

POLICY:-	
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PROCEDURES/GUIDELINES:-	
Date procedure/guideline was developed:	N/A
Procedure/guideline reference number:	N/A

RESPONSIBILITY:-	
Draft Policy Developed by:	Human Resource Coordinator
Committee/s (if any) consulted in the development of this policy:	Nil
Responsibility for implementation:	Human Resource Coordinator
Responsibility for review of Policy:	Human Resource Coordinator

1. PURPOSE

This document reaffirms Upper Lachlan Shire Council's strong commitment to a continuing policy of Equal Employment Opportunity (EEO) by providing a workplace free from discrimination, harassment and victimisation.

Objectives:

- a) To eliminate and ensure the absence of discrimination and harassment in employment on the grounds of sex, pregnancy, race or ethno-religious background, marital status, disability, homosexuality, transgender and age by compliance with the NSW Industrial Relations Act 1996.
- b) To promote equal employment opportunity for all by compliance with the Equal Employment Opportunity for Women in the Workplace Act 1999 (Cwth).
- c) To comply with legislative provisions.

2. SCOPE

This policy applies to everyone working within Upper Lachlan Shire Council including Councillors, managers, supervisors, full time, part-time and casual workers, temporary workers, contract workers (including those employed via an agency), volunteers and, in addition, those people seeking employment with Council.

This policy outlines Council's commitment to EEO principles and to the upholding of laws relating to EEO and anti-discrimination. The policy relates to all employees of Council with particular attention to Council's obligations to meet the needs of members of EEO target groups affected by past or continuing disadvantage or discrimination in employment.

These target groups include but not limited to women, Aboriginal people, Torres Strait Islanders, members of racial, ethnic or ethno-religious minority groups, and people with a disability.

In broad terms it is the responsibility of *all* employees to ensure that proper standards of conduct are upheld in the workplace. Managers and staff in supervisory positions are also required to take all reasonable steps to ensure that the work environment is free from discrimination and harassment.

Equal Employment Opportunity is an outcome, not just a process.

The Mayor, Councillors and Management believe that prospective employees, employees and contract workers of the Council are entitled to be treated on the basis of their true abilities and merit, and to work in an environment which is free of discrimination and harassment.

Council recognises that anti-discrimination legislation in its various forms has been introduced to protect individuals from unfair attitudes and practices that may exist within that work environment and society generally. Accordingly, Council is committed to achieving Equal Employment Opportunity for all employees as a

means of increasing the effectiveness of Council and recognising and utilising the true potential of all its employees.

Therefore, persons are entitled to access employment, promotion, training, transfers and the benefits of employment on the basis of merit and will be assessed on the basis of their skills, qualifications, abilities, work performance and aptitudes.

Council will act to eliminate and ensure the absence of discrimination in its employment on the grounds of race, gender, marital status, age, sexuality, carer's responsibilities, physical and intellectual impairment. Furthermore, Council will promote within its workforce equal employment opportunity for women, members of racial minorities and physically handicapped persons.

3. DEFINITIONS

Discrimination

Discrimination means treating someone unfairly because they belong to a particular group of people. The *Anti-Discrimination Act 1977* (NSW) passed by the NSW Parliament makes the types of discrimination listed below unlawful:

- Sex discrimination
- Pregnancy discrimination
- Race discrimination
- Age discrimination
- Marital status discrimination
- Homosexual discrimination
- Disability discrimination
- Transgender (transsexual) discrimination
- Carer's responsibilities discrimination
- Discrimination because of who you are related to, or who you associate with
- Harassment
- Sexual harassment
- Infectious diseases
- Victimisation
- Vilification

Unlawful discrimination refers to discrimination on any of the grounds specified by either the NSW Local Government Act 1993, the NSW Anti-Discrimination Act 1977 and subsequent amendments, the Commonwealth Sex Discrimination Act 1984, the Racial Discrimination Act 1975 or the Disability Discrimination Act 1992. Discrimination may be deemed to have occurred through a workplace practice, procedure, policy, system, rule or requirement, by either words or actions, which unfairly treat individuals or groups of a particular category of people.

Direct discrimination is treating someone unfairly or unequally, through either words or actions, based on personal characteristics (actual or presumed) of a particular group or category of people to which they belong as outlined in the anti-discrimination legislation.

Indirect discrimination is where the application of a workplace practice, procedure, policy, system, rule or requirement that is the same for everyone has an unequal or disproportionate effect or result on particular groups of people as outlined in the antidiscrimination legislation.

Equal Employment Opportunity

Equal Employment Opportunity is based on the merit principle and is a right to fair and unbiased conduct, practices and decisions in all employment related activities.

Harassment

Unlawful harassment can be based on any of the prohibited grounds of discrimination. Harassment is any form of unwelcome behaviour or language, including of a sexual nature that has the effect of offending, intimidating or humiliating a person, including a job applicant, another employee, or customer, or any other visitor to our workplace.

Harassment can often be the result of behaviour that is not intended to offend or harm however the fact that it is unintentional does not mean that it is not unlawful.

There are many **types of harassment**. These can range from **direct** forms, such as abuse, threats, name calling and sexual advances; to **less direct** forms, such as where a hostile work environment is created but no direct attacks are made on an individual.

Racial Harassment

Racial harassment can be non-verbal, verbal or physical. It can consist of derogatory remarks, racially explicit statements, graffiti, jokes or any action of a racist nature which is directed at an individual or group from a different ethnic background and which results in the individual(s) feeling threatened or compromised.

Sexual Harassment

A person sexually harasses another person if the person:

- makes an unwelcome sexual advance towards the other person; or
- makes an unwelcome request for sexual favours to the other person; or
- engages in other unwelcome conduct of a sexual nature in relation to the person harassed, or
- engages in repeated sexual or other invitations when the person invited has refused similar invitations before, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would be offended, humiliated or intimidated.

Sexual harassment is unwelcome, uninvited conduct that is offensive from the view of the person harassed, regardless of any “lack of intent” on the part of the offender. It can involve any physical, visual, verbal or non-verbal conduct of a sexual nature and can be experienced by both women and men.

Sexual harassment may include conduct that occurs in the workplace or in connection with the workplace, for example, at a Council sponsored party or at a work-related function outside of work hours.

Victimisation

Victimisation includes threatening, harassing or punishing a person in any way because they have objected about the discriminatory manner in which they have been treated. It also applies to anyone who has made a complaint, or intends making a complaint, or who gives evidence about a complaint under the Act.

4. ROLES AND RESPONSIBILITIES

Managers and Supervisors

It is part of the role of managers and supervisors to ensure that discrimination and harassment do not occur in the workplace. Managers and supervisors must ensure that they do not engage in such behaviour themselves.

When managers observe harassment or discrimination happening in the workplace, they should take steps to stop it and warn the person involved of the consequences if the offending behaviour continues.

Managers and supervisors are also responsible for ensuring that all staff are aware that harassment and discrimination will not be tolerated in the workplace and that complaints will be dealt with in accordance with Council's Grievance Handling Procedures.

Employees

All employees and Councillors are legally obliged to ensure that they do not harass or discriminate against other employees, volunteers, contractors, managers, supervisors or customers of Upper Lachlan Shire Council. Employees must also ensure that they do not encourage harassment or discrimination.

If an employee feels they are being harassed, if they are able, they should tell the person to stop, that their behaviour is unacceptable and that they must not do it again. If an employee is too frightened or embarrassed to say anything, this does not mean their complaint will not be taken seriously.

If an employee becomes aware that a colleague is being harassed or discriminated against, they can assist him or her in a number of ways. The employee can offer to act as a witness if they decide to make a complaint. If they feel able, an employee can support their colleague in saying "no" to the harasser.

If the behaviour does not cease, employees should inform their manager or supervisor.

Alternatively, employees may wish to speak to the Director, Manager, or the Human Resources Coordinator.

Friendships at Work

It is not sexual harassment to develop friendships or relationships with other people at work. Mutually acceptable friendships, which develop between people who meet at work, do not constitute sexual harassment. A person's private life is his/her own

business however behaviour that may be acceptable privately or socially may be inappropriate in a work environment.

Variation

Council reserves the right to vary or revoke this policy.

5. RELATED POLICIES

- Bribes, Gifts and Benefits Policy;
- Code of Business Practice;
- Code of Conduct for Local Councils in NSW;
- Complaints Management Policy;
- Disciplinary Policy;
- Drug and Alcohol Policy;
- Employment and Retention Policy;
- Employee Assistance Program (EAP) Policy;
- Equal Employment Opportunity (EEO) Management Plan;
- Flexible Work Arrangements Policy & Procedure;
- Fraud and Corruption Prevention Policy;
- Grievance Policy;
- Harassment Policy;
- Human Resource Succession Plan;
- Human Resource Training Plan;
- Interaction between Councillors and Staff Policy;
- Internet and Email Policy;
- Mobile Phone Policy;
- Payment of Expenses and Provision of Facilities Policy;
- Performance & Misconduct Policy;
- Public Interest Disclosures Policy;
- Recruitment and Selection Policy;
- Rehabilitation Procedure and Practice Policy;
- Secondary Employment Policy;
- Smoking in the Workplace Policy;
- Staff Training Policy;
- Statement of Ethical Principles;
- Trauma Management Policy;
- Volunteers Policy; and
- Work Health and Safety Policy;

6. RELATED PROCEDURES

- Code of Conduct Procedures
- Grievance Handling Procedures
- Recruitment and Selection Procedures

7. LEGAL PARAMETERS

The following legislation effects the operation of this Policy:

- Anti Discrimination Act 1977;
- Crimes Act 1900;

- Disability Discrimination Act 1992 (Cwth);
- Disability Inclusion Act 2014;
- Environmental Planning and Assessment Act 1979;
- Equal Employment Opportunity Act 1987 (Cwth);
- Equal Employment Opportunity for Women in the Workplace Act 1999 (Cwth);
- Fair Work Act 2009 (Cwth);
- Government Information (Public Access) Act 2009;
- Independent Commission against Corruption Act 1988;
- Industrial Relations Act 1996;
- Local Government Act 1993;
- Local Government (General) Regulations 2005;
- Local Government (State) Award 2017;
- Privacy and Personal Information Protection Act 1998;
- Public Interest Disclosures Act 1994;
- Racial Discrimination Act 1975 (Cwth);
- Sex Discrimination Act 1984(Cwth) ;
- State Records Act 1998;
- Work Health and Safety Act 2011
- Work Health and Safety Regulations 2017;
- Workplace Gender Equality Act 2012 (Cwth).