



Policy Name: Workplace Relations Policy

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## **BACKGROUND**

It is important that everyone who is a part of, or associated with, the District Council of Coober Pedy (**Council**) endeavour to create a positive atmosphere and supportive culture. It is important for all Council employees, Elected Members, consultants and volunteers to enjoy and feel safe at their workplace. Negative behaviour that interferes with an individual's ability to enjoy and feel safe at their workplace will be dealt with in this policy. Negative behaviour may include, but is not limited to bullying; harassment; sexual harassment; racial discrimination; stereotyping cultures or behaviour; and intimidation. These behaviours need to be faced up to firmly and positively addressed.

The objective of this policy is to provide information and set boundaries for employees, Elected Members, consultants and volunteers in terms of appropriate and acceptable behaviour in the workplace.

This policy intends to create a positive, respectful and productive working environment. Council must focus their efforts on the skills and approaches in getting people to work together effectively to deliver the best outcomes for the greater community. It is important that all teams within Council are working harmoniously and effectively. To ensure this, this policy will alert and deal with any barriers that may arise between employees.

## **POLICY OBJECTIVE**

The objective of this policy is to provide information and set boundaries for employees, Elected Members, consultants and volunteers in terms of appropriate and acceptable behaviour in the workplace, and identify what negative behaviour will not be accepted. The objectives of the policy are as follows:

- Provide access to all Council employees, Elected Members, consultants, contractors and volunteers, about information and advice so they are able to carry out their duties in accordance with Council expectations;
- Educate and inform all Council employees, Elected Members, consultants, contractors and volunteers of how to positively interact with each other, and what sorts of behaviour will be considered to be negative and unacceptable;
- Creating a supportive environment that encourages a positive atmosphere;
- Encouraging all Council employees, Elected Members, consultants, contractors and volunteers to have a healthy work/life balance, to not be subject to undue pressure;

- For all Council employees, Elected Members, consultants, contractors and volunteers to show respect to each other and to residents within the community;
- For all Council employees, Elected Members, consultants, contractors and volunteers to deal with conflicts in an appropriate manner, and if required follow due process; and
- Emphasize that negative and unacceptable behaviour that may include, but is not limited to: bullying; harassment; sexual harassment; racial discrimination; stereotyping cultures or behaviour; and intimidation will not be tolerated in any form by Council. These behaviours will be faced up to firmly and will be positively addressed.

## **SUMMARY OF THE POLICY**

Council is committed to providing a safe and harassment free workplace for employees, Elected Members, consultants and volunteers.

You must not harass, discriminate against, or support others who harass and discriminate against colleagues or members of the public. This includes, but is not limited to harassment and discrimination on the grounds of sex, pregnancy, age, race (including their colour, nationality, descent, ethnic or religious background), political affiliation, marital status, disability, homosexuality, transgender or carers responsibility. It is the responsibility of everyone who is a part of, or associated with, council to eliminate such behaviours to create a positive and constructive culture for all to enjoy at work.

If you experience or witness bullying or harassment, you should report the behaviour immediately to a supervisor, Manager or Chief Executive Manager.

Council has a duty of care and needs to balance confidentiality on these issues with its legislative obligations. It is expected that everyone will do their utmost to maintain confidentiality and leave those with the responsibility to deal with the issue to determine the appropriate measures to be taken, if any.

## **INTRODUCTION**

This policy has been developed recognising the need to reflect Council's commitment to fairness, equal employment opportunity (EEO) legislation and integrity in the workplace, however Council believes that this is only the first step. By developing a progressive culture of fairness and integrity, the benefits will flow onto our community through employees and Elected Members who are treated fairly and equitably in the workplace.

### **1. PURPOSE OF POLICY**

The purpose of this policy is to provide information and set boundaries for employees, Elected Members, consultants and volunteers in terms of appropriate and acceptable behaviour in the workplace.

## 2. POLICY STATEMENT

### 2.1 **Creating a positive, productive and respectful working environment**

Sometimes our lives and days are just so busy that we tend to focus on the task at hand. That said, it is also important that people work together effectively. It is important that time and energy is spent on building a team environment and creating an effective organisation. Yet we must also be mindful to those systems and behaviours that create barriers or tension between employees.

Bullying; harassment; sexual harassment; racial discrimination; stereotyping cultures or behaviour; and intimidation are all behaviours that unfortunately exist in the workplace. Our workplace is no exception. The unnecessary behaviour can take many forms. Unwarranted behaviour needs to be faced up to firmly and positively addressed. We all need to work together to deliver the common goal- make the workplace a positive and constructive place to enjoy.

### 2.2 **Behaviours, Relationships and Values**

We all choose to come to work for a variety of reasons. Perhaps the motivation is to be part of a group or a team; to add value to the community; financial; or other reasons. Whatever the reason, we are dedicated and spend many hours a week in the company of other people to achieve the goals we set for ourselves.

Critical to developing positive working environment within council is the adoption and “living” of a common set of values. Council has committed to a set of values and expects employees to behave in accordance with these values whilst at work and at work related functions. These behaviours are integral to the Council’s successful delivery of its many and diverse programs.

Employees are already aware that Elected Members have a legitimate right and responsibility to represent the interests of residents and ratepayers, to provide community leadership and guidance, and to facilitate communication between the community and the Council. Employees should provide assistance to Elected Members in fulfilling their role in accordance with this policy and Council’s Code of Conduct.

Elected Members are also aware that employees have a legitimate right and responsibility to maintain professional integrity and should not be subject to undue pressure. Elected Members should avoid placing employees in difficult positions with requests for information or action. There are protocols to be followed to the benefit of everyone.

### 2.3 **Values**

We are proud to provide services that are valued by the community and we will:

- maintain integrity and earn trust by what we do and how we do it
- treat customers as we want to be treated

- use the community's money wisely
- bring out the best in each other

This policy demands each of us to play a role in “living our values” and ensuring Council is a great place to work.

### 3. **WHO IS COVERED BY THIS POLICY?**

All council employees – permanent, casual, full or part-time – Elected Members, Contractors, Consultants and Volunteers and members of Reference Groups and Committees.

### 4. **WHAT ARE OUR LEGISLATIVE COMMITMENTS TO GOOD WORKFORCE RELATIONS?**

Council's day to day operations are governed by

Federal laws:

- Disability Discrimination Act 1992
- Equal Opportunity for Women in the Workplace Act 1999
- Human Rights and Equal Opportunity Commission Act 1986
- Racial Discrimination Act 1975
- Sex Discrimination Act 1984

State Legislation:

- Equal Opportunity Act 1984 (SA)
- Racial Vilification Act 1996 (SA)
- Whistleblowers Protection Act 1993 (SA)
- Occupational Health, Safety and Welfare Act 1986 (soon to be replaced by the Work Health and Safety Bill 2012)

which must be observed at all times.

#### 4.1 **As a Manager or supervisor do I have any legal responsibility?**

Yes. There are three types of liability that as a manager you need to be aware of:

##### 4.1.1 ***Vicarious Liability***

Where the Council and its managers are ultimately responsible for the action of employees – even if they are unaware that the inappropriate behaviours are occurring.

##### 4.1.2 ***Accessory Liability***

Where the Council is seen to directly or indirectly encourage or permit inappropriate behaviour that could be deemed as unlawful discrimination.

#### 4.1.3 ***Personal/Direct Liability***

Where an employee is held personally liable for acts of discrimination.

## 5. **DEFINITIONS**

### 5.1 **Defining Behaviours**

Council's Codes of Conduct describes acceptable behaviours for Elected Members and Employees.

#### 5.1.1 ***Acceptable and Professional Behaviour***

In addition to the Codes of Conducts, Councils constructive culture requires:

- Treating everyone with respect, courtesy and dignity;
- Open and balanced communication;
- Respecting the roles of the other person;
- Remembering the basic courtesies of "please", "thank you", "I'm sorry";
- Including people rather than excluding people because of prejudice; and
- Moving from blame to problem solving to deal with differences of opinion.

#### 5.1.2 ***Unacceptable Behaviours***

The following behaviours have been defined as minor, moderate and serious levels of unacceptable behaviour:

- Employees unreasonably refusing to give information to an Elected Member that relates to a matter before Council, is lawfully available to other persons or other Elected Members, or that is publicly available information;
- Elected Members or employees demanding, without appropriate notice, access to information in a way that is not respectful of the position or time constraints of the other;
- Displaying confronting behaviour such as abusive language, rudeness and aggression (for example, swearing, clenching teeth, making a fist with hand);
- Elected Members and employees making personal attacks in a public forum;
- Behaviour such as, threats or intimidation (for example, invading personal space);
- Racist or sexual slurs;
- Employees, outside of their contractual responsibility, becoming directly involved in Council business;
- Elected Members direct involvement with, or investigation of, employee related matters (except for the CEO);
- Intimidation or use of perceived position of power to coerce others by fear, reprimand, humiliation or other threats.

- Psychological or physical harassment including bullying or psychological threats (see the *Social Media Policy* for more information);
- Violence and assault of another.

## 5.2 What is Workplace Bullying?

Workplace bullying involves the repetitive, prolonged abuse of power. Workplace bullying is offensive, unreasonable, humiliating or intimidating, and generally persistent behaviour that is directed at an individual or group of employees by another individual or group of employees. It places their health, well-being, safety and career at risk, interferes with job performance and creates a toxic working environment. Bullying is a form of violence, it is aggression expressed psychologically and emotionally rather than physically, and creates a risk to health & safety. Workplace bullying can attack anyone, in any career, at any level, within any organization, at any time.

Bullying behaviour is based on the misuse of power in human relationships. It includes:

- Verbal abuse
- Initiation pranks
- Excluding or isolating employees
- Spreading misinformation or malicious rumours
- Giving a person the majority of an unpleasant or meaningless task or even impossible task, that is not listed in their job description
- Humiliation through sarcasm, or belittling someone's opinions
- Displaying material (written or pictorial) which may degrade or offend certain employees
- Constant criticism or insults
- Deliberately changing work rosters to inconvenience certain employees
- Deliberately withholding information or resources, that are vital for effective work performance
- Manipulating the impression of others to split the work group into taking sides.

Bullying is not always intentional. Sometimes people do not realise how their actions may be adversely affecting someone and action needs to be taken to address that oversight.

## 5.3 What is Harassment?

Harassment is any form of behaviour that is unwelcome or uninvited which humiliates or intimidates an employee based on the attributes protected under federal and state legislation. This behaviour is unlawful during working hours and during Council related functions, social or work related.

Workplace harassment can be committed by:

- an employer or Elected Member

- worker
- co-worker
- group of co-workers
- client or customer or
- a member of the public.

Protected attributes under legislation are:

Sex; pregnancy; race (including colour, nationality, descent or religious background); marital status; disability; homosexuality (actual or perceived); transgender (transexuality) (actual or perceived); age or carer's responsibility; or an individual's relationship to or association with a person in these groups. Racial vilification; homosexual vilification; vilification of people on the grounds of their HIV or AIDS status and transgender vilification is also unlawful.

Workplace harassment covers a wide range of behaviours ranging from subtle intimidation to more obvious aggressive tactics, including:

- abusing a person loudly, usually when others are present
- maliciously excluding and isolating a person from workplace activities
- repeated threats of dismissal or other severe punishment for no reason
- constant ridicule and being put down
- leaving offensive messages on email or the telephone or on social media (see the Social Media Policy)
- sabotaging a person's work, for example, by deliberately withholding or supplying incorrect information, hiding documents or equipment, not passing on messages and getting a person into trouble in other ways
- 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.

Usually harassment is ongoing or a series of events. However, harassment does not need to happen more than once for it to be against the law. Behaviour that neither party finds offensive is not harassment.

#### 5.4 **What is Sexual Harassment?**

Sexual harassment is unwelcome conduct of a sexual nature in relation to you. It happens when a reasonable person would expect that you'd feel offended, humiliated or intimidated by the conduct. It is behaviour that is unsolicited, unwelcome and unreciprocated. It may be explicit or implicit. It may be a single incident or occur over a period of time. It has nothing to do with mutual attraction or friendship between people.

To identify sexual harassment, is the perceived impact of the behaviour rather than the intent of the behaviour that is important. This behaviour is

unlawful during working hours and during Council related functions, whether social or work related.

## 6. GLOSSARY OF TERMS

<b>Alleged Offender</b>	Person against whom a complaint has been lodged.
<b>Bullying</b>	Workplace bullying is offensive, unreasonable, humiliating or intimidating, and generally persistent behaviour that is directed at an individual or group of employees by another individual or group of employees that undermines the employees dignity or performance in the workplace.
<b>Complainant</b>	Person who feels they have been subjected to some form of harassment.
<b>Conciliation</b>	Speaking with the complainant, speaking with the alleged offender and negotiating a resolution which may range from an apology to disciplinary procedures.
<b>Confidentiality</b>	Only those persons directly involved in lodging or investigating a complaint will have access to information about the complaint.
<b>Defamation</b>	<p>Any written or verbal statement which is false or derogatory. The complainant, alleged offender and any persons directly involved in investigating or resolving a complaint are protected against any action for defamation by defence of qualified privilege.</p> <p>This privilege is only available when the complaint is made honestly and is not motivated by ill-will or malice; the above named persons act in accordance with established procedures; and information is provided to those persons with a legitimate right to know.</p>
<b>Complaint</b>	A type of problem, concern or complaint related to work or the work environment. A complaint may be about any act, omission, situation or decision that a person thinks is unfair, discriminatory or unjustified.
<b>Harassment</b>	Any unwanted, unsolicited and unreciprocated behaviour, act or statement that offends, humiliates or distresses the recipient.
<b>Impartiality</b>	All complaints will be investigated in a fair manner. No judgements or assumptions will be made and no action will be taken until all relevant information has been collected and considered.
<b>Promptly</b>	All complaints will be dealt with as quickly as possible. Every attempt will be made to resolve all complaints within four (4) weeks wherever possible unless otherwise negotiated between the concerned parties.

<b>Sensitively</b>	All complaints will be listened to in an unbiased, supportive and empathic manner.
<b>Sexual Harassment</b>	Any sexual behaviour such as a sexual advance, request for sexual favours or other conduct of a sexual nature which is unwelcomed by the recipient and that a "reasonable person" would have expected the recipient to find offensive, humiliating or intimidating.
<b>Victimisation</b>	<p>Any unfavourable treatment of, or disadvantage to, a person lodging a complaint and/or person acting as a witness or assisting the complainant, as a consequence of their involvement in Council's Complaint Procedure.</p> <p>The law protects the above named persons from further disadvantage or mistreatment and management will take all necessary steps to ensure victimisation does not occur.</p>
<b>Vilification</b>	<p>Any act that happens publicly as opposed to privately, and that could incite (encourage, urge or stir up) others to hate or have serious contempt for or severely ridicule a person, or a group of people, because of their race, homosexuality, HIV or AIDS status or transgender status.</p> <p>Exceptions under the law include a fair report by media, acts of vilification that are done "reasonably and in good faith" for academic, artistic, scientific, research or other purposes in the "public interest" and material in parliamentary, court or tribunal proceedings or other Government inquiries.</p>

## 7. WHAT ARE THE BEHAVIOURS THAT COULD AMOUNT TO BULLYING OR HARASSMENT?

These types of behaviours could amount to bullying or harassment. If you are involved in any of these behaviours, then, depending on the circumstances your actions may result in disciplinary action being taken under the Disciplinary Procedures and may result in dismissal.

### 7.1 Verbal behaviours

Such as:

- Making fun of someone - including imitating them, teasing them, or baiting them
- Putting someone down in a nasty way – especially in front of others (this includes in a formal meeting such as a Council meeting).
- Offensive jokes – for example, unwelcome sexual, sexist, racist, anti-gay etc
- Obscene or racist, sexist, anti-gay (and so on) telephone calls
- The use of language that is not suitable in the workplace — for example, sexual, sexist, racist, or anti-gay language, or insulting someone

- Sniggering or spreading rumours behind someone's back
- Swearing at or shouting at someone – unless there is a valid, emergency reason to do so
- Aggressive, point-scoring, interrupting, talking over colleagues in an unprofessional way.

## 7.2 **Non-verbal behaviours**

Such as:

- Sending or showing obscene, belittling, offensive or racist, sexist, anti-gay etc letters, faxes, email or SMS text messages (see the **Social Media Policy**)
- Displaying or circulating obscene, offensive, degrading, insulting, or any form of racist, sexist, anti-gay literature in any form
- Carrying out practical jokes where it appears to others as vindictive, offensive, unsafe, or unwelcome
- Deliberately setting unrealistic targets or expectations
- Not being a team player and taking credit for the work of others
- Promoting sexually suggestive, obscene, offensive, degrading or insulting material on Council property (walls, notice boards, computer screen savers, faxes, email).

## 7.3 **Physically threatening behaviours**

Such as:

- Threatening to make someone's work or home life difficult
- Invading someone's personal space by unnecessarily leaning over them, or standing too close to them
- Offensive or obscene gestures
- Deliberately blocking someone's path, by standing or parking a vehicle or other item in the way that prevents them from undertaking their work in some way
- Deliberate pushing, shoving or jostling
- Touching anyone when you know they don't like to be touched
- Any form of aggressive or frightening behaviour directed towards a person or group of persons.

## 8. **WHAT BEHAVIOUR IS NOT CONSIDERED BULLYING OR HARASSMENT?**

It is important to distinguish between a person reasonably exercising their legitimate authority at work in a proper manner, and instances of bullying. People in position of authority and control have a broad range of responsibilities including directing and controlling how work is to be undertaken and performed.

Bullying is not about occasional differences of opinion, conflicts and problems in work relationships – these are part of working life and every conflict does not constitute bullying or harassment, its where the behaviour becomes unreasonable, degrading or contrary to Council policies and practices then it should be addressed.

## 8.1 Management Practices

Managers have a responsibility to monitor workflow and give feedback on performance. Care will be taken to identify performance problems and deal with them in an objective and constructive way that is neither degrading nor threatening.

It is not workplace bullying or harassment for:

- A supervisor to note poor performance, suggesting ways to improve performance, follow through on poor work practices, deal with complaints from others, start proceedings for unsatisfactory performance, misconduct or dismissal in accordance with Councils' Management policies.
- An employee to point out professional difficulties they have with other employees, provided it is done in an appropriate manner.

## 9. WHY IS WORKPLACE BULLYING AND HARASSMENT A PROBLEM?

All persons at the workplace are potentially at risk of experiencing bullying and under certain conditions most people are capable of bullying.

Workplace bullying can be:

- upwards - directed towards a manager or team leader
- parallel - directed towards a colleague
- downwards - directed towards a subordinate.

Bullying can disrupt work to the extent that action has to be taken to restore order. Each individual will react differently to bullying behaviour, and the effects may include:

- distress, anxiety, panic attacks or sleep disturbance
- impaired concentration or ability to make decisions
- loss of self esteem and confidence, a sense of isolation or withdrawal from the workplace
- physical illness, including digestive problems, skin conditions, headaches and other medical disorders
- injury or increased risk of injury, particularly psychological injury
- reduced work performance
- incapacity for work resulting in workers' compensation claims
- loss of employment
- deteriorating relationships with family & friends and reduction in quality of home life
- depression and risk of suicide.

Workplace bullying can be harmful to the Council as well as individuals, resulting in:

- High levels of absenteeism and staff turnover, recruitment costs
- Breakdown of teams and work relationships which reduces overall efficiency
- Councils public image is affected and becomes known as a difficult place to work

- Unsafe work environment
- Poor morale, erosion of loyalty and commitment, the good staff leave
- Increased costs associated with counselling, mediation and compensation claims, recruitment and retraining of new staff, management time, and
- Potential litigation and associated costs.

## 10. WHAT ARE THE CONTEMPORARY ISSUES?

### 10.1 Consensual Relationships/Power relationships – why might they be a problem?

In any relationship where there is a power differential there is potential for abuse of that power. It is in the interest of Council to provide clear direction and education about romantic and/or sexual relationships where a definite power differential between parties exists.

### 10.2 Definition

The consensual relationships that are of concern are those romantic and/or sexual relationships in which both parties appear to have consented, but where there is a definite power differential between the two parties. Specifically, consenting romantic and sexual relationships between supervisor (any person in a position of authority over another to employ and make employment or salary recommendations or oversee performance) and employee (any person working for the supervisor) have the potential for extremely serious consequences and ought to be avoided. The concern is that this situation may diminish the employee's actual freedom of choice in an amorous or sexual relationship.

### 10.3 Potential for Abuse of Power Differential

Individuals entering into a consensual relationship in which a power differential exists must recognize that:

- 10.3.1 the reasons for entering such a relationship may be a function of the power differential;
- 10.3.2 where power differentials exist, even in a seemingly consensual relationship, there are limited after the fact defences against charges of sexual harassment; and
- 10.3.3 the individual with the power in the relationship may bear the burden of responsibility.

### 10.4 Conflict of Interest

Conflicts of interest may arise in connection with consensual romantic and/or sexual relationships between supervisors and employees. It is a generally accepted ethical principle in our society that individuals are precluded from evaluating the work performance of others with whom they have intimate familial relationships, or from making employment, salary or similar financial decisions concerning such persons. The same principle applies to consensual romantic and/or sexual relationships.

## 10.5 Responsibility and Risk

Supervisors and employees should understand that there are substantial risks in even an apparently consenting relationship where a power differential exists. Even if the conflict of interest issues are resolved, charges of sexual harassment may develop, even when both parties have consented to the relationship. The supervisor or other employee may, by virtue of his or her power and responsibility, bear a burden of accountability.

If a consensual romantic and/or sexual relationship develops between a supervisor and employee, the supervisor should make their Manager aware of the situation.

## 11. WHO IS RESPONSIBLE FOR IMPLEMENTING OUR POLICY?

All employees and Elected Members have a leadership role in demonstrating acceptable workplace behaviour.

- Elected Members are responsible for referring any complaints of discrimination, harassment or bullying in accordance with the Elected Member Code of Conduct and in accordance with this Policy. Elected Members can follow-up with the CEO to ensure some action is being taken to minimise the risk of aiding and abetting any unlawful conduct. Confidentiality must be maintained at all times.
- Managers including the Chief Executive Officer have a strong leadership role in demonstrating acceptable workplace behaviour and are responsible for ensuring the endorsement, support and implementation of the policy and procedure. They are also responsible for:
  - Providing a safe place of work.
  - Making sure that Council meets its legal obligations with respect to bullying and harassment prevention.
  - Ensure that Council meets its commitment to this policy
  - Fostering the development of a culture within the organisation that is respectful of individual employees, and discourages bullying and harassment of any sort.
  - Acting in a manner which provides an example of good workplace behaviour.
  - Ensuring that all Senior and Middle Managers, and Supervisors are committed to ensuring the workplace is free from bullying and harassment.
- Senior Managers and Supervisors are responsible for ensuring all employees understand harassment or bullying is not acceptable behaviour in the workplace and that all complaints will be taken seriously and dealt with in accordance with the agreed procedures. They are also responsible for:

- Making sure that they model appropriate behaviour and do not bully, harass or victimise anyone.
- Making sure that this policy is communicated and implemented within any division(s) and/or team(s) they are responsible for and that making sure that new employees receive appropriate information about their responsibilities and rights under this policy during their induction.
- Preventing all forms of bullying, harassment and victimisation from happening in any area of Council or Council business that they are responsible for.
- Dealing appropriately with all forms of bullying, harassment and victimisation that happen, or appear to be happening. It is a breach of this policy to ignore any such bullying, harassment or victimisation.
- Ensuring confidentiality and complete privacy is maintained in all matters;
- Being available to discuss any complaints that may be lodged with those persons lodging the complaints, those being complained against and other appropriate people;
- Ensuring the Workplace Relations policy and complaint procedure is strictly adhered to;
- Communicating to all persons concerned, their rights and responsibilities;
- Ensuring all resources are provided to facilitate resolution of the complaint;
- Continually monitor harassment complaints that have been resolved to make sure that the negotiated outcomes have been implemented and that an assessment of the effectiveness of the negotiated strategies is conducted;
- Contacting the Chief Executive Officer for assistance in resolving cases if uncertain, when the manager or supervisor cannot provide an unbiased decision, or they feel they do not possess the authority or expertise to deal with a particular complaint.
- Provide continual workplace education to increase the awareness of this policy and what constitutes acceptable behaviour in the workplace to assist in the ongoing prevention of harassment and bullying.
- Chief Executive Officer is responsible for assisting reconciliation between the parties and to investigate complaints whether written or verbal. It is the responsibility of the Chief Executive Officer to:
  - Make sure that this policy and information is made available to all employees

- Be available to managers, supervisors and other persons to answer enquiries about harassment and bullying and to assist in the resolution of harassment and bullying complaints if requested;
  - Ensure confidentiality and complete privacy is maintained in all matters;
  - Determine whether or not a complaint should be handled by Council or by an outside agency;
  - Act as a mediator when requested, ensuring that mediation meetings are fair, that all parties are heard without bias, and that all known facts of the complaint are given the opportunity to be brought forward;
  - Negotiate a specific settlement agreed by all parties;
  - Warn against victimisation or reprisals against any person involved in an harassment or bullying complaint; that is, the complainant, alleged offender, witnesses, contact officers or person(s) conducting the investigation.
- Employees need to respect the rights of other persons and should never encourage or condone harassment or bullying. If someone believes that a fellow worker is being harassed, then he or she can help by:
    - informing their colleague that he or she is willing to act as a witness if the person being harassed decides to lodge a complaint;
    - refusing to join in with any questionable activity;
    - supporting the person being harassed to stand up for themselves;
    - advising the person of the complaints procedure.

It is not the responsibility of the person witnessing the harassment to say anything to the offender or to spread rumours about someone. If a person participates in spreading rumours, he/she may be subject to a defamation action.

## 12. WHAT ARE MY OPTIONS?

### 12.1 Complaints Procedure

There are four options available to an employee who feels they have been the subject of questionable behaviour in the workplace which will be apparent having read this Workforce Relations Policy.

#### 12.1.1 *One-to-One Option*

The employee meets face to face with the alleged offender and makes it clear to the offender that their behaviour is offensive and unacceptable. Clearing the air as opposed to ignoring the behaviour may often be misunderstood by the offender as approval of the behaviour, so it is probably best to deal with the issue as early as possible.

#### 12.1.2 ***Informal Option***

Getting the problem aired. The aggrieved employee chooses to have the matter dealt with either directly with the offender or through a team based intervention. This informal option is undertaken in conjunction with the Team Leader or other suitable officer depending on the circumstances. This option provides for the issue to be dealt with in a non-threatening manner. It might involve a level of education, training and/or discussions with individuals or teams so that everyone is clear on the issues and how best to avoid them in the future.

#### 12.1.3 ***Formal Option***

The filing of a formal complaint by the employee lodging their grievance with their Supervisor, Manager or Chief Executive Officer is another option. The employee is advised to have all the relevant details such as the date(s), place(s), time(s) and witnesses, if any, of the incident (or incidences) of the questionable behaviour.

The employee's complaint will be dealt with sensitively, promptly, confidentially and without fear of reprisal. Investigations will be carried out in an impartial manner by the person responsible for conducting the investigations. This may be the supervisor, manager, Chief Executive Officer, or another person deemed appropriate by the Chief Executive Officer on a case by case basis.

In the event the Chief Executive Officer is a party to the complaint, the Finance & Administration Manager will engage an external independent investigator who will provide recommendations to the Mayor.

#### 12.1.4 ***External Option***

In the event the internal complaints procedure has failed to settle the employee's complaint, or the employee does not want to follow the internal procedure, the employee may air his or her grievance through an external agency such as SAFE WORK SA (or other avenue that may be available to the employee on the basis of their employment contract or Enterprise Bargaining arrangement).

### 13. **HOW WILL THE COUNCIL ADDRESS MY CONCERNS?**

#### 13.1 **Dealing with a Complaint**

The relevant Council officers understand that when a complaint is received, it is important to:

- Respond promptly, treating the complaint sensitively, seriously and confidentially by ensuring that the names of anyone involved in a complaint are not discussed with others except those immediately involved in the complaint.

- Discuss with the individuals concerned the options/courses of action available to resolve the complaint. This may include the following:
  - Seek a personal solution by directly asking the alleged offender to stop the behaviour or writing a letter to the offender asking for certain behaviour to cease;
  - Adopt an informal approach to resolving complaints by conducting a private interview with the alleged offender, seeking their cooperation in finding a workable solution to the problem.

### 13.2 Informal Options (Option 1 and 2 above)

Informal options are designed to provide an avenue for resolution before the situation might become more serious. In an informal resolution:

- The focus will be the questionable behaviour rather than on the personalities involved
- Both parties are encouraged to take responsibility for their own behaviour and discuss resolutions, and
- A non-blaming approach is used and no disciplinary action needs to arise as a result.

Upon initial assessment it may be the case that more formal procedures may be necessary if the informal procedures are unsuccessful or if allegations are so serious that other approaches are simply inappropriate. The Council officer handling the matter will decide what is best in the circumstances.

### 13.3 Confidentiality versus Duty of Care

In some instances there is a conflict between confidentiality and Council's duty of care. Generally, no action should be taken without the consent of the complainant unless it is considered that the matter, if neglected, would endanger anyone (for example, the safety of individuals may be at risk, or there is concern that the action will not cease). The agreed action should be documented and signed by both parties and will be monitored by the Council officer handling the matter.

### 13.4 Investigating a Formal Complaint

It is recognised that when investigating a formal complaint, it is important to:

- Ensure the complaint is investigated and resolved without delay. The Council officer handling the investigation should commence as soon as practicable after receiving the complaint and no later than seven days after receiving the complaint. Timeframe for investigation and resolution of complaint may be negotiated with parties concerned depending on the circumstances, however investigation should be resolved, wherever possible, no later than four weeks after complaint has been lodged.

- Ensure the person involved in assisting the complainant to lodge the original complaint is not responsible for investigating the complaint. Internal investigations will need to be carried out by those persons delegated to do so, that is supervisors, managers or the Chief Executive Officer or other person as deemed appropriate by the Chief Executive Officer.
- Conduct an interview with the complainant allowing, if desired, a representative, or another employee to be present. In the interview:
  - There will be a very clear need to clarify the events or behaviours leading to the complaint including dates, times and any witnesses of the behaviour or event. Detailed notes should accurately reflect the perceptions of the person lodging the complaint.
  - The Council officer handling the matter will advise the employee that a full investigation will be carried out and explain procedure that will be followed.
  - The Council officer managing the process will take care to provide the complainant with the full range of options outlined in the Complaints Procedure.
- Conduct an interview with the alleged offender, advising of the complaint lodged against him or her. In this interview:
  - The Council officer will emphasise their impartiality in the matter and make it clear that their role is one of a fact finder. The importance of confidentiality will be stressed;
  - The Council officer will advise the alleged offender of the kind of investigative process that has been decided on and their rights of representation or advice, if desired;
  - If the process is to succeed then it will be imperative that the alleged offender is provided with the opportunity to respond fully to the allegations within a negotiated time frame;
  - As a matter of course, the Council officer handling the matter will generally advise the alleged offender not to approach the complainant directly or indirectly about the allegations.
- Ensure a thorough investigation. It may be necessary to conduct interviews with those persons named as witnesses by the complainant or alleged offender, ensuring confidentiality is maintained and involvement is kept to the minimum necessary to establish facts.
- Ensure the person conducting the investigation remains impartial and not prejudicial of the matter.
- Maintain records throughout the investigation, including verified notes of discussions, meetings and interviews with the person lodging the complaint, the alleged offender and any witnesses.

- Ensure that all parties involved in the making and investigation of a complaint are aware they are bound by law to observe strict confidentiality, any breach may be regarded as misconduct and the offender may be subjected to the disciplinary procedure.

During the period of investigation, it may be necessary to consider temporary alternative work arrangements for one or both of the parties involved in the process in consultation with the Chief Executive Officer. No employee will be disadvantaged in their employment conditions or opportunities should this occur.

## 14. HOW WILL IT BE ISSUE BE RESOLVED?

### 14.1 Resolving a Complaint

14.1.1 If the allegations are substantiated or admitted, a decision will be made on the most appropriate course of action. This may involve:

- Counselling of both the complainant and/or alleged offender;
- Mediation through conflict resolution or educational strategies;
- Application of Council's disciplinary procedure which may result in summary dismissal.

14.1.2 If the allegations are not substantiated, the reasons for the decision should be explained to all parties.

However it may be necessary to:

- Consider alternative work arrangements at the request of the complainant or alleged offender;
- Ensure that the complainant and the alleged offender do not suffer any consequences as a result of a complaint being lodged.
- Be explicit about and ensure understanding of acceptable and unacceptable work behaviour with all concerned.

14.1.3 If the allegations are found to be frivolous, vexatious, malicious or contrived, the complainant may:

- Be required to undergo counselling;
- Be subject to Council's disciplinary procedure.
- The Chief Executive Officer, and/or Manager/Supervisor should follow-up after the investigation has concluded to ensure that the questionable behaviour has ceased and neither party has been victimised.

**15. WHAT SUPPORT IS AVAILABLE TO THOSE INVOLVED IN AN INVESTIGATION?**

**15.1 Other Support Available**

Counselling is available to all employees by contacting Council's provider of the Employee Assistance Program. Contact information can be provided by any supervisor, Manager or Chief Executive Officer.

**16. IS THERE AN APPEALS PROCESS?**

**16.1 Appeals Process**

If the complainant or the alleged offender feels the complaints procedure has not been followed properly or the outcome is inappropriate, an appeal may be submitted to the Chief Executive Officer.

The Chief Executive Officer will look at the way the complaint was handled and the action taken. If they feel the complaint has been handled properly and the final decision was fair, Council will take no further action. However, if it was felt the complaint was not handled properly, the Chief Executive Officer will conduct further investigations or will arrange for someone, other than the person who conducted the initial investigations, to carry out the review.

If the Chief Executive Officer has been a party to the complaint then the individual may find resolution through an external agency such as SAFE WORK SA.

**17. RELEVANT DOCUMENTS AND LEGISLATION**

Council Code of Conduct for Elected Members and Staff

Social Media Policy

Federal Legislation (noted above)

State legislation (noted above)

## 18. POLICY REVIEW DETAILS

RESPONSIBLE GENERAL MANAGER	Chief Executive Officer
DATE ADOPTED ON BEHALF OF COUNCIL	Policy reviewed on [ November 2012]
DATE FOR REVIEW	30 November 2015
PREPARED BY	Chief Executive Officer
AUTHORISED BY	Chief Executive Officer