

POLICY NO LG13 ANTI-DISCRIMINATION AND HARASSMENT POLICY

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| DEPARTMENT: | Governance |
| RESPONSIBLE OFFICER: | Human Resources Manager |
| LINK TO STRATEGIC PLAN: | Maintain workforce standards and procedures that ensure that the occupational health safety and welfare of employees, contractors and public is protected and enhanced. |
| STATUTORY AUTHORITY: | Anti-Discrimination Act 1998 (State) Sex Discrimination Act 1994 (Commonwealth) Grievance Policy & Process Disciplinary Policy |
| OBJECTIVE: | The objective of this policy is to ensure that Break O'Day Council is managed with a positive awareness of the spirit and intent of the Equal Opportunity and Anti-Discrimination laws and that any form of discrimination is eliminated. |
| POLICY INFORMATION: | Adopted 19 March 2012 – Minute No 03/12.15.4.069 Amended 20 April 2015 – Minute No 04/15.11.12.95 |

POLICY

1. RESPONSIBILITIES

Discrimination undermines proper working relationships. All employees at all levels are responsible for adherence to the policy.

Supervisors and managers have a responsibility to:

- Monitor the working environment to ensure that acceptable standards are being observed
- Behave in a manner consistent with the policy
- Promote adherence to the policy
- Provide support to complaints
- Provide information and advice on available options
- Undertake relevant training as required by Break O'Day Council
- Assist Break O'Day Council investigations
- Ensure that people, who make complaints, or witnesses, are not victimised in any way

All employees have a responsibility to:

- Comply with the policy
- Offer support to victims by directing them to the most appropriate channel for help
- Maintaining confidentiality of all matters relating to a complaint

2. INTRODUCTION

The Break O'Day Council is an Equal Opportunity Employer. The Break O'Day Council is managed with a positive awareness of the spirit and intent of the Equal Opportunity and Anti-Discrimination laws. Break O'Day Council will not tolerate any form of discrimination. All employees have the right to work in an environment free of discrimination and harassment. Break

O'Day Council is committed to maintaining a discrimination and harassment free work environment.

3. WHAT IS DISCRIMINATION?

- Discrimination occurs when someone is treated unfavourably because of one of their personal characteristics.
- Discrimination may involve offensive comments but is not confined to the following: 'jokes' or comments about another workers racial background, gender, sexual preference, age, disability or religious belief.
- Discrimination may also include: displaying pictures or posters which are offensive or derogatory, expressing negative stereotypes of particular groups, judging someone on their beliefs, origins, appearance, or gender rather than their work performance, or undermining a person's authority or work performance because you dislike one or some of their personal attributes.

4. SEXUAL HARASSMENT IS UNLAWFUL

Sexual Harassment is a legally recognised form of sex discrimination. It can be a breach of an employer's common law duty to take reasonable care for the health and safety of workers.

5. WHAT IS SEXUAL HARASSMENT?

Sexual Harassment is any unwanted, unwelcome or uninvited behaviour of a sexual nature which makes a person feel humiliated, intimidated or offended.

Sexual Harassment is not just unlawful whilst at work. Behaviour that constitutes sexual harassment is illegal during any work related function and will be subject to disciplinary action.

Examples of unwelcome behaviour that could be considered sexual harassment include:

- Jokes, humour, comments or insults of a sexual nature.
- Unwelcome, sexually suggestive gestures, such as wolf-whistling, hand or body gestures, or references to appearance or anatomical features
- Displays of sexually suggestive, pornographic or obscene material
- Persistent relationship invitations following refusal
- Unwelcome comments or questions about private relationships, sexuality or sexual practice
- Repeated, unwanted discussions on sexual matters
- Obscene messages in writing or by telephone, facsimile, computer or electronic or text message, or other means
- Unwelcome requests for sexual favours, either directly or by implication, which may be coupled with offers of workplace favours or threats of disadvantage following refusal
- Deliberate and unwelcome physical contact, such as pinching, patting or rubbing against another person or unwanted touching or fondling
- Sexual assault

6. WHAT IS NOT SEXUAL HARASSMENT?

Sexual harassment is not consensual sexual behaviour. It is not flirting, sexual innuendoes, general compliments, touching or hugging or patting in which both parties consent.

Please note that while these matters may not equate to sexual harassment in a technical sense such behaviour may still be inappropriate in the workplace.

7. WHAT IS WORKPLACE BULLYING?

Workplace Bullying is the repeated less favourable treatment of another employee, which may be considered unreasonable and inappropriate workplace practice and one in which the employee has expressly advised is offensive to them. It includes behaviour that intimidates, offends, degrades or humiliates another employee. It may occur in private or in front of other employees.

Examples of bullying and harassment may include but are not limited to:

- Physical attack or assault or coercive behaviour
- Insulting or threatening gestures
- Repeatedly shouting or swearing at a person, either in public or in private
- Oral and written statements that are derogatory or intimidating, whether made directly, or through a third party
- Public humiliation
- Continual unjustified and unnecessary comments about a person's standard of work or capacity for work
- Persistent unjustified or inappropriate criticism or over-detailed supervision, including unwarranted checks on performance
- Pictures, posters, cartoons, graffiti or written material that are offensive or obscene
- Threatening or abusive telephone calls, written communications, facsimiles or messages on electronic mail or computer networks
- Spreading malicious, unfounded rumours
- Continual exclusion of a person or a group from work or assignments, networks, work-related social activities and networks, or from normal workplace conversation and interaction
- Initiation rites or unkind practical jokes
- Threatening, instilling fear, persecution

8. WHAT IS NOT WORKPLACE BULLYING?

Any behaviour that is consensual and entered into with both parties intending and delivering the behaviour in good fun is not Workplace Bullying. Bona fide Performance Management. Not getting along with someone or disagreeing with the way things are done does not mean you are being bullied. This policy is not designed to reduce good natured "workplace banter" which we consider has been part of our healthy and fun culture. Workplace Bullying is detrimental to the business in that it can cause the loss of trained employees, reduces productivity and morale, and subjects the business to legal risks. Everyone deserves to work in an environment free from bullying.

9. POLICY FRAMEWORK

The Break O'Day Council will do all that is reasonable to prevent discrimination/harassment from occurring at the workplace or work related environment on the following grounds:

Race, sex, pregnancy, age, disability, parental status, religion, sexual harassment, sexual orientation, political belief and activity, religious belief or activity, industrial activity, lawful sexual activity, marital status, irrelevant medical record, irrelevant or lapsed criminal record, or association with a person who has, or is believed to have, any of these attributes or identities.

All employees are treated on their merits. Employees are valued according to how well they perform their duties, and their ability and enthusiasm to maintain our standards of service. We aim to:

- Create a work environment that is free from discrimination, bullying, and harassment.
- Treat any complaint regarding discrimination sympathetically.

- Investigate complaints of discrimination thoroughly and confidentially.
- Implement training and raise the awareness of the benefits of discrimination free workplaces.
- Guarantee protection from victimisation and reprisals for making complaints.
- Promote appropriate standards of conduct at all times.

10. WHAT DO YOU DO IF YOU ARE DISCRIMINATED AGAINST OR BULLIED?

Choose the course of action you feel most comfortable with:

- Don't delay telling the offender of your objection to their behaviour and that you don't want it repeated. This will hopefully change the unwanted behaviour from occurring again. If satisfied with the outcome let the matter rest.
- Tell the offender of your objection to their behaviour and that you don't want it repeated. Record what took place, who was involved, where the incident(s) occurred, witnesses, and other observations. Advise the offender that this has occurred and try and resolve the matter.
- If your actions in (1 or 2) are not successful or you feel uncomfortable confronting the alleged harasser follow the complaints procedure.

11. COMPLAINTS/GRIEVANCE PROCEDURE

Council recognises the sensitive nature of complaints of harassment. Employees who wish to discuss such complaints, in confidence, should see one of Council's appointed Discrimination Contact Officers (see schedule 1).

The complaint should be sent to the Business and Corporate Services or the General Manager or if against the General Manager, to the Mayor.

The complaints/grievance procedure will be conducted in accordance with the principles of natural justice/procedural fairness. This means equally fair for the alleged perpetrator as well as the victim.

All parties should participate in the process in a manner facilitative to the amicable resolution of the complaint, rather than in a manner specifically designed to get the other party into trouble. Anyone who makes a complaint under this policy, that is found to be frivolous, vexatious, or without substance may face disciplinary action.

12. REMEDIES AND PENALTIES FOR BREACH OF THIS POLICY

As part of the resolution of any dispute regarding discrimination, Break O'Day Council will seek where possible to resolve it in the least adversarial way possible. Break O'Day Council prefers that parties be able to sort out the issues between themselves before any formal action is taken, but also recognise that in some circumstances this may not be able to occur.

Break O'Day Council will take the victim's wishes into consideration in dispute resolution.

Break O'Day Council accept that in some cases the parties may wish to meet and discuss the dispute in an attempt to resolve the matter. Break O'Day Council encourage this as a preferred option and will accommodate this in a professional and non-judgemental manner.

Anyone who harasses or victimises a person who makes a complaint under this policy may face disciplinary action.

Any reports of discrimination or harassment will be treated seriously and investigated promptly, confidentially and impartially. Any person who, without authorisation from Break O'Day Council, passes on confidential information regarding an investigation under this policy may face disciplinary action

Disciplinary action may be taken against anyone who discriminates against another person in the workplace or work related environment.

13. DISCIPLINARY ACTION

Disciplinary Action is an employer remedy. It may be used to correct and/or punish unwanted behaviour. Disciplinary Action includes a number of options. These include a warning (verbal and written), transfer, counselling, requiring an apology, demotion, termination of employment or instant dismissal.

The severity of the behaviour and the wishes of the victim will influence which option the Break O'Day Council chooses to invoke. Serious breaches of this policy may result in your employment being terminated instantly or summarily. This means that you will not be given any warnings or a chance to correct your behaviour.

14. MONITORING AND REVIEW

This Policy will be reviewed every three (3) years in line with the Council's Policy Framework or earlier in the event of major changes to legislation or related policies, procedures or if deemed necessary by the General Manager.