

# Council Policy

Title	Discrimination, Bullying and Harassment Policy		<b>P38</b>
Type	Council Policy		
Document Owner	Human Resources Manager		
Approval Date	25 September 2019	Review Date	25 September 2022
MaGiQ Document ID	253714	Council Resolution Number	OC103/2019

## PURPOSE

To ensure the safety and wellbeing of all CDRC employees as well as other persons in the workplace are not affected as a result of; discrimination of any kind (other than positive discrimination), harassment, bullying or victimisation.

## SCOPE

This policy applies to all employees, workers, contractors, subcontractors, labour hire employees, outworkers, apprentices and volunteers.

Council will also not tolerate any discriminatory, victimising, bullying, harassing or unreasonable behaviour towards staff by any other person, including clients, visitors, family or associates of staff at the workplace.

## DEFINITION AND TERMS

**Discrimination** – Where a person is treated less favourably than another person in the same or similar circumstances for the substantial reason of their having or being perceived as having any of the following attributes:

- Age;
- Disability;
- Race, including colour, national or ethnic origin or immigrant status;
- Sex, pregnancy, marital or relationship status, family responsibilities or breastfeeding;
- Sexual orientation, gender identity or intersex status

**Positive Discrimination** – Lawful measures aimed to foster greater equality by supporting groups of people who face, or have faced, entrenched discrimination so they can have similar access to opportunities as others in the community.

**Victimisation** – Punishing or threatening to punish someone because they have:

- Asserted their rights under equal opportunity law
- Made a complaint
- Helped someone make a complaint
- Refused to do something because it would be discrimination, sexual harassment or victimisation.

# Council Policy

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**Bullying** – When an individual or group of individuals repeatedly behaves unreasonably towards a worker or a group of workers at work and that behaviour creates a risk to health and safety. Reasonable management action conducted in a reasonable manner does not constitute workplace bullying.

**Harassment** – Unwelcome behavior that intimidates, offends or humiliates a person. It may target personal characteristics such as race, age, gender, disability, religion or sexuality. Harassment does not have to be repeated behavior. Harassment can occur both inside and outside of the workplace.

**Reasonable Management Action** – Actions and Decisions Managers need to be able to make necessary decisions to respond to poor performance or if necessary take disciplinary action and effectively direct and control the way work is carried out.

**Unreasonable behaviour** – Behaviour that a reasonable person, having considered circumstances would see as unreasonable, including behavior that is victimizing, humiliating, intimidating or threatening.

**Vicarious liability** – Where an employee contravenes a law in the course of their work, both the worker and the employer may be jointly and civilly liable for the contravention and proceedings under the law may be taken against either or both.

**Vexatious complaints** – a complaint that is false, not made in good faith or done in order to cause harm or distress to an employer or a particular employee. Vexatious complaints can be a form of harassment.

**Substantiated** – established by proof or competent evidence as valid or genuine.

## LEGISLATION AND REFERENCE

*Local Government Act 2008*

*NT Work Health and Safety (National Uniform Legislation) Act 2011*

*Fair Work Act 2009*

*Anti-Discrimination Act 1992*

Central Desert Regional Council Enterprise Agreement

Local Government Award

## POLICY STATEMENT

Council expects all staff and other workers to;

- Behave in a responsible and professional manner at all time,
- Treat each other with dignity and respect,
- Be fair and honest in their dealings with others so that they do not adversely affect the health and safety of others,
- Be entitled to a workplace free from discrimination, victimisation, bullying, harassment and unreasonable behaviour.

Council will not tolerate illegal and improper staff behavior including discriminatory, victimising, bullying, harassing or unreasonable behaviour.

Any acts of victimisation or breaches of confidentiality will be considered to be a very serious breach of this policy.

Reasonable Management action carried out in a reasonable manner is not bullying. Examples of reasonable management actions include;

# Council Policy

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- Performance appraisals,
- Ongoing meetings to address underperformance,
- Counselling or disciplining a worker for misconduct,
- Investigating alleged misconduct,
- Denying a worker a benefit in relation to their employment eg, leave or study assistance,
- Refusing an employee permission to return to work due to a medical condition.

Staff should make their complaint in writing. Council will investigate any complaint and determine either it to be substantiated, not substantiated, partially substantiated or vexatious.

Positive discrimination may be employed by Council in recruitment decisions, where positions are identified as only available for a particular race or sex or preference given to a person of a particular race or sex it will be identified in the advertisement.

Council may identify roles or give preference to roles for Indigenous or Aboriginal applicants.

Council may identify roles or give preference to a particular sex of an applicant to suit an identified cultural need.

## **Responsibilities of Staff**

- Ensure that this policy is not breached at any time.
- Report illegal and improper behaviour.
- Ensure that they do not engage in any illegal or improper behavior or otherwise breach this policy.
- Offer support to anyone who is being discriminated against, victimised, bullied, harassed or in receipt of other unreasonable behaviour.
- Understand the process for making a complaint, or ask for help or advice. Report the issue to their immediate supervisor or Manager, Health and Safety Representative, Contact Officer or Human Resources.
- Maintain complete confidentiality of information and fully cooperate during the investigation of a complaint.

## **Responsibilities of Managers**

- As far as reasonably possible and practicable prevent incidents and take prompt action if breaches of the policy occur.
- Monitor the working environment to ensure that acceptable standards of conduct are observed at all times.
- Model appropriate behavior
- Ensure staff understand this policy
- Treat all complaints seriously and take appropriate action in response to complaints.
- Understand vicarious liability in relation to discrimination, victimisation, bullying, harassment and unreasonable behaviour.
- Maintain confidentiality for self and staff supervised in relation to any complaint or conduct regarding discrimination, victimisation, bullying, harassment or unreasonable behaviour.

# Council Policy

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## Responsibilities of Human Resources

- Provide information, resources and/or training to staff regarding discrimination, victimisation, bullying, harassment and unreasonable behaviour.
- Investigate complaints thoroughly and in a timely manner.
- Provide a recommendation to the CEO regarding whether or not the complaint is substantiated or not substantiated, including actions to undertake and/or disciplinary proceedings.
- Ensure that natural justice occurs in the course of any complaint, investigation or recommendation.

## Breaches of this Policy

Staff found in breach of this policy will be subject to disciplinary action which may include termination of employment.

## REVIEW HISTORY

Date	Details
25 Sept 2019	Replaced P38 Anti-workplace Bullying and Violence Policy with this policy. Rescinded P57 – Anti- sexual Harassment and Sex Discrimination Policy and P52 – Equal Employment Opportunity and Anti-Discrimination Policy