Policy A8 – Equal Employment Opportunity

Policy Intention

To ensure the workplace is free from discrimination and harassment. Council is dedicated to providing a harmonious and safe working environment and encourages good working relationships between all employees. All recruitment, selection and employment decisions will be based on the individual merit of applicants and employees.

Policy Statement

The Shire of Murray (Shire) considers discrimination to be a serious issue and the aim of this policy is to highlight to employees the types of conduct deemed discriminatory and to explain what is meant by discrimination to assist in creating a harmonious work environment.

This means that the Shire will endeavour to ensure:

- job and career progression will be based on performance and potential to perform effectively;
- the workplace is free from any form of discrimination, bullying, sexual harassment and racial harassment;
- the philosophy and principles of Equal Employment Opportunity (EEO) will apply at all levels of the organisation, including any persons visiting/working on the Shire premises;
- employees with supervisory responsibility at all levels receive compulsory training in EEO awareness;
- employees receive regular EEO awareness training; and
- Human Resources will be available as a point of contact for anyone who wishes to raise any issues regarding EEO, which will be treated/held in the strictest confidence.

The following instructions have been designed to comply with the:

- Shire of Murray Code of Conduct Local Government Employees;
- applicable Management Practices; and
- the relevant state and federal legislation.

1. Roles and Responsibilities

It is the responsibility of all employees to report any kind of harassment or discrimination to their manager/supervisor or Human Resources.

All parties involved are to act professionally, maintain confidentiality and respect the privacy of employees who report harassment or discrimination.

Employers/Managers/Supervisors

Legal responsibility rests with the Shire to take all reasonable steps to promote and protect a non-discriminatory and harassment free work environment for all current and prospective employees. The Shire's management and supervisors must therefore make it a part of their duties to ensure that all staff in their care are treated within EEO guidelines.

Employees

Whilst it is the responsibility of management and supervisors to ensure proper standards of conduct are maintained at all times in the workplace, the Shire is of the view that these

standards cannot be successfully achieved unless employees at all levels cooperate by refusing to condone or participate in behaviour which may harass or discriminate against other employees.

These instructions have been designed with the aim of informing all employees of:

- conduct constituting harassment and discrimination; and
- action that should be taken to prevent harassment and discrimination.

The Complaint Handling Procedure below takes into consideration the sensitive nature of harassment, the need for confidentiality and the protection of the rights and reputation of both parties.

2. What the Law States

The law attempts to ensure equal employment opportunity in the following ways:

- prohibiting individual acts of discrimination on the basis of irrelevant characteristics by eliminating existing discrimination. For example, it is unlawful for an employer to refuse to promote an employee because she is female. This is dealt with in anti- discrimination legislation; and
- requiring employers to take affirmative action to overcome the effects of past discrimination against women and minority groups. This is required under the *Workplace Gender Equality Act 2012.*

3. Anti-Discrimination

The Shire aims to create an environment free from all forms of discrimination, including but not limited to:

Gender history	Race	Age
Religious conviction	Pregnancy	Family status
Impairment	Trade union activity or inactivity	Gender
Marital status	Family responsibility	Sexual orientation
Political conviction	Spent conviction	

These instructions aim to identify the different types of discrimination and the procedures to follow if you believe you are a victim of discrimination.

4. What is Discrimination?

Discrimination is essentially any practice that makes distinctions between individuals or groups of individuals *on unlawful grounds* so as to treat some less favourably than others. It can take two forms:

- direct discrimination – treating someone less favourably than another because of a characteristic, which applies or is assumed to apply, to a group to which that person belongs; or
- indirect discrimination – comes from a policy, procedure, rule or practice which appears to treat everyone equally, but which has the effect of disadvantaging individuals or groups.

5. Equal Opportunity in the Workplace

The Shire aims to ensure that minority groups in our organisation are given freedom and equality in the workplace. This involves:

- taking steps to identify and eliminate discrimination to create a level field where everyone can reach their full potential; and
- reviewing our human resources policies and practices to ensure they provide adequate support for the career progression of women and minority groups.

6. Harassment

The Shire is committed to providing a workplace where ethical and professional standards of behaviour are maintained. Harassment of any nature is considered to be unacceptable behaviour and will not be tolerated.

These administrative instructions aim to identify the different types of harassment and the process to follow if you believe you are a victim of harassment of any kind.

General Principles

Harassment is an unacceptable form of behaviour that will not be tolerated under any circumstances.

Everyone needs to work in an environment where they are free from harassment.

Disciplinary action will be taken against anyone found to be guilty of harassing a co- worker.

7. What is Harassment?

Harassment comes in many forms including, but not limited to, sexual, racial and bullying. It can be identified as physical, verbal, written or otherwise indicated. It is anything that is inappropriate, unwanted behaviour towards another person. Parties to harassment can be anyone that comes in contact with the Shire.

It is important to recognise that behaviour that may be acceptable and inoffensive to one person, can be unacceptable and deeply offensive and intimidating to another. Unintentional or misinterpreted behaviour may cause feelings of harassment.

8. Sexual Harassment

What the Law States:

Federal Law

Sexual harassment is a type of sex discrimination. Sexual harassment is any unwanted or unwelcome sexual behaviour which makes a person feel offended, humiliated or intimidated. It has nothing to do with mutual attraction or friendship.

State Law

The behaviour must be such that the harassed person has reasonable grounds to believe that if they reject the advance, refuse the request or object to the conduct they will be disadvantaged (for example dismissed, demoted or denied benefits).

Definition of Sexual Harassment

Sexual harassment does not need to be repeated or continuous, it can involve a single

incident. The harassment must be directed towards the person making the complaint. Some examples of harassment in the workplace include:

- deliberate and unnecessary physical contact, such as patting, pinching, fondling or deliberately brushing against another body, attempts at kissing;
- constant requests for drinks or dates, especially after prior refusal;
- requests for sexual favours, gestures or body movements of a sexual or intimidating nature;
- displays of offensive material, including posters, pictures, calendars, cartoons, graffiti or messages left on boards or desks;
- remarks about a person's sexual activities or private life;
- "humour" such as smutty or sexist jokes or comments;
- crude comments and suggestions;
- electronic mail messages, including offensive or discriminatory videos, graphics, jokes, messages and pornographic material downloaded from the Internet;
- telephone messages, contact through social media, screen savers (words and images), offensive telephone calls, Kris Kringle gifts; and
- innuendo, including sexually provocative remarks, suggestive or derogative comments about a person's physical appearance, inferences of sexual morality or tales of sexual performance.

It is important to be able to ascertain the difference between sexual harassment and consensual behaviour. Sexual harassment does not arise in the context of mutual attraction and friendship, which is based on mutual choice and consent.

9. Racial Harassment

What the Law States:

Federal Law

Racial harassment is a type of race discrimination. Racial harassment is any unwanted or unwelcome behaviour, in whole or in part, because of the race, colour, or national or ethnic origin of a person or group and reasonably likely in all circumstances to offend, insult, humiliate or intimidate that person or group.

State Law

Race includes colour, descent, ethnic or national origin or nationality and may comprise two or more distinct races. This means no one can harass someone else because of his/her colour, descent, national origin or nationality. It is also unlawful to harass a person because a relative or associate of that person is of a different racial identity.

Definition of Racial Harassment

Racial harassment may take many forms including threats, abuse, insults and taunts based on a person's race or a characteristic belonging to, or generally believed to belong to, a particular race.

If a person is threatened, abused, insulted or taunted about their race, colour, descent, ethnic

or national origin or nationality, and if they reasonably believe by objecting to that behaviour they will be disadvantaged in terms of their employment, education or accommodation, then they have been racially harassed under the *Equal Opportunity Act 1984* . It is the use of inappropriate language including jokes, visual material or physical behaviour against a person or persons to:

- express hostility against a person or bring a person into contempt or ridicule on the grounds of that person's colour, race or ethnic or national origins, and the behaviour is hurtful or offensive to the recipient; and/or
- incite racial disharmony.

10. Bullying

Bullying is any unsought behaviour, which humiliates, offends or intimidates someone. It includes verbal taunts and threats, physical taunts and abuse and ostracism.

The emphasis is on repetition of the conduct. The behaviour is unwelcome, unsolicited and usually not reciprocated.

In some instances, the level of bullying may constitute criminal activity. Examples of behaviour that constitutes bullying include, but are not limited to:

- recurring shouting, verbal abuse, insults, intimidating language, sarcasm or innuendo;
- constant criticism, denigration or demeaning conduct, either in private or in front of others;
- continually isolating and excluding a person from various work activities or groups;
- attempts to make competent employees appear incompetent, in the hope that they will resign or be demoted or dismissed;
- damaging or interfering with an employee's property or work equipment;
- exposing an employee to offensive pictures, signs, slogans, graffiti, etc.;
- leaving offensive messages on email, voicemail, social media etc.;
- threats of violence, or actual incidents of violence;
- overloading with work, shortening deadlines and/or reducing resources available to do the work;
- attempting to block an employee's promotion opportunities;
- "initiation" rituals, in some cases involving violence;
- constant sexual or racial harassment;
- stalking, following or loitering;
- giving regular ultimatums and/or threats of dismissal;
- repeated practical jokes, taunts, ridicule or humiliation; and
- providing ambiguous or constantly changing work instructions.

Bullying behaviour does not always involve the ill treatment of subordinates by supervisors/managers. The reverse may also apply, or it may involve employees bullying their peers, older employees bullying younger ones (and vice versa), members of one sex bullying members of the other, or longer-serving employees bullying new ones such as apprentices.

11. EEO Complaint Handling Procedure

This procedure should act as a guideline for all staff in identifying and addressing issues of harassment, discrimination and bullying.

Informal Procedure

(a) Any employee who is subjected to any form of harassment, discrimination or bullying is encouraged to take direct action by making it clear to the offender that the unwanted behaviour is unwelcome, unacceptable and offensive.

(b) Where an employee feels that they are unable to tell the harasser(s) that their behaviour is unacceptable or if the harassment does not stop when requested, the person should raise the matter with their direct supervisor/manager.

(c) It is the duty of supervisors/managers to deal with any allegation of harassment.

(d) In instances where the alleged harassment is by a direct supervisor or manager, the matter should be reported to another supervisor/manager or the Manager People Development.

(e) Where possible, and with the agreement of the employee, the matter will be dealt with by informal mediation with a person of the employee's choice.

(f) Mediation will emphasise resolution and be held in the strictest confidence.

Formal Procedure

(a) If the issue remains unresolved following the mediation, or either of the parties are not prepared to attend mediation, a formal and impartial investigation process will be commenced by the Manager People Development and/or the Shire's Industrial Relations Consultant. All discussions will be fully documented.

(b) The Manager People Development and/or the Shire's Industrial Relations Consultant will forward their recommendation to the relevant Director for review by the Director and Chief Executive Officer, and a decision will be advised to all parties involved after careful and thorough consideration and consultation.

(c) Employees found to have breached this policy will be counselled and where necessary, disciplinary action will be taken. This action may include dismissal.

(d) Where harassment has occurred by a person visiting any of the Shire's premises, they will be asked to leave the premises. Where harassment has occurred by a person not employed directly by the Shire working on the Shire's premises, they will be asked to leave and the issue will be taken up with their direct employer.

(e) Nothing in the above procedure prevents an employee from instituting a formal complaint with the Equal Opportunity Commission in the event that they are

not satisfied with the results or believe that the issue was not handled appropriately.

(f) Any employee or witness will not be disadvantaged having in good faith reported an allegation of harassment or discrimination.

(g) Disciplinary action will be taken where reporting of harassment is found to have been malicious and vexatious.

All staff are expected as a condition of employment, to conduct themselves in a manner so as

to avoid any conduct or statement which could be misconstrued. Refer to the Shire of Murray's Code of Conduct Local Government Employees for further information.

Legislation

Equal Opportunity Act 1984

Workplace Gender Equality Act 2012

Related Documents

Shire of Muray Code of Conduct Local Government Employees

Policy Detail		
Responsible Directorate	Office of the CEO	
Responsible Department	People Development	
Responsible Officer	Manager People Development	
Next Policy Review / Schedule	2028 (3-yearly)	
Council Adoption	**Date / Resolution**	28 August 2014 (OCM14/114)
Amendment Record	**Date / Resolution**	25 June 2015 (OCM15/155)
		22 February 2018 (OCM18/008)
		23 June 2022 (OCM22/070)
		18 December 2025 (OCM25/159)