
Workplace Bullying and Harassment Policy

CONTROL:

Policy Type:	Administration
Authorised by:	Council
Head of Power:	Queensland Work Health and Safety Act 2011 Queensland Anti-Discrimination Act 1991 Federal Sex Discrimination Act 1984 Queensland Criminal Code Act 1899 DSC Code of Conduct DSC Anti-Discrimination and Equal Employment Opportunity Policy
Responsible Officer:	Chief Executive Officer
Adopted / Approved:	January 15 2018, Minute No. 2018.01.15-OM-7
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1. INTRODUCTION

1.1 PURPOSE:

The primary purpose of this policy is to set out clearly the guidelines prescribed by *Work Health and Safety Act 2011* and *Prevention of Workplace Harassment Code of Practice*. This policy outlines the Council's commitment to a safe workplace and is aimed at ensuring, so far as it reasonably can, that employees are not subjected to any form of bullying while at work. It also details the legal responsibilities of the Council and employees in relation to preventing bullying in the workplace.

1.2 POLICY OBJECTIVES:

Council is committed to providing a safe and healthy work environment in which all workers are treated fairly, with dignity and respect. Bullying is a risk to the health and safety of the workplace. It is unacceptable and will not be tolerated by the Council.

This policy sets out what is and is not workplace bullying and harassment, outlines the strategies employed by Council to prevent workplace harassment and sets out obligations for employees of Council, and actions to be taken if allegations of workplace bullying or harassment are made or witnessed.

This Policy should be read in conjunction with Council's Grievance Resolution Policy and Anti Discrimination and Equal Employment Opportunity Policy.

1.3 COMMENCEMENT OF POLICY:

This Policy will commence on adoption. It replaces all other specific Workplace Bullying and Harassment policies of Council (whether written or not).

1.4 SCOPE

This policy covers all employees of the Council (whether full-time, part-time or casual) and all persons performing work at the direction of, in connection with, or on behalf of the Council (for example contractors, subcontractors, agents, consultants, and temporary staff).

This Policy extends to all functions and places that are work related, for example, work lunches, conferences, Christmas parties and client functions.

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2. POLICY

2.1 POLICY STATEMENT:

Council is committed to ensuring a healthy and safe workplace that is free from bullying and harassment and affirms the rights of individuals to be treated fairly and with respect. Workplace harassment is unacceptable and will not be tolerated under any circumstances.

All forms of workplace harassment, including sexual, racial and other forms of personal harassment and bullying can seriously harm working conditions and have legal, ethical and financial implications for the organization. Any incidents of harassment will be regarded extremely seriously by Council and can be grounds for disciplinary action including dismissal.

3. STANDARDS AND PROCEDURES

3.1 KEY PRINCIPLES

Definitions of Workplace Harassment

3.1.1 Workplace Bullying / Harassment

- A person is subject to 'workplace harassment' if the person is subjected to repeated behaviour, other than behaviour amounting to sexual harassment, by a person, including the person's employer, co-worker or group of co-workers of the person that:
 - Is unwelcome and unsolicited
 - The person considers the behaviour to be offensive, intimidating, humiliating or threatening; and
 - A reasonable person would consider the behaviour to be offensive, intimidating, humiliating, or threatening.
- Workplace Harassment does not include:
 - Reasonable management action taken in a reasonable way by the person's employer in connection with the person's employment; or
 - A single incident of harassing type behaviour.
- Workplace harassment covers a wide scope of behaviours ranging from subtle intimidation to more obvious aggressive tactics, which may include, but is not limited to, repeat behaviour associated with:
 - Abusing a person loudly, usually when others are present;
 - Repeated threats of dismissal or other severe punishment for no reason;
 - Constant ridicule and being put down;
 - Leaving offensive messages on email, telephone or other means;
 - Sabotaging a person's work, for example, be deliberately withholding or supplying incorrect information, hiding documents or equipment, not passing on messages and getting a person into trouble in other ways;
 - Maliciously excluding and isolating a person from workplace activities;
 - Persistent and unjustified criticisms; often about petty, irrelevant or insignificant matters;
 - Humiliating a person through gestures, sarcasm, criticism and insults, often in front of customers, management or other workers;
 - Spreading gossip or false, malicious rumours about a person with an intent to cause the person harm.
- Management action may be considered as workplace harassment where it is used:
 - Primarily to offend, intimidate, humiliate or threaten workers
 - To create an environment where workplace harassment is more likely to occur.
- Legitimate and reasonable management actions and business processes, such as, actions taken to transfer, demote, discipline, redeploy, retrench or dismiss a worker

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are not considered to be workplace harassment, provided these actions are conducted in a reasonable way.

3.1.2 Discrimination

- Any act or failure to act, based in whole or in part on a person's race, colour, culture, national origin, religious belief/activity, sex, sexual preference, sexuality, gender identity, age, physical or mental disability/impairment, political belief/activity, trade union activity, pregnancy, breastfeeding needs or family responsibility, that adversely affects privileges, benefits, working conditions and results in disparate treatment, or has a disparate impact on employees or applicants.

3.1.3 Sexual Harassment

- Sexual harassment is unwelcome sexual conduct which makes a person feel offended, humiliated and/or intimidated where that reaction is reasonable in the circumstances. The reasonableness requires that a person would be offended by the respondent's conduct, or that the victim has reasonable grounds for believing he/she would be disadvantaged by objecting to the harassment, or that a reasonable person would anticipate that the victim would be offended.
- Sexual harassment can take various forms. It can involve:
 - Physical Contact – e.g. unwelcome touching, hugging, kissing, pinching.
 - Verbal Comments – e.g. consistent innuendo, jokes, insults or taunts based on your sex or intended to be provocative, unwanted invitations to go on dates or requests for sex or intrusive questions about an employee's private life or body.
 - Non-verbal Actions – e.g. Staring or leering, displays of sexually explicit pictures, sexually explicit emails or SMS messages, accessing sexually explicit internet sites, offensive body and hand movements.
 - Criminal actions - behaviour which would be an offence under the criminal law e.g. physical assault, indecent exposure, sexual assault or stalking.
- Sexual harassment is not sexual interaction, flirtation, attraction or friendship which is invited, mutual, consensual or reciprocated.
- Sexual harassment is a legally recognised form of sex discrimination. Sexual harassment and sex discrimination are both unlawful under the Sex Discrimination Act.

3.1.4 Workplace Harassment

- Workplace harassment is unwanted behaviour that offends, humiliates or intimidates a person, and targets them on the basis of a characteristic such as gender, race, or ethnicity. Workplace harassment is deemed to have taken place if;
 - The person considers the behaviour to be offensive, intimidating, humiliating or threatening; and
 - A reasonable person would consider the behaviour to be offensive, intimidating, humiliating, or threatening.
- Workplace Harassment does not include:
 - Reasonable supervisory/management action taken in a reasonable way by the person's employer in connection with the person's employment; or
 - A single incident of harassing type behaviour.
- Workplace harassment covers a wide scope of behaviours ranging from subtle intimidation to more obvious aggressive tactics, including, but not limited to:
 - Abuse;
 - Repeated threats of dismissal or other severe punishment for no reason;
 - Leaving offensive messages on email, telephone or other means;
 - Sabotaging a person's work;
 - Persistent and unjustified criticisms; or
 - Spreading gossip or malicious rumours about a person with an intent to cause the person harm.
- Management action may be considered as workplace harassment where it is used:

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- Primarily to offend, intimidate, humiliate or threaten workers
- To create an environment where workplace harassment is more likely to occur.
- Workplace harassment has detrimental effects on people and council. It can create an unsafe working environment, result in a loss of trained and talented workers, the breakdown of teams and individual relationships, and reduced efficiency. People who are harassed can become distressed, anxious, withdrawn, depressed and can lose self-esteem and self-confidence.

3.1.5 Bullying

- Workplace bullying is repeated, unreasonable behaviour, directed towards a worker or a group of workers that creates a risk to health and safety. It includes both physical and psychological risks and abuse.
- 'Repeated behaviour' refers to the persistent nature of the behaviour and can refer to a range or pattern of behaviours over a period of time (for example, verbal abuse, unreasonable criticism, isolation and subsequently being denied opportunities – ie a pattern is being established from a series of events).
- 'Unreasonable behaviour' means behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten another person.
- Bullying in the workplace is harmful not only to the target of the behaviour but damages the Council's culture and reputation. It is unacceptable and will not be tolerated.

Examples of workplace bullying

- Bullying behaviours can take many different forms, from the obvious (direct) to the more subtle (indirect). The following are some examples of both direct and indirect bullying:-

Direct bullying:

- abusive, insulting or offensive language
- spreading misinformation or malicious rumours
- behaviour or language that frightens, humiliates, belittles or degrades, including over criticising, or criticism that is delivered with yelling or screaming
- displaying offensive material
- inappropriate comments about a person's appearance, lifestyle, their family or sexual preferences
- teasing or regularly making someone the brunt of pranks or practical jokes
- interfering with a person's personal property or work equipment, or
- harmful or offensive initiation practices.

Indirect bullying:

- unreasonably overloading a person with work, or not providing enough work
- setting timeframes that are difficult to achieve, or constantly changing them
- setting tasks that are unreasonably below, or above, a person's skill level
- deliberately excluding or isolating a person from normal work activities
- withholding information that is necessary for effective work performance
- deliberately denying access to resources or workplace benefit and entitlements, for example training, leave
- deliberately changing work arrangements, such as rosters and leave, to inconvenience a particular worker or workers
- The above examples do not represent a complete list of bullying behaviours. They are indicative of the type of behaviours which may constitute bullying and therefore unacceptable to the Council.
- A single incident of unreasonable behaviour does not usually constitute bullying. However, it should not be ignored as it may have the potential to escalate into bullying behaviour.

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- A person's intention is irrelevant when determining if bullying has occurred. Bullying can occur unintentionally, where actions which are not intended to victimise, humiliate, undermine or threaten a person actually have that effect.

What does NOT constitute workplace bullying?

- Managing staff does not constitute bullying, if it is done in a reasonable manner. Managers have the right, and are obliged to, manage their staff. This includes directing the way in which work is performed, undertaking performance reviews and providing feedback (even if negative) and disciplining and counselling staff. Examples of reasonable management practices include:
 - setting reasonable performance goals, standards and deadlines in consultation with workers and after considering their respective skills and experience
 - allocating work fairly
 - fairly rostering and allocating working hours
 - transferring a worker for legitimate and explained operational reasons
 - deciding not to select a worker for promotion, following a fair and documented process
 - informing a worker about unsatisfactory work performance in a constructive way and in accordance with any workplace policies or agreements
 - informing a worker about inappropriate behaviour in an objective and confidential way
 - implementing organisational changes or restructuring, and
 - performance management processes.

3.1.6 Vilification

- Vilification is behaviour that incites others to hate, to have serious contempt for or to severely ridicule individuals or groups because of their race, religion, sexuality or gender identity.

3.2 SPECIFIC AND STANDARD

3.2.1 Policy provisions

- Council is committed to ensuring a healthy and safe workplace that is free from bullying and harassment and affirms the rights of individuals to be treated fairly and with respect. Workplace bullying and harassment shall not be engaged in by any employee or person, is unacceptable and will not be tolerated under any circumstances.
- Any incidents of bullying or harassment will be regarded as extremely serious by Council and can be grounds for disciplinary action which may include dismissal. Complaints of alleged workplace bullying or harassment found to be malicious, frivolous or vexatious may make the complainant liable for disciplinary action.
- Workplace bullying or harassment, along with other forms of sexual, racial or personal harassment can seriously undermine a person's wellbeing and working conditions, and have legal, ethical and financial implications for Council.
- It is not necessary for the 'repeat behaviour' to be the same. 'Repeat behaviour' refers to the constant nature of the behaviour and may involve a series of diverse incidents – for example, verbal abuse, sabotaging a person's work and unreasonable threats of dismissal.
- Workplace Harassment does not include single incidents, however single incidents of harassing behaviour should not be ignored or allowed, and should be dealt with in accordance with the Grievance Resolution Policy or the Complaints about the CEO Policy.
- Workplace Harassment does not include grievances about reasonable management action taken in a reasonable way. Reasonable management action may include legitimate:

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- Performance management processes
- Action taken to transfer or retrench a worker
- A decision not to provide a promotion in connection with the worker's employment
- Disciplinary actions
- Allocated work in compliance with systems and policies
- Injury and illness processes
- Business processes, such as, workplace change or restructure

3.2.2 Prevention Strategies

- Council maintains the following actions to prevent and control exposure to the risk of workplace bullying and harassment:
 - Provides all employees with workplace bullying and harassment awareness training at the point of induction, and on an ongoing basis as required.
 - Maintains and regularly communicates the Code of Conduct enshrining certain standards of behaviours expected of all employees whilst at work.
 - Maintains a Grievance Resolution Policy, which informs all persons how to make a complaint, the support systems available, options for resolving grievances and the appeal process.
 - Regularly reviews of this policy, the Grievance Resolution Policy, and provides staff training taking into account any recorded workplace incidents or perceived risks.

Some of the common risk factors which may lead to bullying and harassment

- Bullying can result from a number of different factors in a workplace, from the general culture to poor management skills. Some risk factors which make bullying more likely to occur are:
 - Organizational change - i.e. significant change in the workplace that may lead to job insecurity for example, restructure and redundancy, introduction of technology, change in management.
 - The culture – the Council's values, views and beliefs can either expressly or implicitly encourage bullying behaviours, for example, when a Council promotes aggressive behaviour as a means of ensuring its workers are performing their roles, or adopts a culture in which it is acceptable to ignore such behaviours.
 - Negative leadership styles – such as strict, autocratic management styles, which do not allow for flexibility or involvement by employees; or passive, 'laissez-faire' management styles which are characterized by a tendency to avoid decisions, inadequate supervision and little guidance to workers.
 - Inappropriate systems of work – this includes excessive workloads, unreasonable timeframes, uncertainty about roles and how they should be performed, and lack of employee support.
 - Poor work relationships – this can be characterized by poor communication between staff and management, or negative relationships with supervisors or colleagues, excessive criticism by managers and the exclusion or isolation of workers.
 - Workforce characteristics – a Council's workforce can be made up of groups of workers who may be at a higher risk of bullying because of certain characteristics: for example, young workers, new workers, apprentices, injured workers, workers in a minority group because of their race, disability, religion, gender or sexual preference.

3.2.3 Legal Responsibilities

- Everyone at the workplace has a legal responsibility to prevent bullying from occurring.
- Under relevant health and safety legislation (the "Legislation") the Council has the primary duty to eliminate or minimise, as far as reasonably practicable, the risks to

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health and safety in the workplace. This duty includes the implementation of strategies to prevent workplace bullying. This policy will assist the Council in complying with its legal responsibilities.

- Workers are also required under the Legislation to take reasonable care for their own health and safety, as well as that of others at the Council's workplace. They must also comply with any reasonable instruction given by the Council. Compliance with this policy will assist workers in meeting their legal responsibilities.

3.2.4 Responsibilities of Employees

- Council requires all employees to:
 - Comply with this policy and the Code of Conduct.
 - Ensure they do not engage in any conduct which may constitute bullying or harassment towards other workers, customers/clients or others with whom they come into contact through work.
 - Ensure they do not aid, abet or encourage other persons to engage in bullying or harassment behaviour.
 - Immediately report all incidents of workplace bullying or harassment in accordance with the Grievance Resolution Policy.
 - Maintain privacy and confidentiality during investigations.
 - Not make complaints that are malicious, vexatious or lacking in substance.

3.2.5 Responsibility of Managers and Supervisors

- Council requires all managers and supervisors to:
 - Personally demonstrate appropriate behaviour at all times by not engaging in workplace bullying or harassment.
 - Comply with and regularly promote and communicate this policy and the Code of Conduct.
 - Ensure all staff who report to them are aware and understand this policy and their responsibility to comply with it.
 - Ensure all staff who report to them understand that any harassment or bullying in any form is unacceptable and will not be tolerated by the Council.
 - Act promptly and appropriately if they observe harassment or bullying behaviours.
 - Ensure that all staff who report to them understand that they should report any bullying behaviour.
 - Ensure all staff who report to them are aware and understand the Grievance Resolution Policy.
 - Act promptly if a complaint is made. If this is not possible, or is inappropriate, inform the Complaints Contact Person as soon as possible.
 - Recognise the risk factors that may lead to workplace bullying and harassment, and develop intervention strategies to mitigate these risks.
 - Treat all incidents and complaints of workplace harassment seriously and encourage open communication.
 - Ensure persons lodging complaints are not victimised and, as is reasonably possible, that confidentiality in dealing with complaints of workplace bullying and harassment is maintained.

3.2.6 Responsibility of Other Persons

- Council requires all persons entering a Council workplace to:
 - Ensure they do not engage in workplace bullying and harassment.
 - Not tolerate unacceptable behaviour.
 - Immediately report all incidents of workplace bullying or harassment in accordance with the Grievance Resolution Policy complaints handling system.
 - Maintain privacy and confidentiality during investigations.
 - Not make complaints that are malicious, vexatious or lacking in substance.

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3.2.7 Assistance to Staff

- A staff member who believes they are being bullied or harassed, or wishes to report another employee being bullied or harassed should follow the Grievance Resolution Policy.

3.2.8 Commitment to Promptly Investigate Complaints

- Council has a Grievance Resolution Policy which includes procedures for reporting, investigating, resolving and appealing workplace bullying and harassment complaints. Any report of workplace bullying and harassment will be treated seriously and investigated promptly, fairly and impartially with a view to resolving the matter within a reasonable period of time.

3.2.9 Consequences for a Breach of Policy

- The Council takes very seriously its commitment to providing a safe and healthy work environment, free from bullying. All workers are required to comply with this policy.
- If an employee breaches this policy, they may be subject to disciplinary action. In serious cases this may include termination of employment. Agents and contractors (including temporary contractors) who are found to have breached this Policy may have their contracts with the Council terminated or not renewed.
- The CEO, in seeking to achieve a resolution in relation to found cases of workplace harassment, will consider the appropriate course of action. Examples may include, but are not limited to:
 - Written or verbal apology.
 - Awareness raising educational sessions.
 - Professional support or counselling.
 - Special or compassionate leave for complainant.
 - Termination or non-renewal of contract for contractors
 - Disciplinary action (which may include Formal Warning, Demotion, Dismissal, Suspension, or Transfer).
- If allegations of workplace harassment are not substantiated and are not deemed to be malicious or vexatious, the CEO shall explain to all parties the reason why the complaint cannot be supported, i.e. no evidence to support the claim; the claim does not breach legal or council guidelines for workplace bullying or harassment.

3.2.10 Malicious or Vexatious Claims

- A central objective of this Policy is to provide an avenue for any staff member with a genuine concern, either real or perceived, to raise the matter and have it addressed. If the investigator finds that the complaint was malicious or vexatious, the recommendation to management may include appropriate disciplinary or supportive actions for the complainant.

3.2.11 External Investigations

- Council would prefer that the matter was raised internally initially, providing council with the opportunity to investigate and resolve. However, employees may take their complaint of workplace bullying, harassment or discrimination directly to the Anti Discrimination Commission Queensland (ADCQ), Human Rights and Equal Opportunity Commission or Workplace Health & Safety.

3.2.12 Appeals

- Any person who is directly involved in the investigation and is dissatisfied with the process may appeal to the CEO in person or in writing.

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4. REFERENCE AND SUPPORTING INFORMATION

4.1 DEFINITIONS:

To assist in interpretation, the following definitions shall apply:

Word / Term	Definition
Council	Means Diamantina Shire Council.
Complaints Contact Person	The complaints contact person is the Human Resources Officer or if this position is vacant the person acting in this role.

4.2 RELATED POLICIES, LEGISLATION AND DOCUMENTS:

Links to supporting documentation
Queensland Workplace Health and Safety Act 1995
Queensland Anti-Discrimination Act 1991
Federal Sex Discrimination Act 1984
Queensland Anti-Discrimination Act 1999
Queensland Workplace Health and Safety Act 1995
Queensland Prevention of Workplace Harassment Code of Practice 1994
Queensland Criminal Code Act 1899
DSC Equal Employment Opportunity Policy
Code of Conduct

4.3 VERSION CONTROL:

Previous Version Number	Adopted/Approved Date
Original	March 16 2015, Minute No. 2015.03.16-OM-19
Version 2	January 16 2017; Minute No. 2017.01.16-OM-7