

Shire of Mundaring

POLICY

EQUAL EMPLOYMENT OPPORTUNITY AND ANTI-BULLYING

Policy Ref:	HR-01		
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Procedure Ref:	HR-09 Management of Grievances HR-25 Management of Suspected Misconduct		
Policy Ref:	OR-12 Code of Conduct AS-02 Complaints Management System		
Statute Ref:	<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>		
Local Law Ref:	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.