

## BULLYING, HARASSMENT & DIVERSITY POLICY

### POLICY

- a. Shire of Quairading has a zero-tolerance policy for bullying, harassment and/or discrimination in the workplace. No-one is exempt from this behaviour.
- b. All Shire of Quairading Elected Members and employees are responsible for ensuring that Elected Members, employees, contractors and customers are not exposed to bullying, harassment and/or discrimination in the workplace.
- c. Shire of Quairading encourages all employees to take action to manage workplace bullying, harassment and/or discrimination and to report instances of these behaviours immediately.
- d. All reports will be treated seriously and dealt with promptly, confidentially and impartially.
- e. Persons proven to be engaging in bullying, harassment or discriminatory behaviour in the workplace will be subject to disciplinary action in accord with the Underperformance & Misconduct Policy & Procedures.
- f. All employees will contribute to and comply with the initiatives contained within the Strategic Community Plan, Corporate Business Plan, Reconciliation Action Plan and underpinning operational plans.
- g. All employees will comply with the respective Award, the National Employment Standards and other relevant industrial relations legislation.

### DEFINITIONS

#### **Bullying**

Workplace bullying has the same meaning as in the *Fair Work Amendment Act 2013*. Specifically, bullying refers to an individual or a group of individuals repeatedly behaves unreasonably towards an employee or volunteer or a group of employees or volunteers of which the employee or volunteer is a member, and that behaviour creates a risk to health and safety.

Examples of workplace bullying behaviour includes:

- a. Abusive, insulting, or offensive language or comments.
- b. Unjustified criticism or complaints.
- c. Deliberately excluding someone from workplace activities.
- d. Withholding information that is vital to effective work performance.
- e. Setting unreasonable timelines or constantly changing deadlines.
- f. Setting tasks that are unreasonably below or beyond a person's skill level.
- g. Denying access to information, supervision, consultation, or resources such that it has a detriment to the employee.
- h. Spreading misinformation or malicious rumours.

- i. Changing work arrangements, such as rosters and leave, to deliberately inconvenience a particular employee or employees; and
- j. Excessive scrutiny at work.

Single incidents resulting in a risk to health and safety and will not be tolerated. Examples of behaviour NOT classified as workplace bullying includes:

- a. Conducting business or undertaking appropriate management action and making appropriate management decisions.
- b. Making necessary decisions to respond to poor performance or (if necessary) taking disciplinary action.
- c. Directing and controlling the way work is carried out; and
- d. Allocating work and providing fair and constructive feedback on an employee's performance.

### **Discrimination**

Unlawful workplace discrimination occurs when an employer takes adverse action against a person who is an employee or prospective employee because of the following attributes of the person:

- a. Race
- b. Colour
- c. Sex
- d. Sexual orientation
- e. Age
- f. Physical or mental disability
- g. Marital status
- h. Family or carer's responsibilities
- i. Pregnancy
- j. Religion
- k. Political opinion
- l. National extraction or social origin

### **Diversity**

Workplace diversity means individual differences across the workforce and the adaption of work practices to create an inclusive environment in which all diverse skills, perspectives and backgrounds are valued. Examples of differences include:

- a. Gender.
- b. Age or life-stage.
- c. Language, ethnicity, or cultural background.
- d. Disability.
- e. Sexual orientation.
- f. Religious belief.
- g. Education.

- h. Socio-economic background.
- i. Personality.
- j. Geographic location.
- k. Marital status; and
- l. Family or other carer responsibilities.

### **Harassment**

Harassment is any uninvited or unwelcome behaviour that offends, humiliates, or intimidates another person, whether that effect is intended or not. This may occur as a single act, or as a series of incidents, persistent innuendoes, or threats. It can take many forms such as:

- a. Silent or loud.
- b. Subtle or openly hostile; or
- c. Private or public.

Harassment may take the form of general bullying or be specifically aimed at people with particular or different characteristics. The latter type of harassment may amount to discrimination which is unlawful.

Sexual harassment generally includes any unwelcome conduct of a sexual nature which a reasonable person would find offensive, humiliating or intimidating. It may be physical, verbal or written. Certain conduct that may be tolerated socially could constitute sexual harassment in the workplace when it is unwelcome. At the same time, sexual harassment must not be confused with conduct that has the consent of all involved.

Examples of sexual harassment include:

- a. The public display of pornography, including on the internet.
- b. Continued use of jokes containing sexual innuendo.
- c. Intrusive enquiries into another employee's private life, their sexuality or physical appearance.
- d. Persistent requests from a colleague to go for a drink where such requests have been consistently declined.
- e. Persistent staring or leering at a person or parts of their body.
- f. Sexually offensive telephone calls.
- g. Requests for, or expectations of, sexual activity under threat, or in exchange for favours or promises of preferential treatment.
- h. Deliberate or unnecessary physical contact, such as patting, pinching, fondling, deliberate brushing up against another body, or attempts at kissing.
- i. Public displays of nudity – commonly referred to as flashing; and
- j. Sexual violence at the most extreme, sexual assault and forced attempts of sexual intercourse.

## **Misconduct**

Behaviour by an employee that severs the relationship between the employee and the organisation and merits instant dismissal without notice or pay in lieu of notice or termination of the volunteer position. Serious misconduct dismissal requires only one instance of the damaging behaviour. Examples of serious misconduct behaviour include:

- a. Wanton disregard for the safety of others.
- b. Deliberate acts of violence or hostility.
- c. Fighting or assault on another person.
- d. Malicious damage.
- e. Financial defrauding of the organisation.
- f. Significant or repeated levels of insubordination.
- g. Falsification of documents.
- h. Defaming or criticising the organisation or any member of the organisation or a tenant or client of the organisation on social media or through any other public platform; and
- i. Defaming or criticising the organisation to other organisations, including funding and regulatory bodies.

## **Repeated Behaviour**

Repeated behaviour means the persistent nature of the behaviour and can refer to a range of behaviours over time.

## **Underperformance**

Behaviour by an employee considered unacceptable to the organisation but not as immediately harmful to the organisation as serious misconduct. Shire of Quairading will afford an employee every reasonable opportunity to reverse misconduct behaviour prior to consideration of termination of employment.

Underperformance or poor performance is:

- a. Unsatisfactory work performance, that is, a failure to perform the duties of the position or to perform them to the standard required.
- b. Non-compliance with workplace policies, rules or procedures.
- c. Unacceptable behaviour in the workplace.
- d. Disruptive or negative behaviour that impacts on co-workers.
- e. Continual absenteeism.
- f. Inappropriate use of workplace facilities.
- g. Unprofessional personal appearance.
- h. Negligence; and
- i. Defaming or criticising the organisation to individual residents, clients, families, staff or other valued stakeholders.

Underperformance is different to misconduct. Misconduct is more serious in terms of action by the employee, impact on the organisation and consequence.

### Unreasonable Behaviour

Behaviour that a reasonable person (having regard for the circumstances) would consider unreasonable. This includes behaviour that is victimizing, humiliating, intimidating or threatening.

### ACCOUNTABILITIES & RESPONSIBILITIES

- a. The Council is accountable for:
  - i. Ensuring the organisation has in place a lawful, transparent, and accountable policy framework, supported by a suite of compliant and appropriate policies and procedures.
  - ii. Endorsing (or not) each organisational policy document in a timely and effective manner; and
  - iii. Delegating implementation of each policy document to the CEO.
- b. The CEO is accountable for ensuring the development, implementation, monitoring and review of this policy document, in accord with governing legislation and Council directives.
- c. The Executive Management Team and Managers are responsible for:
  - i. Ensuring that all employees under their direction comply with this policy document; and
  - ii. Enacting process to redress non-compliance with this policy document.
- d. All employees are individually responsible for complying with this policy document.

### PROCEDURE

**Please refer to the procedures in the Grievance Policy.**

### STATUTORY ENVIRONMENT

*Local Government Act 1995*

*Fair Work Act 2009*

*Fair Work Amendment Act 2013*

*Work Health & Safety Act 2020*

*Local Government Industry Award 2020*

*Industrial Relations Act 1979*

*Minimum Conditions of Employment Act 1993*

### Record of Policy Review

Version	Author	Council Adoption	Resolution	Reason for Review	Review Date	CEO Signature
01	Nicole Gibbs	24/02/23	167-22/33	New Policy	Feb 25	