's risk management strategy in relation to its positive duty to identify, assess, eliminate and audit risks for the Shire.

Depending on the circumstances and outcome of any investigation:

- ~~• Elected Members who engage in misconduct as outlined in this policy may be suspended or disqualified from holding office.~~
- ~~• Employees who engage in misconduct as outlined in this policy may be subject to disciplinary action, which may include dismissal.~~

This policy is consistent with the Shire's Values, the Code of Conduct for Council Members, Committee Members and Candidates" (1.1) and the "Code of Conduct for Employees" (4.15).

## 4.2. Responsibilities

### 4.2.1. ~~Council~~Elected Members

~~Shire of Mundaring Elected Members must be aware of this policy. They~~Council members are responsible for ensuring that:

- Their behaviour in the workplace complies with this policy.
- They must inform the Chief Executive Officer or Shire President as soon as possible if they observe behaviour in the workplace that they think may contravenes this policy.
- They seek assistance from the Chief Executive Officer if they have any questions in relation to this policy.
- They respect confidentiality in relation to any complaint made or any suspected inappropriate conduct.

~~Elected Council M~~members may be personally liable for their actions if they do not comply with the above requirements.

Complaints regarding council members will be dealt with in accordance with the "Code of Conduct for Council Members, Committee Members and Candidates" (1.1), Corruption Crime and Misconduct Act 2003 (WA), the Act and the Local Government (Model Code of Conduct) Regulations 2021, and subject to disciplinary action up to and including suspension and disqualification from holding office.

### 4.2.2. All Employees

All employees ~~at Shire of Mundaring~~ must be aware of this policy. They are responsible for ensuring that:

- Their behaviour in the workplace complies with this policy.
- They seek assistance from a line manager, contact officer, grievance officer or HR People and Culture if they have any questions in relation to this policy.
- They must inform a line manager, or Human Resources (HR) People and Culture or a Grievance Officer as soon as possible if they observe behaviour that may contravene this policy.

- ~~• They seek assistance from a manager or HR if they have any questions in relation to this policy.~~
- They respect the confidentiality of any complaint made and avoid gossip in relation to any suspected inappropriate conduct.

Employees may be personally liable for their actions if they do not comply with the above requirements.

Unlawful behaviours and other safety breaches outlined in this policy will not be tolerated at the Shire. An employee who engages in any conduct that constitutes the behaviours as defined in this policy will be subject to disciplinary action up to and including dismissal.

#### 4.2.3. Line Managers/Supervisors

~~Line mManagers and supervisors have a greater responsibility in the workplace. In addition to the all employee requirements Managers and Supervisors will model appropriate standards of behavior in the workplace and~~ must also:

- Apply this policy in the workplace to ensure that all employees are protected from workplace behaviours that are unlawful or a risk to health and safety-harassment, discrimination and bullying.
- ~~• Demonstrate a higher standard of behaviour compared with other employees and must act as a role model for appropriate standards of behaviour.~~
- Manage Investigate a complaint in accordance with the Shire's policies and Pprocedures for Management of Grievances.
- Not victimise a person for making a complaint in good faith.

~~Line Mmanagers and supervisors~~ may be personally secondary liable for their actions if they do not comply with the above requirements.

Any line manager who is made aware of any of the behaviours outlined in this policy and who does not deal with the conduct appropriately or report the conduct to the appropriate personnel will also be subject to disciplinary action.

#### 4.2.4. Employer

~~Employers-The Shire~~ must:

- Do all that is reasonably practicable to eliminate and/or minimise risk in relation to unlawful behaviours and possible safety breaches.
- ~~Ensure-Make~~ this Ppolicy is accessible to all employees and others bound by ~~the Policy~~it.
- Include discussion of this policy in the employee induction program.

- Educate all employees in relation to their rights and responsibilities in relation to unlawful workplace behaviours and possible safety breaches harassment, discrimination and bullying.
- Educate line managers and supervisors in relation to their extra-responsibilities and duties because of their role in the organisation.
- Either have trained Grievance Officers or an external investigator to investigate complaints.
- Have trained contact officers people available to support employees throughout the process and/or offer free access to an external confidential counseling/support service.

The Shire has a legal obligation to eliminate, as far as practicable, the behaviours outlined in this document which are consistent with the legislation listed below.

#### 4.3. Grounds of Discrimination

~~Discrimination can be either direct or indirect.~~

~~**Direct discrimination** is when a person is treated less favourably than another person in the same or similar circumstances based on one or more of the grounds and in one of the areas of public life covered by the *Equal Opportunity Act 1984* (the Act).~~

~~**Indirect Discrimination** occurs when an apparently neutral rule (policy, procedure or practice) has a negative effect on a substantially higher proportion of people with a particular attribute or characteristic, eg race, compared to people without that attribute or characteristic, and the rule is unreasonable in the circumstances.~~

~~**Systemic discrimination** may occur in service delivery where agencies cater to the dominant majority group, and people from minority groups may miss out on essential services due to barriers. Hence it is necessary to provide services differently because people have different needs.~~

~~**Substantive equality** involves preventing or addressing systemic discrimination and achieving equitable outcomes as well as equal opportunity. Substantive equality recognises that equal or the same application of rules to unequal groups can have unequal results.~~

#### **Grounds of Discrimination**

The *Equal Opportunity Act 1984* (the Act) sets out the types or grounds of discrimination which are unlawful. They are:

- gender
- race (includes colour, ethnicity, national origin, language)
- impairment or disability
- age
- pregnancy or potential pregnancy
- breastfeeding
- marital status
- family responsibility

- family status
- political conviction
- religious conviction
- gender identity/history/transgender
- sexual Orientation
- intersex status
- spent conviction
- trade union membership/activities
- publication of name in the fines enforcement register website
- medical record.

~~Publication of name in the fines enforcement register website~~

~~The Act may also apply to a relative or a person who has a close relationship to a person affected by these grounds.~~

~~The Commissioner for Equal Opportunity also deals with complaints on the ground of spent convictions in the area of employment; and victimisation from having made a disclosure under the *Public Interest Disclosure Act 2003*.~~

~~In addition, the *Industrial Relations Act 1979* and *Fair Work Act 2009* (Cth) provide protection for persons in relation to membership or non-membership of an industrial association; and participation or non-participation in industrial activity as defined within the relevant legislation.~~

### **HARASSMENT**

~~Under the Act it is unlawful to sexually harass a person or harass a person because of their race. Sexual and racial harassment only apply in the areas of employment, education and accommodation.~~

#### **Sexual Harassment**

~~Sexual harassment is unwelcome conduct of a sexual nature that a reasonable person would be offended, humiliated or intimidated by. The conduct includes unwelcome physical touching, intrusive questions about a person's private life or body, sexually explicit communications, requests for sexual favours.~~

~~It does not matter that a person did not mean to be offensive. It can involve a single incident depending on the facts of the case.~~

#### **Racial Harassment**

~~Racial harassment is when a person is threatened, abused, insulted or taunted about their race (including colour, descent, ethnicity, national origin or nationality); and they believe they have or will be disadvantaged for objecting to the unwanted behaviour.~~

#### **The Areas of Public Life Where the Act Can Apply**

- ~~Employment~~
- ~~Accommodation~~
- ~~Education~~
- ~~Provision of goods, services and facilities~~
- ~~Access to places and vehicles~~

- ~~Disposal of land~~
- ~~Clubs~~
- ~~Application forms~~
- ~~Advertising~~
- ~~Superannuation and Insurance~~

#### 4.4. Bullying

~~Bullying is repeated unreasonable or inappropriate behavior that is directed towards an employee, or group of employees, that creates a risk to health and safety. Behaviours that may constitute bullying include but are not limited to:~~

- ~~sarcasm, threats, loud, abusive, offensive, and other forms of demeaning language~~
- ~~coercion~~
- ~~inappropriate blaming~~
- ~~ganging up~~
- ~~constant unconstructive and unjustified criticism~~
- ~~deliberately withholding information or equipment that a person needs to do their job or access their entitlements, or acts of sabotaging another's work~~
- ~~unjustified threats of dismissal or other disciplinary action~~
- ~~spreading malicious rumours or misinformation~~
- ~~inappropriate comments about a worker's appearance, lifestyle or family~~
- ~~deliberately excluding a worker from workplace meetings or activities~~
- ~~unreasonable refusal of requests for leave, training, or other workplace benefits~~
- ~~constantly changing targets or work guidelines~~
- ~~overloading a worker with work and impossible deadlines~~
- ~~threats of or actual, assault or violence~~
- ~~teasing and practical jokes~~
- ~~isolating or ignoring a worker on a constant basis.~~

~~Where a worker makes a threat of violence or assaults another worker, the police should be called.~~

#### **Discipline**

~~Discrimination, harassment and bullying will not be tolerated in Shire of Mundaring. An employee who engages in any conduct that constitutes unlawful discrimination, harassment or bullying as defined in this policy will be subject to disciplinary action up to and including dismissal.~~

~~Any Manager who is made aware of any of the behaviours outlined in this policy and who does not deal with the conduct appropriately or report the conduct to the appropriate personnel will also be subject to disciplinary action, up to and including dismissal.~~

#### **Managing A Complaint**



~~Every allegation of discrimination, harassment and bullying made against an employee will be investigated by Shire of Mundaring in accordance with Procedure HR-09 Management of Grievances.~~

~~If after the investigation it is found that an employee has breached this policy then appropriate disciplinary action will be taken up to and including dismissal. Refer to Procedure HR-25 Management of Suspected Misconduct.~~

~~Prior to lodging a complaint an employee may seek the support of an appropriate person to talk through the situation. An appropriate person could be internal to Shire of Mundaring such as a Manager or HR or external to Shire of Mundaring such as the Shire's counseling service ( Relationships Australia 1300 364 277.)~~

~~At any stage in the process an employee may choose to make a complaint external to Shire of Mundaring and can lodge a complaint with the Equal Opportunity Commission, Australian Human Rights Commission, WorkSafe and/or the Fair Work Commission.~~

~~Complaints regarding Elected Members will be dealt with in accordance with the *Local Government Act 1995* and the *Local Government (Rules of Conduct) Regulations 2007*.~~

#### **~~Victimisation~~**

~~Any employee who has made a complaint, or is a witness to a complaint in relation to discrimination, harassment or bullying will not be discriminated against or suffer any other disadvantage for having made a complaint in good faith.~~

#### **~~Vexatious Complaints~~**

~~If a complaint is made by an employee and is subsequently found to be a frivolous or vexatious complaint then the employee who made the complaint will be subject to disciplinary action up to and including dismissal.~~

## **5. RELATED LEGISLATION**

*Equal Opportunity Act 1984* ([WA](#))

*Racial Discrimination Act 1975* (Cth)

*Sex Discrimination Act 1984* (Cth)

[Australian Human Rights and Equal Opportunity Commission Act 1986](#) (Cth)

*Disability Discrimination Act 1992* (Cth)

*Age Discrimination Act 2004* (Cth)

*Spent Convictions Act 1988*

*Public Interest Disclosure Act 2003*

*Disability Services Act 1993*

[Corruption Crime and Misconduct Act 2003](#)

[Local Government Act 1995](#)

7000 Great Eastern Highway Mundaring WA 6073 Ph: 9290 6666 [shire@mundaring.wa.gov.au](mailto:shire@mundaring.wa.gov.au) [www.mundaring.wa.gov.au](http://www.mundaring.wa.gov.au)

Local Government (~~Rules Model Code~~ of Conduct) Regulations ~~2007~~2021  
Industrial Relations Act 1979 (WA)  
Fair Work Act 2009 (Cth)  
Minimum Conditions of Employment Act 1993 (WA)  
Work Health and Safety Act 2020 (WA) and its related regulations and codes

## 6. RELATED DOCUMENTS

Code of Conduct for Council Members, Committee Members and Candidates (1.1) ~~OR-12~~

Code of Conduct Behaviour Complaints (2.7)

Fraud and Corruption Control Policy (OR-25)

Code of Conduct for Employees ~~OR-12~~ (4.15)

Grievance CEO Policy (4.X)

Hazard and Risk Management CEO Policy (4.30)

~~AS-02 Complaints Management System~~ Managing and Responding to Dealing with Threats, Aggressive Behaviour and Violence from Members of the Public Guidelines

Hazard and Risk Management Procedure

~~HR-09~~ Management of Grievances Procedure

~~HR-25~~ Management of Suspected Misconduct Procedure

Work Health and Safety Incident Reporting and Investigation Management Procedure

## Shire of Mundaring

**POLICY****EQUAL EMPLOYMENT OPPORTUNITY AND ANTI-BULLYING**

<b>Policy Ref:</b>	<b>HR-01</b>
<b>Committee Rec:</b>	SPC 184
<b>Adopted:</b>	R25410
<b>Amended:</b>	C3.03.16
<b>Reviewed:</b>	C6.06.20
<b>Procedure Ref:</b>	HR-09 Management of Grievances HR-25 Management of Suspected Misconduct
<b>Policy Ref:</b>	OR-12 Code of Conduct AS-02 Complaints Management System
<b>Statute Ref:</b>	<i>Equal Opportunity Act 1984</i> <i>Racial Discrimination Act 1975 (Cth)</i> <i>Sex Discrimination Act 1984 (Cth)</i> <i>Human Rights and Equal Opportunity Commission Act 1986 (Cth)</i> <i>Disability Discrimination Act 1992 (Cth)</i> <i>Age Discrimination Act 2004 (Cth)</i> <i>Spent Convictions Act 1988</i> <i>Public Interest Disclosure Act 2003</i> <i>Disability Services Act 1993</i> <i>Local Government (Rules of Conduct) Regulations 2007</i> <i>Industrial Relations Act 1979</i> <i>Fair Work Act 2009 (Cth)</i>
<b>Local Law Ref:</b>	N/A

**PURPOSE**

To provide a positive, inclusive and harassment free workplace culture.

**Overview**

Shire of Mundaring is an Equal Opportunity Employer committed to providing a safe workplace that is free from harassment, discrimination and bullying; and one where diversity is valued and encouraged. The Shire is committed to making decisions in relation to recruitment, selection and promotions based on merit.

Depending on the circumstances and outcome of any investigation:

- Elected Members who engage in misconduct as outlined in this policy may be suspended or disqualified from holding office.
- Employees who engage in misconduct as outlined in this policy may be subject to disciplinary action, which may include dismissal.

**Scope**

This policy applies:

- To everyone who works at the Shire, including employees, potential employees, trainees, volunteers and contractors, regardless of whether they work full time, part-time or as casual staff.
- In the workplace and at any other place where a person is a representative of Shire of Mundaring including work outside normal work hours and at work related events such as conferences, training events and social.

## **Responsibilities**

### **Elected Members**

Shire of Mundaring Elected Members must be aware of this policy. They are responsible for ensuring that:

- Their behaviour in the workplace complies with this policy.
- They must inform the Chief Executive Officer or Shire President as soon as possible if they observe behaviour in the workplace that may contravene this policy.
- They seek assistance from the Chief Executive Officer if they have any questions in relation to this policy.
- They respect confidentiality in relation to any complaint made or any suspected inappropriate conduct.

Elected Members may be personally liable for their actions if they do not comply with the above requirements.

### **All Employees**

All employees at Shire of Mundaring must be aware of this policy. They are responsible for ensuring that:

- Their behaviour in the workplace complies with this policy.
- They must inform a manager or Human Resources (HR) or a Grievance Officer as soon as possible if they observe behaviour that may contravene this policy.
- They seek assistance from a manager or HR if they have any questions in relation to this policy.
- They respect the confidentiality of any complaint made and avoid gossip in relation to any suspected inappropriate conduct.

Employees may be personally liable for their actions if they do not comply with the above requirements.

### **Managers/Supervisors**

Managers and supervisors have a greater responsibility in the workplace. In addition to the all employee requirements Managers and Supervisors must also:

- Apply this policy in the workplace to ensure that all employees are protected from harassment, discrimination and bullying.
- Demonstrate a higher standard of behaviour compared with other employees and must act as a role model for appropriate standards of behaviour.
- Investigate a complaint in accordance with the Procedure for Management of Grievances.
- Not victimise a person for making a complaint.

Managers and supervisors may be personally liable for their actions if they do not comply with the above requirements.

### **Employer**

Employers must:

- Ensure this Policy is accessible to all employees and others bound by the Policy.
- Include discussion of this policy in the Employee Induction Program.
- Educate all employees in relation to their rights and responsibilities in relation to harassment, discrimination and bullying.
- Educate managers and supervisors in relation to their extra responsibilities and duties because of their role in the organisation.
- Either have trained Grievance Officers or an external investigator to investigate complaints.
- Have trained people available to support employees throughout the process and/or offer free access to an external confidential counseling/support service.

### **Discrimination**

Discrimination can be either direct or indirect.

**Direct discrimination** is when a person is treated less favourably than another person in the same or similar circumstances based on one or more of the grounds and in one of the areas of public life covered by the *Equal Opportunity Act 1984* (the Act).

**Indirect Discrimination** occurs when an apparently neutral rule (policy, procedure or practice) has a negative effect on a substantially higher proportion of people with a particular attribute or characteristic, eg race, compared to people without that attribute or characteristic, and the rule is unreasonable in the circumstances.

**Systemic discrimination** may occur in service delivery where agencies cater to the dominant majority group, and people from minority groups may miss out on essential services due to barriers. Hence it is necessary to provide services differently because people have different needs.

**Substantive equality** involves preventing or addressing systemic discrimination and achieving equitable outcomes as well as equal opportunity. Substantive equality recognises that equal or the same application of rules to unequal groups can have unequal results.

### **Grounds of Discrimination**

The *Equal Opportunity Act 1984* (the Act) sets out the types or grounds of discrimination which are unlawful. They are:

- Gender
- Race (includes colour, ethnicity, national origin)
- Impairment or disability
- Age
- Pregnancy or potential pregnancy
- Breastfeeding
- Marital Status
- Family Responsibility
- Family Status
- Political Conviction
- Religious Conviction
- Gender History
- Sexual Orientation
- Publication of name in the fines enforcement register website

The Act may also apply to a relative or a person who has a close relationship to a person affected by these grounds.

The Commissioner for Equal Opportunity also deals with complaints on the ground of spent convictions in the area of employment; and victimisation from having made a disclosure under the *Public Interest Disclosure Act 2003*.

In addition, the *Industrial Relations Act 1979* and *Fair Work Act 2009* (Cth) provide protection for persons in relation to membership or non-membership of an industrial association; and participation or non-participation in industrial activity as defined within the relevant legislation.

## **Harassment**

Under the Act it is unlawful to sexually harass a person or harass a person because of their race. Sexual and racial harassment only apply in the areas of employment, education and accommodation.

### **Sexual Harassment**

Sexual harassment is unwelcome conduct of a sexual nature that a reasonable person would be offended, humiliated or intimidated by. The conduct includes unwelcome physical touching, intrusive questions about a person's private life or body, sexually explicit communications, requests for sexual favours.

It does not matter that a person did not mean to be offensive. It can involve a single incident depending on the facts of the case.

### **Racial Harassment**

Racial harassment is when a person is threatened, abused, insulted or taunted about their race (including colour, descent, ethnicity, national origin or nationality); and they believe they have or will be disadvantaged for objecting to the unwanted behaviour.

### **The Areas of Public Life Where the Act Can Apply**

- Employment
- Accommodation
- Education
- Provision of goods, services and facilities
- Access to places and vehicles
- Disposal of land
- Clubs
- Application forms
- Advertising
- Superannuation and Insurance

## **Bullying**

Bullying is repeated unreasonable or inappropriate behavior that is directed towards an employee, or group of employees, that creates a risk to health and safety.

## **Discipline**

Discrimination, harassment and bullying will not be tolerated in Shire of Mundaring. An employee who engages in any conduct that constitutes unlawful discrimination, harassment or bullying as defined in this policy will be subject to disciplinary action up to and including dismissal.

Any Manager who is made aware of any of the behaviours outlined in this policy and who does not deal with the conduct appropriately or report the conduct to the appropriate personnel will also be subject to disciplinary action, up to and including dismissal.

## **Managing a Complaint**

Every allegation of discrimination, harassment and bullying made against an employee will be investigated by Shire of Mundaring in accordance with [Procedure HR-09 Management of Grievances](#).

If after the investigation it is found that an employee has breached this policy then appropriate disciplinary action will be taken up to and including dismissal. Refer to [Procedure HR-25 Management of Suspected Misconduct](#).

Prior to lodging a complaint an employee may seek the support of an appropriate person to talk through the situation. An appropriate person could be internal to Shire of Mundaring such as a Manager or HR or external to Shire of Mundaring such as the Shire's counseling service ( Relationships Australia 1300 364 277.)

At any stage in the process an employee may choose to make a complaint external to Shire of Mundaring and can lodge a complaint with the Equal Opportunity Commission, Australian Human Rights Commission, WorkSafe and/or the Fair Work Commission.

Complaints regarding Elected Members will be dealt with in accordance with the *Local Government Act 1995* and the *Local Government (Rules of Conduct) Regulations 2007*.

## **Victimisation**

Any employee who has made a complaint, or is a witness to a complaint in relation to discrimination, harassment or bullying will not be discriminated against or suffer any other disadvantage for having made a complaint in good faith.

## **Vexatious Complaints**

If a complaint is made by an employee and is subsequently found to be a frivolous or vexatious complaint then the employee who made the complaint will be subject to disciplinary action up to and including dismissal.



## **7.0 URGENT BUSINESS (LATE REPORTS)**

Nil

## **8.0 CLOSING PROCEDURES**

### **8.1 Date, Time and Place of the Next Meeting**

The next Governance Committee will be held on Monday, 15 April 2024 at 5.30pm in the Committee Room, Shire of Mundaring Administration Centre.

### **8.2 Closure of the Meeting**

The Presiding Member closed the meeting at 6.09pm.