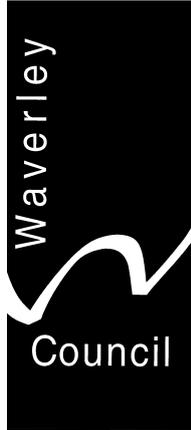


Harassment and Bullying Prevention Policy



Waverley Council is committed to ensuring that the working environment is free from harassment and bullying. Any form of harassment and bullying is unacceptable and will not be tolerated under any circumstances.

Council aims to:

- create a working environment which is free from discrimination and harassment where all members of staff are treated with dignity, courtesy and respect
- implement training and awareness raising strategies to ensure that all employees know their rights and responsibilities
- provide an effective procedure for complaints, based on the principles of natural justice
- treat all complaints in a sensitive, fair, timely and confidential manner
- guarantee protection from any victimisation or reprisals
- encourage the reporting of behaviour which breaches the Harassment and Bullying Prevention Policy
- promote appropriate standards of conduct at all times

Council expects all staff to behave in a way that is consistent with our values. Harassing and bullying behaviour is not conducive to a positive work environment.

This policy applies to all Council employees. Disciplinary action will be taken against any employee who breaches this policy.

What is Harassment?

Harassment occurs when someone is made to feel intimidated, insulted or humiliated because of their race, colour, national or ethnic origin, sex, disability, sexual preference or some other characteristic specified under anti-discrimination or human rights legislation.

Harassment can include behaviour such as:

- telling insulting jokes about particular racial groups;
- sending explicit or sexually suggestive e-mails;
- repeatedly asking a colleague for a date;
- touching or fondling someone;
- displaying offensive or pornographic posters or screen savers;
- making derogatory comments or taunts about someone's race or religion;
- asking intrusive questions about someone's personal life, including their sex life.

Harassment on any of the grounds listed in the legislation on page 3 is against the law.

What is Bullying?

Workplace bullying is the repeated less favourable treatment of a person by another or others in the workplace, which may be considered unreasonable and inappropriate workplace practice. It includes behaviour that intimidates, offends, degrades or humiliates an employee.

Examples of bullying behaviour include:

- physical or verbal abuse;
- yelling, screaming or offensive language;
- excluding or isolating employees;
- psychological harassment;
- intimidation;
- assigning meaningless tasks unrelated to the job;
- giving employees impossible jobs;
- deliberately changing work rosters to inconvenience particular employees;
- undermining work performance by deliberately withholding information vital for effective work performance.

Bullying behaviour is an abuse of power in workplace relationships. It is not necessarily perpetrated by someone at a higher classification level and can be perpetrated by an employee's peer or a person at a lower classification. It may also be unlawful.

What harassment/discrimination is not

Workplace harassment or bullying must not be confused with legitimate comment and advice (including relevant negative comment or feedback) from managers and supervisors on the work performance or work related behaviour of an individual or a group.

Who has responsibility for ensuring that workplace harassment and bullying does not occur?

Managers and supervisors are responsible for ensuring that employees, contractors and customers are not harassed or bullied within the workplace or in connection with their employment.

They must:

- ensure that all employees they supervise understand this policy;
- be a good role model and not engage in any behaviour which could be interpreted as harassment and/or bullying;
- make it clear to all team members that they will not tolerate any unfair treatment, harassment or bullying from anyone in the team;
- wherever possible, ensure that neither the work environment nor any work processes make it easy for harassment or bullying to occur;
- follow up any team behaviour changes that could indicate that harassment or bullying is occurring;
- act immediately if they witness or are told about any alleged harassment and/or bullying by following Council's procedures.

It is the responsibility of all employees to not participate in harassing or bullying behaviour within the workplace.

If you become aware that someone you work with is being harassed and or bullied, you should encourage him or her to report the unacceptable behaviour to their manager/supervisor if the harassment or bullying does not stop.

Consequences of harassment or bullying

Where an investigation is carried out and harassment or bullying is found to have occurred, Council's Discipline Procedures will be followed. Outcomes may include an apology, transfer, suspension or dismissal.

Where to get assistance should harassment or bullying occur

If you are unsure about whether or not you are being harassed, or if you would like information about how to deal with harassment and/or bullying, or if you are a manager/supervisor responsible for resolution of a complaint, advice may be sought from the Divisional Manager, Human Resources and Organisational Development.

Employees may also seek confidential advice from one of Council's Staff Advisers. A list of Staff Advisers is available on controlled documents.

If an employee is feeling harassed or bullied she/he may seek support from Council's Employee Assistance Program.

Variation

Council reserves the right to review, vary or revoke this policy at any time.

Related Legislation:

NSW Anti-Discrimination Act 1977

NSW Occupational Health and Safety Act and Regulations 2000 and 2001

NSW Local Government Act 1993

Racial Discrimination Act 1975

Sex Discrimination Act 1984

Human Rights and Equal Opportunity Commission Act 1986

Disability Discrimination Act 1992

Complaint Resolution Procedures

Informal Resolution of Complaints

Informal procedures emphasise resolution rather than factual proof or substantiation of a complaint. Informal ways of dealing with complaints of discrimination and harassment can include the following action:

- the individual who has been discriminated against or harassed wants to deal with the situation themselves but may seek advice on possible strategies from their supervisor or another officer (e.g. Staff Adviser, Divisional Manager, Human Resources and Organisational Development);
- the individual who has been discriminated against or harassed asks their supervisor to speak to the alleged harasser on their behalf. The supervisor privately conveys the individual's concerns and reiterates the organisation's policy to the alleged perpetrator without assessing the merits of the case;
- a complaint is made, the perpetrator admits the behaviour, investigation is not required and the complaint can be resolved through conciliation or counselling;
- a supervisor or manager observes unacceptable conduct occurring and takes independent action even though no complaint has been made.

Informal action is usually appropriate where:

- the allegations are of a non disciplinary nature, but the individual subjected to the behaviour wants it to cease nonetheless;
- the individual subjected to the behaviour wishes to pursue an informal resolution;
- the parties are likely to have ongoing contact with one another and the complainant wishes to pursue an informal resolution so that the working relationship can be sustained.

Formal Resolution of Complaints

Formal complaints procedures focus on looking at whether a complaint can be substantiated, or at least whether the parties can be brought together to try and reach a satisfactory outcome. Formal complaints procedures usually involve:

- investigation of the allegations;
- application of the principles of natural justice (procedural fairness);
- making a finding as to whether the discrimination or harassment occurred or whether it is likely it has occurred;
- submitting a report with a recommended course of action to the Director/General Manager;
- implementation of an appropriate outcome.

Formal procedures are usually appropriate where:

- informal attempts at resolution have failed;
- the person alleging discrimination or harassment has been victimised;
- the complaint involves serious allegations of misconduct where disciplinary action would be an outcome and informal resolution could compromise the rights of the parties;
- the complaint is against a more senior member of staff - formal procedures may help to ensure that the complainant is not victimised or disadvantaged;

- the allegations are denied and the person who claims to have been harassed wishes to proceed and investigation is required to substantiate the complaint;
- the person alleging discrimination or harassment wishes to make a formal complaint from the outset.

The steps involved in a formal complaint

Formal complaints should be made to the Divisional Manager, Director or General Manager. They may either conduct the investigation themselves if they have received formal investigations training or appoint a suitably trained investigator. Advice should be sought from the Divisional Manager, Human Resources and Organisational Development as necessary.

The steps are as follows:

1. The complainant makes an allegation in writing (Assistance will be provided to employees if they are unable to make an allegation in writing themselves).
2. The complainant is interviewed.
3. The allegations are conveyed to the alleged perpetrator in full.
4. The alleged perpetrator is given the opportunity to respond and defend themselves against the allegations.
5. If there is a dispute over facts, statements from any witnesses and other relevant evidence are gathered.
6. A finding is made as to whether the complaint has substance.
7. A report documenting the investigation process, the evidence, the finding and a recommended outcome/s is submitted to the Director/General Manager.
8. The Director/General Manager implements the recommended outcome/s or decides on an alternative course of action.

Consideration of evidence

A formal complaint should not be dismissed on the ground that no one saw or heard the incident/s occur. Given the nature of the offence, there are often no direct witnesses to alleged acts of harassment or bullying. Those responsible for investigating complaints should consider all available evidence, including any surrounding evidence. The following type of evidence may be relevant:

- supporting evidence provided by a medical practitioner, counsellor, family member, friend or co-worker;
- supervisors reports and personnel records (e.g. unexplained requests for transfer or shift changes, sudden increase in sick leave);
- complaints or information provided by other employees about the behaviour of the alleged perpetrator;
- records kept by the person claiming to have been harassed or bullied;
- whether the evidence was presented by the parties in a credible and consistent manner;
- the absence of evidence where it should logically exist.

Outcomes

Outcomes can include any combination of the following:

- counselling;
- formal apology;
- conciliation/mediation conducted by an impartial third party where the parties to the complaint agree to a mutually acceptable resolution;

- re-crediting any leave taken as a result of the harassment or bullying;
- official warnings that are noted on the perpetrator's personnel file;
- disciplinary action against the person who complained if there is strong evidence that the complaint was vexatious or malicious.

Outcomes will depend on factors such as:

- the severity and frequency of the harassment or bullying;
- the weight of the evidence;
- the wishes of the person who was harassed or bullied;
- whether the harasser could have been expected to know that such behaviour was a breach of policy;
- whether there have been any prior incidents or warnings.

If there is insufficient proof to decide whether or not harassment or bullying occurred Council will nevertheless:

- remind those involved of expected standards of conduct;
- continue to conduct regular refresher training for staff;
- monitor the situation carefully.

Council will ensure that the outcome of a substantiated complaint does not disadvantage in any way the person who was harassed or bullied.