

# Anti-Discrimination, Bullying and Harassment

## Council Policy 146



Policy Number	<b>CP146</b>
Area Responsible	<b>Human Resources</b>
Strategic Plan Reference	<b>4 A Supportive Organisation</b>
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Next Review Date	<b>Every three years</b>

### 1. Purpose

To ensure MacDonnell Regional Council (MRC) provides a safe, flexible and respectful environment, free from all forms of discrimination, harassment and bullying.

### 2. Scope

The policy applies to Elected and Local Authority members, employees, volunteers and contractors.

The policy is applicable when:

- working at an MRC premises; working off-site or after hours for MRC; attending an MRC work-related social function; representing MRC at a conference or function – wherever and whenever an individual may be as a result of their MRC duties.
- some interactions happen between colleagues outside of the workplace
- any aspect of employment, recruitment and selection; conditions and benefits; training and promotion; task allocation; shifts; hours; leave arrangements; workload; equipment and transport are undertaken.

### 3. Policy Objectives

The objectives of this policy are:

- to ensure all individuals treat others with dignity, courtesy and respect
- to inform individuals what constitutes discrimination, bullying and harassment
- to inform all parties of their responsibility as individuals with regard to discrimination, bullying and harassment
- to guide the MacDonnell Regional Council in their responsibility as an organisation with regard to discrimination, bullying and harassment
- to support the MacDonnell Regional Council Equal Opportunity/Diversity Policy
- to create a safe, positive and healthy work environment

### 4. Policy Statement

MacDonnell Regional Council (MRC) aims to achieve a harmonious workplace and recognises the right of all people who interact with us to be treated with dignity and respect.

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MRC aims to provide a safe, positive and healthy work environment for all, which is free from discrimination, bullying and harassment.

Anyone covered under this policy must not engage in unacceptable conduct in the workplace. Unacceptable conduct is defined below as: discrimination, harassment and bullying. Just because someone does not object to inappropriate behaviour in the workplace at the time the behaviour occurs, does not mean that they are consenting to the behaviour.

The Council will promote appropriate standards of conduct in accordance with the code of conduct at all times, take appropriate action against any person who breaches this policy and implement strategies and support systems to ensure all parties know their rights and responsibilities and are protected in relation to those rights.

### **Discrimination**

Discrimination is treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by the law, such as sex, age, race or disability.

It is also against the law to treat someone unfavourably because you assume they have a personal characteristic or may have it at some time in the future.

Discrimination can occur:

- Directly, when a person or group is treated less favourably than another person or group in a similar situation because of a personal characteristic protected by law. e.g. an individual is harassed and humiliated because of their race, or an individual is refused promotion because they are 'too old'.
- Indirectly, when an unreasonable requirement, condition or practice is imposed that has, or is likely to have, the effect of disadvantaging people with a personal characteristic protected by law (see list below). e.g. redundancy is decided based on people who have had a worker's compensation claim rather than on merit.

Protected personal characteristics under anti-discrimination law include:

- a disability, disease or injury, including work-related injury
- parental status or status as a carer, for example, because they are responsible for caring for children or other family members
- race, colour, descent, national origin, or ethnic background
- age, whether young or old, or because of age in general
- sex
- industrial activity, including being a member of an industrial organisation like a trade union or taking part in industrial activity, or deciding not to join a union
- religion
- pregnancy and breastfeeding
- sexual orientation, intersex status or gender identity, including gay, lesbian, bisexual, transsexual, transgender and heterosexual
- marital status, whether married, divorced, unmarried or in a de facto relationship or same sex relationship
- political opinion
- social origin

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- irrelevant medical record
- irrelevant criminal record
- an association with someone who has, or is assumed to have, one of these characteristics, such as being the parent of a child with a disability.

### Harassment

Harassment is unwelcomed behaviour that offends, humiliates, or intimidates a person because of their:

- age
- disability
- sexual preference
- religion
- skin colour or ethnicity
- gender including Pregnancy, Marital Status, Family/Carer's Responsibilities
- any other characteristic specified under anti-discrimination legislation.

Harassment can also occur when someone is working in a hostile or intimidating environment.

Examples of harassment are:

- telling insulting jokes about particular racial groups or genders
- sending offensive or insulting emails
- displaying offensive posters or screen savers
- making derogatory comments about someone's race or religion.

### Sexual harassment

Sexual harassment is a specific and serious form of harassment. It is unwelcome sexual behaviour, which could be expected to make a person feel offended, humiliated or intimidated. Sexual harassment can be physical, spoken or written.

Sexual harassment is covered in the workplace when it happens at work, at work-related events, between people sharing the same workplace, or between colleagues outside of work.

A single incident is enough to constitute sexual harassment – it doesn't have to be repeated. MRC recognises that comments and behaviour that do not offend one person can offend another.

Sexual harassment can include:

- comments about a person's private life or the way they look
- sexually suggestive behaviour, such as leering or staring
- brushing up against someone, touching, fondling or hugging
- sexually suggestive comments or jokes
- displaying offensive screen savers, photos, calendars or objects
- repeated unwanted requests to go out
- requests for sex
- sexually explicit posts on social networking sites
- insults or taunts of a sexual nature

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- intrusive questions or statements about a person's private life
- sending sexually explicit emails or text messages
- inappropriate advances on social networking sites
- accessing sexually explicit internet sites
- behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

### **Bullying**

Bullying behaviour is generally any repeated, unreasonable or less favourable treatment of a person or group by another or others in the workplace, ranging from overt physical abuse to more covert psychological abuse. Bullying can be physical, verbal, in writing and/or online (e.g. via text, internet chat rooms, instant messaging, SMS or MMS), is repeated and unreasonable, and can cause a risk to health and safety. It includes behaviour that intimidates, offends, degrades or humiliates an individual.

There is a variety of ways bullying behaviour can occur in the workplace such as verbally, through email or text message or via social media. Bullying can be directed at an individual or a group, and can be carried out by one or more persons. Bullying can occur between employees, downwards from managers to employees or upwards from employees to supervisors and managers.

Direct bullying behaviours can include (but are not limited to):

- physical or verbal abuse or insults
- yelling screaming, or offensive language
- psychological harassment including belittling, offensive or degrading remarks
- intimidation, manipulation, and/or unreasonable and persistent criticism.

Indirect bullying behaviours can include (but are not limited to):

- unjustified criticism or complaints
- deliberately excluding someone from workplace activities
- deliberately denying access to information or other resources
- withholding information that is vital for effective work performance
- setting tasks that are unreasonably above or below an employee's ability
- deliberately changing work rosters to inconvenience particular employees
- setting timelines that are very difficult to achieve
- excessive scrutiny at work
- repeatedly failing to give due credit for work and ideas.

Examples of bullying behaviour are:

- aggressive or intimidating conduct
- belittling or humiliating comments
- spreading malicious rumours
- teasing, practical jokes or 'initiation ceremonies'
- exclusion from work-related events

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- unreasonable work expectations, including too much or too little work, or work below or beyond an employee's skill level
- displaying offensive material
- pressure to behave in an inappropriate manner.
- victimisation

However, in order for it to be bullying, the behaviour must be repeated and unreasonable, and must create a risk to health and safety.

### **Victimisation**

Victimisation is defined as a person or group of people retaliating or making reprisals including dismissing or harming the employment of those who submit a complaint about harassment, bullying or discrimination. Victimisation is prohibited behaviour and persons who victimise others may be subject to prosecution similar to that for bullying or harassment.

### **Reasonable management action**

The Council has a right to take reasonable management action to direct the way in which work is conducted and to give individuals lawful and reasonable directions to complete work in a certain manner. Reasonable management action is not bullying.

Examples of reasonable management action may include (not limited to):

- the establishment and regular use of performance management systems
- the setting of reasonable performance targets and deadlines
- providing individuals with constructive feedback or counselling to assist them to improve their performance or the standard of their behaviour
- issuing a lawful and reasonable direction to an individual to complete a work task
- preparing and amending a roster for employees
- transferring an employee to a different work location for operational reasons
- implementing organisational change
- informing an individual about inappropriate behaviour in a confidential manner
- taking disciplinary action against an individual

### **Other behaviours not considered bullying**

Where two or more individuals have a difference of opinion and disagree on an issue, this is not usually considered to be workplace bullying. However, where conflict escalates and is repeated, it may meet the definition of workplace bullying.

Additionally, bullying does not occur where bullying behaviour is a one off occurrence if that behaviour does not create a risk to health and safety.

### **What to do if you think you are being discriminated against, harassed, sexually harassed or bullied?**

Refer to the Complaints and Grievances Policy & Procedures for steps to take if you think you are being discriminated against, harassed, sexually harassed or bullied, or if you suspect another person is experiencing any of those things.

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### Responsibilities of Individuals

Individuals are required to:

- Treat all individuals fairly and with respect
- Report any incidents of harassment, sexual harassment, discrimination or bullying they may see happening around them to an appropriate manager, supervisor or the CEO
- Follow all policies and procedures of MRC
- Ensure they do not victimise any person making a complaint of harassment, sexual harassment, discrimination or bullying

### Support

The MRC engages the services of an external Employee Assistance Provider (EAP) who can provide employees with confidential counselling. Please see Human Resources for details of the EAP.

## 5. Legislation and References

Related Legislation	<b>Work Health and Safety Act</b> <b>Anti Discrimination Act</b> <b>Equal Employment Opportunity Act</b> <b>Fair Work Act</b>
Related Policies	<b>Complaints and Grievances</b> <b>Disciplinary</b>
Related Procedures	<b>Disciplinary Procedure</b> <b>Complaints and Grievances Procedure</b>
Associated Documents	<b>Code of Conduct – Employee</b> <b>Code of Conduct - Council</b>

## 6. Delegation and Implementation

Delegate	<b>Director Corporate Services</b>
Implementation Officer	<b>Manager Human Resources</b>

## 7. Administration

InfoXpert file number	<b>150300</b>
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