
Anti-Discrimination and Equal Employment Opportunity Policy

CONTROL:

Policy Type:	Administrative
Authorised by:	Council
Head of Power:	Anti-discrimination Act 1991 Local Government Act 2009
Responsible Officer:	Chief Executive Officer
Adopted / Approved:	13 December 2021, Minute No. 2021.12.13-OM-7
Last Reviewed:	November 2021
Review:	November 2023 Note: This Policy is reviewed when any of the following occur: <ol style="list-style-type: none">1. The related information is amended or replaced.2. Other circumstances as determined from time to time by the Chief Executive Officer. Notwithstanding the above, this Policy is to be reviewed at intervals of no more than two years.
Version	4

1. INTRODUCTION

1.1 PURPOSE:

Council aims to provide an environment where employees and others in the workplace are treated fairly and with respect, and are free from unlawful discrimination, harassment, vilification and bullying.

Council aims to ensure that when employment decisions are made, they are based on merit, not on irrelevant attributes or characteristics that an individual may possess. Council also tries to create a work environment which promotes good working relationships.

1.2 POLICY OBJECTIVES:

The objective of this Policy is to ensure that Council maintains a fair, equitable and professional working environment for its employees and to that same is the basis for its decisions in respect to employment.

1.3 COMMENCEMENT OF POLICY:

This Policy will commence on adoption. It replaces all other specific anti-discrimination and equal employment opportunity policies of Council (whether written or not).

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1.4 SCOPE:

This Policy applies to employees, agents and contractors (including temporary contractors) of Council, collectively referred to in this Policy as 'workplace participants'.

This Policy is not limited to the workplace or work hours. This Policy extends to all functions and places that are work related. For example, work lunches, conferences, Christmas parties and client functions. Equal Employment Opportunity (EEO) laws apply to all areas of employment, as well as the provision of goods and services.

This Policy does not form part of any employee's contract of employment. Nor does it form part of any other workplace participant's contract for service.

2. POLICY

2.1 CONTEXT:

Relevant legislation includes:

Anti-Discrimination Act

Disability Discrimination Act

Equal Opportunity in Public Employment Act

Public Sector Ethics Act

Racial Hatred Act

Sex Discrimination Act

A workplace which is fair and free from unlawful discrimination and harassment is more productive and better able to meet its business goals.

Discrimination breaches the conduct standards outlined in the Code of Conduct, in particular, Ethics Principle 2 "Respect for Persons" directly impacts on Council's standard of workplace behaviour relevant to this Policy.

2.2 POLICY STATEMENT:

This policy reflects the spirit and intent of antidiscrimination legislation in Australia. Council affirms that all employees have the right to work in an environment free from discrimination and that discrimination in any form will not be tolerated.

Discrimination may involve:

- Offensive 'jokes' or comments about another worker's racial or ethnic background, gender, sexual preference, age or disability;
- Display of pictures, computer graphics or posters which are offensive or derogatory;
- Expressing negative stereotypes of particular groups, e.g. "married women shouldn't be working";
- Judging someone on their political or religious beliefs rather than their work performance;
- Using stereotypes or assumptions to guide decision making about a person's career, access to employment promotion or training opportunities; and
- Undermining a person's authority or work performance because you dislike one of their personal characteristics.

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3. STANDARDS AND PROCEDURES

3.1 SPECIFIC AND STANDARD

3.1.1 Responsibilities

All workplace participants must:

- (a) Ensure they do not engage in any unlawful conduct towards other workplace participants, customers/clients or others with whom they come into contact through work;
- (b) Ensure they do not aid, abet or encourage other persons to engage in unlawful conduct;
- (c) Follow the Grievance Resolution Policy if they experience any unlawful conduct;
- (d) Report any unlawful conduct they see occurring to others in the workplace in accordance with the Grievance Resolution Policy; and
- (e) Maintain confidentiality if they are involved in the complaint procedure.

3.1.2 Legal Issues

- Under EEO laws, discrimination, vilification, sexual harassment, bullying and victimisation are unlawful and strictly prohibited.
- Workplace participants should be aware that they can be held legally responsible for their unlawful conduct. Workplace participants, who aid, abet or encourage other persons to engage in unlawful conduct, can also be legally liable.
- Discrimination is unlawful if it occurs because a person has:
 - A protected attribute; or
 - Characteristics that a person with a protected attribute generally possesses, e.g. an employee who is breastfeeding needs to have breaks from work to express milk.
- Harassing a person because they have a protected attribute is unlawful discrimination because it specifically disadvantages that person.

3.1.3 Breach of Policy

- All workplace participants are required to comply with this Policy at all times. 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 Council terminated or not renewed; and
- If a person makes an unfounded complaint or a false complaint in bad faith (e.g. making up a complaint to get someone else in trouble or making a complaint where there is no foundation for the complaint), that person may be disciplined and may be exposed to a defamation claim.

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.

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Word / Term	Definition
Discrimination	<p>Discrimination in employment occurs when a person is treated less favourably in their employment because of a protected attribute. Protected attributes are set by law (Federal, State and Territory laws).</p> <p>A full list of the protected attributes which operate in Queensland are set out below.</p> <ul style="list-style-type: none"> • Age; • Breastfeeding status; • Gender identity, ie a person of a particular gender identifying as a member of the opposite gender; • Physical or mental impairment; • Industrial activity, ie being involved in industrial action or a union • Lawful sexual activity; • Marital status, relationship status; • Parental status or status as carer • Political belief or activity; • Pregnancy (including potential pregnancy); • Race (including colour, nationality, descent, ethnic, ethno-religious or national origin); • Religious belief or activity; • Gender; • Sexual orientation; • Personal association with someone who has a particular attribute • HIV/AIDS victim <p>Discrimination also includes the situation where a workplace participant harasses another person based on a ground of discrimination. Harassment is unwelcome conduct that a reasonable person would expect to offend, humiliate or intimidate.</p>
Discrimination on the basis of an attribute	<p>Discrimination on the basis of an attribute includes direct and indirect discrimination on the basis of—</p> <p>(a) a characteristic that a person with any of the attributes generally has; or</p> <p>(b) a characteristic that is often imputed to a person with any of the attributes; or</p> <p>(c) an attribute that a person is presumed to have, or to have had at any time, by the person discriminating; or</p> <p>(d) an attribute that a person had, even if the person did not have it at the time of the discrimination.</p> <p><i>Example of paragraph (c)—</i></p> <p>If an employer refused to consider a written application from a person called Viv because it assumed Viv was female, the employer would have discriminated on the basis of an attribute (female sex) that Viv (a male) was presumed to have.</p>
Direct discrimination	<p>Direct discrimination is treating people in similar circumstances differently because of irrelevant characteristics or attributes or because of assumptions about the individual or group, for example:</p> <ul style="list-style-type: none"> • Denying a man a job because he is over 45; • Overlooking a person for management training because they are Vietnamese.

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Word / Term	Definition
Indirect discrimination	<p>Indirect Discrimination can be in the form of rules and practices that contain unreasonable requirements which cannot be met by most members of a particular group, for example:</p> <ul style="list-style-type: none">• Not considering an employee's overseas skills and training when determining his or her level of pay can constitute indirect race discrimination;• Promotion by seniority thus excluding many women because they have taken time out of the workforce to care for children.• An employer decides to employ people who are over 190cm tall, although height is not pertinent to effective performance of the work. <i>This disadvantages women and people of Asian origin, as there are more men of non Asian origin who can comply. The discrimination is unlawful because the height requirement is unreasonable, there being no genuine occupational reason to justify it.</i> <p>An employer requires employees to wear a uniform, including a cap, for appearance reasons, not for hygiene or safety reasons.</p> <ul style="list-style-type: none">• The requirement is not directly discriminatory, but it has a discriminatory effect against people who are required by religious or cultural beliefs to wear particular headaddress.
Equal Employment Opportunity (EEO)	<p>Equal opportunity in employment includes the principles of selection and promotion of staff on merit, which precludes irrelevant personal attributes, as well as the provision of training and development opportunities in a fair, equitable and consistent manner. Fair and transparent processes are applied in assessing the capacity of a person to perform the inherent requirements of a position, having regard to the person's knowledge, skills, qualifications and experience and their potential for future development.</p>

4.2 RELATED POLICIES, LEGISLATION AND DOCUMENTS:

Links to supporting documentation
Anti-discrimination Act 1991
Local Government Act 2009
Code of Conduct
Grievance Resolution Policy

4.3 VERSION CONTROL:

Previous Version Number	Adopted/Approved Date
Version 1 - Original	March 16 2015, Minute No. 2015.03.16-OM-17
2	October 23 2017, Minute No. 2017.10.23-OM-19
3	October 21 2019, Minute No. 2019.10.21-OM-20