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Bullying and Harassment Policy	1.0.3	May 2027
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Purpose

Greater Hume Council (Council) are committed to providing a safe and equitable workplace for all employees, where everyone's contribution is valued and respected. As part of this commitment, workplace behaviors such as workplace bullying, harassment, sexual harassment and discrimination will not be tolerated.

The purpose of this Policy is to outline the requirements for the prevention and management of bullying, harassment, sexual harassment and discrimination at Council. Council are committed to eliminating any forms of workplace bullying and harassment.

Scope

This policy applies to all Councillors, management, employees, contractors and volunteers across all Council workplaces, worksites or other places where employees may be undertaking work or representing Council.

Employees are expected to contribute to the achievement of a positive and productive workplace culture by carefully considering their own behaviour and its possible effect on others. Council's Model Code of Conduct for Local Councils in NSW provides the standards of behaviours and conduct that are expected of all employees at all times. Managers are responsible for fostering a work environment that is free from bullying and promote Council's values. Managers must take all reasonable steps to identify, assess and eliminate or minimise the potential for workplace bullying.

Definitions

Bullying – Defined by Safe Work Australia as 'repeated and unreasonable behaviour directed towards an employee or group of employees that creates a risk to health and safety'.

Repeated behaviour refers to the 'persistent nature of the behaviour and can involve a range of behaviours over time'. This includes repeated behaviour directed towards one individual and single incidents of behaviour involving separate individuals and can involve a range of behaviours over time. unreasonable behaviour means 'behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimizing, humiliating, intimidating or threatening'.

Workplace bullying will generally meet the following criteria:

- It is repeated and systematic. A single incident will generally not meet the threshold for bullying but should be appropriately addressed (e.g. grievance or misconduct) to prevent escalation or repetition)
- It is unwelcome and unsolicited
- A reasonable person would consider the behaviour to be offensive, intimidating, humiliating or threatening.

Discrimination – Treating someone less favorably on the basis of protected attributes than another person in the same or similar circumstances. It is unlawful under the *NSW Anti-Discrimination Act 1977* to discriminate against or harass others in the workplace (or their relative or associate) on the grounds of their:

- Race (including colour, descent, nationality and ethnic, ethno-religious or national origin)
- Gender (including transgender, pregnancy, or potential pregnancy, breastfeeding)

- Sexual orientation
- Marital or domestic status
- Disability (including physical, intellectual, psychiatric, neurological, illnesses such as HIV/AIDS)
- Carer responsibilities
- Age.

It may also be unlawful to indirectly discriminate by imposing an unreasonable requirement or policy that is the same for everyone but has an unfair effect on people with a particular protected attribute.

Discrimination can be a single act. It does not need to be repeated or continuous to constitute discrimination.

Employee - Any individual employed, appointed, or otherwise attached to Council, whether on an ongoing, temporary, contractor, casual or voluntary basis. This includes all senior executives and secondees from other agencies and may include contractors and employees of any firm or company contracted to perform work on behalf of Council.

Harassment – A range of behaviours that intimidate, offend or humiliate a person. It is intrusive behaviour that tends to focus on a personal characteristic of another person as its object. Harassment can be against the law when it is based on protected attributes under the anti-discrimination legislation (refer to ‘discrimination’ definition), or when it includes conduct of a sexual nature (refer to ‘sexual harassment’ definition).

Examples of discriminatory harassment may include behaviour such as:

- Telling offensive jokes about a particular racial or religious group in front of a person from that group
- Making derogatory comments or taunts about a person’s disability or sexual orientation.

Sexual Harassment – Unwelcome conduct of a sexual nature by which a reasonable person would be offended, humiliated or intimidated. Sexual harassment is unlawful and may need to be reported to NSW Police.

Sexual harassment may include behaviours such as:

- Unwelcome sexual advances
- Requests for sexual favors
- Leering or sexual comments about a person’s body
- Sending obscene communications or displaying sexually suggestive materials (including using electronic devices to send inappropriate messages or images)
- Sexually explicit jokes
- Intrusive questions or suggestive remarks about a person’s sexual or private life
- Unwelcome touching
- Stalking
- Sexual assault (including unwelcome touching of genitals or breasts).

Sexual harassment can be a single act. The behaviour does not need to be repeated or continuous to constitute sexual harassment.

Unacceptable workplace behaviours – Includes bullying, harassment, sexual harassment and discrimination. The definition of each is distinct, but the behaviours do not necessarily occur in isolation.

Policy Content

Council is committed to creating a working environment that is free from unacceptable workplace behaviours and where employees are treated with dignity, courtesy and respect. All complaints about bullying must be treated sensitively, seriously, fairly and acted on promptly. An initial assessment must be conducted within three working days of receiving a complaint. Managers (or Directors where the complaint involves a Manager) are responsible for ensuring that identified risks related to a complaint, are assessed and managed.

Those involved in a complaint have both the right to confidentiality and the responsibility for maintaining confidentiality.

What is Workplace Bullying?

Bullying (refer to 'bullying' definition) can be in many different forms. It can range from overly aggressive behaviour such as shouting, physical confrontation or using an abusive or aggressive tone in speaking to other employees, to more subtle behaviours such as encouraging or allowing others to engage in bullying, publicly criticising others and spreading rumours. Bullying behaviour can be by one or more persons against any other person(s). This may include Managers and employees at any level being responsible for engaging in bullying behaviour or being the target of such behaviour. Managers and employees at any level can either be responsible for engaging in bullying behaviour or be the target of bullying.

The Safe Work Australia *Guide for Preventing and Responding to Workplace Bullying* provides the following examples of bullying:

- Abusive, insulting or offensive language or comments
- Aggressive or intimidating conduct
- Unjustified criticism or complaints
- Practical jokes or initiation practices involving abuse or humiliation
- Deliberately excluding someone from workplace activities
- Withholding information that is vital for effective work performance
- Setting unreasonable timelines or constantly changing deadlines
- Setting tasks that are unreasonably below or beyond a person's skill level
- Denying access to information, supervision, consultation or resources to the detriment of the employee
- Spreading misinformation or malicious rumors
- Changing work arrangements such as rosters and leave to deliberately inconvenience an employee or employees.

Bullying may also be discrimination if it targets a person on the basis of their age, gender, pregnancy, race, disability, sexual orientation or certain other protected attributes.

What is not Workplace Bullying?

Workplace conflict such as differences of opinion and disagreements are not generally considered to be workplace bullying (unless they are repeated, unreasonable behaviours that create a risk to health and safety) and should be managed under Council's Workplace Grievance Policy. Reasonable management action taken in a reasonable way does not constitute bullying.

Reasonable managerial actions are those taken to direct and control how work is done in the workplace and may include:

- Providing appropriate feedback on an employee's performance (the fact that an employee may find the feedback upsetting or unsettling does not of itself constitute bullying)
- Appropriate and reasonable actions taken to protect employees' safety
- Managing performance issues

- Issuing reasonable directions about work allocation, performance and attendance at the workplace
- Transferring an employee or taking action to make an employee redundant where the process is conducted fairly and equitably
- Making justifiable decisions related to recruitment and selection and other development opportunities
- Ensuring that workplace policies are implemented
- Managing allegations of misconduct and utilising disciplinary actions where appropriate
- Overseeing injury and illness processes in accordance with Work Health Safety, Injury Management and Workers Compensation legislation and policies.

It is reasonable for Managers and Supervisors to allocated work and give feedback on an employee's performance. These actions are not workplace bullying if they are carried out in a lawful and reasonable way, taking the particular circumstances into account. A Manager exercising their legitimate authority at work may result in some discomfort for an employee. The question of whether management action is reasonable is determined by considering the actual management action rather than an employee's perception of it, and where management action involves a departure from established policies or procedures whether the departure was reasonable in the circumstances.

Reporting Workplace Bullying

A complaint of bullying should be made to the relevant Manager. Where the complaint is against the Manager or where there may be a perceived conflict of interest, the complaint should be made to the next Manager or Director. Where this is not appropriate, the complaint should be referred to People and Culture for appropriate action. If the complaint relates to a Director, the complaint should be made to the General Manager.

In instances pertaining to complaints regarding the General Manager, complaints should be made in writing (preferably) to the Mayor. If the complaint relates to the Mayor or Councillors then the matter will defer to the Procedures for the Administration of *The Model Code of Conduct for Local Councils in NSW 2020* which outlines the process for managing complaints.

It is preferred that complaints of bullying are in writing but may also be verbal. Complaints should contain as much detail as possible (for example, the person(s) alleged to be bullying, dates of incident(s), alleged actions including verbal statements or physical actions and witnesses).

Employees will be offered EAP services and may seek advice from their Union regarding their complaint of bullying. Depending on the nature of the complaint, there may also be reporting obligations of Council (for example, reporting to SafeWork NSW if the report is deemed notifiable). It is critical that where Management or People and Culture become aware of a significant workplace risk, intervention is required as soon as practicable to manage the risk.

Anonymous complaints are not encouraged, however if one is received, it will be assessed and followed up on as deemed appropriate. While individual matters may not be able to be followed up, a general organisational response may be required such as a meeting with the relevant group of employees.

Responding to Workplace Bullying

When a complaint is received and where appropriate to do so, it will be forwarded to the People & Culture Coordinator. Where serious allegations have been made the General Manager may determine the matter to be dealt with by an external party.

The complaint will be assessed initially within three working days, to determine whether it is a bullying complaint or a grievance.

- If the complaint is determined to be of a bullying nature, it will include elements as outlined above from The Safe Work Australia *Guide for Preventing and Responding to Workplace Bullying*
- If the complaint is determined to be a grievance, it will include elements as outlined above in the section *What is not Workplace Bullying*.

Both a bullying complaint and grievance complaint will undergo a risk assessment to ensure the safety and wellbeing of the employee(s) involved and implement any initial controls to manage the situation. If an employee is deemed to be at risk, alternative work arrangements may be introduced to support their wellbeing.

People and Culture will determine what actions will be initially undertaken and actions may include:

- A meeting with the employee making the complaint to ascertain further information and confirm details of the allegations. This should occur within three days of receiving the complaint
- Considering the nature of the allegations to determine if the complaint is a bullying complaint or grievance
- If the complaint is of a bullying nature, People and Culture will commence an investigation and may begin with requesting alleged employee(s) attend a meeting to respond to allegation(s). Council's *Performance and Misconduct Procedure* will be followed and the severity of the following steps will be determined after the initial meeting.
- If the complaint is a grievance, Council's *Workplace Grievance Policy and Procedure* will be followed.

Alternatively, where appropriate an informal approach can be taken to manage a complaint. For example, an employee may notify their supervisor of an issue they have with another employee and it may be resolved with an informal conversation where the Supervisor brings the matter to the alleged employee's attention. In this instance, the alleged employee may have been unaware of their actions and the matter is resolved by an informal conversation. The Supervisor should also notify their manager of the matter and ensure there is a written record of the matter, conversation and outcome.

Where an employee advises of a bullying incident but does not wish to make a formal complaint, the employee will be advised of their options to resolve the matter. There may be an obligation of Council to take action to ensure the health and safety of employees. The relevant Supervisor/Manager or People and Culture will advise the concerned employee that:

- Council's *Bullying and Harassment Policy and Workplace Grievance Policy and Procedure* are the frameworks to help resolve workplace issues.
- Employees have an obligation to report work, health and safety issues
- Complaints will be taken seriously
- Council has a duty of care to all employees and when a workplace risk arises, they have a responsibility to intervene, manage and minimise or eliminate the risk.

Notifying the Individual(s) of the Complaint

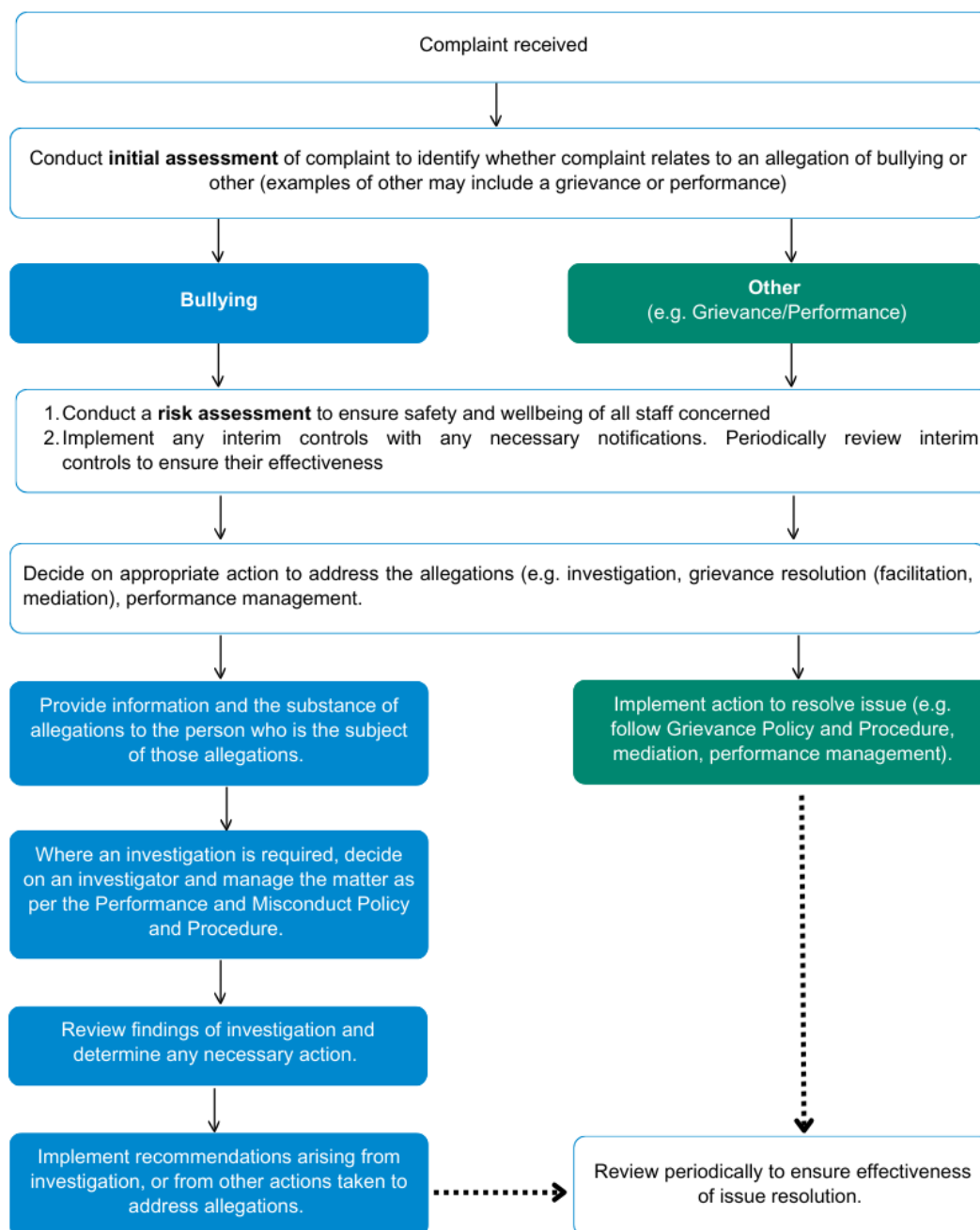
The employee who is the subject of a complaint should be informed of the substance of the complaint as soon as it is safe and appropriate to do so (for example, ideally on a Monday to allow for a meeting to be scheduled within the same week). The employee should be informed by their Manager, in person in a private and confidential space, to initially advise that a complaint has been received.

Procedural fairness will be applied to the employee who is the subject of the complaint, and they will be advised of:

- An overview of how the complaint will be managed
- Their right to privacy and confidentiality will be maintained and that no information will be provided to third parties unless considered necessary, or where reporting obligations apply
- Their own role in ensuring that confidentiality is maintained
- They will be given a fair opportunity to put their case forward and have their perspective considered before an outcome is determined.
- The expectation that they make themselves available in order to assist resolving the complaint
- They will be provided with information on progress of the investigation and any decisions made that may affect them
- Access to EAP services is available to them
- Their right to seek independent advice (for example from a Union or association)
- Their right to a support person and the role of the support person.

Below is a flowchart to summarise the key stages of receiving, assessing and managing a complaint of a bullying or grievance nature.

The below flowchart is intended as a summary of the key stages of managing a matter.



Confidentiality

All employees have rights and responsibilities in relation to confidentiality. Information about a bullying complaint must only be provided on a 'need to know' basis (e.g. Union, Manager, Investigator – to whom confidentiality also applies) and must not be provided to third parties with no legitimate involvement.

Those involved in a complaint have both the right to confidentiality and the responsibility for maintaining confidentiality in respect of both the identity of those involved as well as the subject matter. Inappropriate release of information relating to a complaint, or a person involved with a complaint, to any third party with no legitimate involvement in the process are to be dealt with in accordance with Council's *Performance and Misconduct Policy*.

The person against whom a complaint is made needs to be provided with sufficient information to allow them to respond fully to the issues raised. Anonymity may prevent adequate investigation of a complaint, in addition to impeding a response to allegations. In most circumstances, complainants are to be advised that effective action to deal with a complaint requires their identity to be made known.

Resolving complaints

Where a complaint is substantiated

The course of action will be determined on a case-by-case basis. Recommended actions may include:

- Gaining commitment that the behaviour will cease
- Requiring an acknowledgement from the person who has engaged in workplace bullying to the employee that has been subjected to the behaviour, of the impact of that behaviour and offering an apology
- Counselling the person against whom a complaint is made
- Ongoing performance management and monitoring
- Transfer of roles or work locations
- Training and educating employees on what constitutes workplace bullying, appropriate behaviours and communication, managing workplace relationship, providing feedback, etc.
- Disciplinary action if warranted.

Where the complaint is not substantiated

Where the findings suggest it is unlikely that bullying has occurred, an organisational response may still be necessary. The investigation may have identified gaps in the bullying prevention and risk management framework that require remedy. Action may also be necessary to re-establish effective working relationships even when allegations were not substantiated.

Malicious and Vexatious Complaints

Council encourages employees to raise all genuine concerns. Employees should not be put off from raising concerns because they are afraid that they may be wrong, or they will not be able to prove their claims. However, making allegations that are not true, or making a complaint solely to cause trouble for others, may constitute a breach of the *The Model Code of Conduct for Local Councils in NSW 2020*.

Victimisation

The *Equal Opportunity Act 2010* makes it against the law victimise someone because they have:

- asserted their rights under equal opportunity law
- made a complaint, or it is believed they intend to make a complaint
- helped someone else make a complaint
- refused to do something because it would be discrimination, sexual harassment or victimisation.

Victimisation is also against the law under the *Racial and Religious Tolerance Act 2001*. The legal definition of victimisation is when someone “subjects or threatens to subject the other person to any detriment”.

An employee who believes they have been discriminated against or sexually harassed has the right to make a complaint internally or go through an external agency.

Organisational responses to workplace bullying

Strategies for managing organisational issues that may have been identified as permitting or facilitating workplace bullying include:

- Addressing any identified workplace culture issues, work practices and/or supervisory arrangements that may contribute to bullying
- Ensuring that all employees understand what constitutes bullying and that such behaviour will not be tolerated
- Reviewing related training to ensure it is appropriate
- Ensuring that all employees receive this policy as part of their on-boarding
- Review associated policies and procedures regularly
- Promote positive workplace culture.

Breach of Policy

Where it is determined that a breach of this Policy has occurred and/or there have been substantiated bullying allegations, this may constitute misconduct, and employees may be subject to disciplinary action under *Council’s Performance and Misconduct Policy*.

Any unlawful behaviours of a serious nature will be reported to the Police and the employee may be stood down, pending a formal investigation which may result in disciplinary action or termination.

Links to Policy

Workplace Grievance Policy

Workplace Health & safety Policy

Model Code of Conduct for Local Councils in NSW

Performance Management and Misconduct Policy (under development)

Links to Procedure

Workplace Grievance Procedure

Performance Management and Misconduct Procedure

Links to Forms

Nil

References

Nil

Responsibility

Director Corporate and Community Services

Document Author

People and Culture Coordinator

Relevant Legislation

[Anti-Discrimination Act 1977 \(NSW\)](#)

[Age Discrimination Act 2004 \(Commonwealth\)](#)

[Sex Discrimination Act 1984 \(Commonwealth\)](#)

[Racial Discrimination Act 1975 \(Commonwealth\)](#)

[Disability Discrimination Act 1992 \(Commonwealth\)](#)

[Sex Discrimination Regulations 2018 \(Commonwealth\)](#)

[Disability Discrimination Regulations 2019 \(Commonwealth\)](#)

[Work Health and Safety Act 2011](#)

[Safe Work Australia Guide for preventing and responding to workplace bullying](#)

[Australian Human Rights Commission](#)

[NSW Industrial Relations Act 1996](#)

[Local Government Act 1993 \(NSW\)](#)

[Local Government \(State\) Award - 'The Award'](#)

Associated Records

Nil