



DATE ADOPTED: 28 JUNE 2016

VERSION: 5.0

POLICY OBJECTIVES

The objectives of this policy are to:

- Provide a safe and productive workplace free from discrimination, harassment, bullying and victimisation for all employees, contractors, volunteers, councillors and visitors
- Promote the principles of equity, diversity, respect and tolerance in all work and management practices
- Raise organisational awareness in regards to discrimination, harassment, bullying, victimisation and the information contained in this policy
- Create a self-monitoring culture where all employees acknowledge, support and champion the principles of a workplace free from discrimination, harassment, bullying and victimisation
- Encourage the reporting of behaviour which breaches Council's Equity, Diversity and Respect Policy.

POLICY SCOPE

This policy applies to current and prospective employees and extends to cover apprentices, volunteers, contractors and Councillors.

This policy applies to interactions between all managers, employees, contractors, volunteers and members of the public either in person or via any form of communication including email, social media or text message.

POLICY STATEMENT

Maitland City Council aims to provide, model and encourage an environment where employees and others in the workplace are treated fairly, with respect and are free from unlawful discrimination, harassment, bullying and victimisation.

Council is committed to providing a confidential grievance procedure where employees can gain accurate advice and make complaints about equity, diversity and bullying issues in the workplace. Any breaches of this policy are to be reported immediately.

Maitland Council will not tolerate any form of bullying, discrimination, harassment or victimisation from any manager, employee, contractor, volunteer, visitor, councillor or member of the public under any circumstance. This includes behaviour conducted via the use of electronic media and mobile phones. To ensure the objectives of the policy are achieved, Council will implement its Equal Employment Opportunity (EEO) and Diversity Management Plan and support the ongoing role of the EEO Committee.

RESPONSIBILITY

Maitland City Council has a legal responsibility to prevent discrimination, harassment, bullying and victimisation in the workplace. Everyone within the workplace also has an individual responsibility and a duty of care to ensure a safe and healthy workplace.

General Manager

- Promote a workplace free from discrimination, harassment and bullying for all persons described within the scope of this policy
- Endeavour to ensure every employee and prospective employee is treated fairly and with respect
- Endeavour to ensure the behaviour of all employees complies with this policy
- Ensure Council's EEO and Diversity Management Plan is implemented.

Managers and Supervisors

- Model appropriate workplace behaviours and monitor the work environment to ensure acceptable standards of conduct are followed at all times
- Endeavour to ensure decisions relating to employment, promotion and training are equitable and based upon merit
- Endeavour to ensure employees are aware of and understand Council's Equity Diversity and Respect Policy
- Act to resolve incidences of discrimination, harassment bullying and victimisation when made aware of a problem, even if a formal complaint has not been made
- Treat all complaints seriously, equitably and confidentially, and in accordance with the Grievance Procedure.

Employees

- Ensure individual behaviour complies with Council's Equity Diversity and Respect Policy
- Ensure they do not participate or encourage discrimination, harassment, bullying or victimisation against other employees, prospective employees and any other person under the scope of this policy
- Maintain confidentiality if involved with the investigation of a grievance
- Report breaches of this Policy in accordance with the Grievance Procedure.

EEO Committee

The EEO Committee will work with all employees towards a discrimination, harassment and bullying-free workplace and ensure that all current and prospective employees are afforded equal access to opportunities and benefits relating to employment, promotion and training.

The EEO Committee is responsible for:

- Informing and consulting with staff on discrimination, harassment and bullying matters
- Promoting Equity Diversity and Respect throughout the organisation
- Acting as Contact Officers by advising staff with discrimination, harassment, bullying and victimisation grievances on the options available to them.

Liability

Accessory liability, aiding and abetting: A person will be liable if he/she causes, instructs, induces, aids or permits another person to do a discriminatory act (individuals and unions can be held liable).

Individual liability: An individual may be held liable for their own discriminatory or harassing conduct in the workplace or in connection with their employment.

Primary liability: Employer



Vicarious liability: Employers are liable for acts of employees and agents unless all reasonable steps have been taken to prevent the conduct.

POLICY DEFINITIONS

Bullying: A worker is bullied at work if:

- A person or group of people repeatedly act unreasonable towards them or a group of workers
- The behaviour creates a risk to health and safety.

Unreasonable behaviour includes victimising, humiliating, intimidating or threatening. Whether the behaviour is unreasonable can depend on whether a reasonable person might see the behaviour as unreasonable in the circumstances.

Direct Discrimination: Occurs when someone is treated unfairly compared to someone else in the same or similar circumstances and it is because of their sex, pregnancy, breastfeeding, race, age, marital or domestic status, homosexuality, disability, transgender status or carer's responsibilities.

Discrimination: Treating a person unfairly or differently because they belong to a particular group of people or have a particular characteristic. It is against the law in NSW to discriminate or harass a person on the grounds of sex, race (including ethno religion), age, disability, marital or domestic status, homosexuality, transgender status, carer's responsibilities and/or discrimination because of who you are related to or who you associate with.

EEO Equal Employment Opportunity

Indirect Discrimination: When there is a requirement or rule that is the same for everyone but in effect disadvantages people from a particular group more than people from other groups — unless the requirement is reasonable in the circumstances.

Merit: Assessing each person's skills and abilities against the needs of the job and disregarding unlawful personal characteristics which are irrelevant for the job. This means that people's sex, race, age, marital or domestic status, disability, homosexuality, transgender, and carer's responsibilities, must not bar them from applying or being properly considered for the job. **Harassment** is unwelcome behaviour that offends, humiliates or intimidates a person or group of people and creates a hostile environment. It is unlawful if the person or group of people are targeted because of: sex, pregnancy, breastfeeding, race, age, disability, marital or domestic status, homosexuality, carer's responsibilities or transgender status, or that of your relatives, friends or associates.

Sexual Harassment: When a person is subjected to unwanted sexual advances; unwelcome requests for sexual favours or other unwelcome conduct of a sexual nature, and a reasonable person would expect you to be offended, humiliated or intimidated by this behaviour. Sexual harassment is unlawful under the NSW Anti-Discrimination Act 1977 and Sex Discrimination Act 1984 (Cth).

Vexatious complaints: Complaints that are frivolous; made maliciously and without grounds.

Victimisation: Hassling, victimising or treating a person unfairly because they have made a discrimination or harassment complaint or supported a person with a complaint, or acted as a witness in a discrimination or harassment case.



Workplace harassment:

Where a person is subjected to behaviour, other than sexual harassment, by an employer, worker, co-worker or group of co-workers, apprentice, volunteer, contractor or member of the public that:

- Is unwelcome and unsolicited
- The person considers to be offensive, intimidating, humiliating or threatening
- A reasonable person would consider that the harassed person would be offended, humiliated, intimidated or threatened in that particular situation.

Workplace harassment and bullying is not:

- Setting reasonable workplace goals and standards
- Reasonable supervisory practices, including feedback and performance/misconduct processes.

POLICY ADMINISTRATION

BUSINESS GROUP:	Human Resources
RESPONSIBLE OFFICER:	Executive Manager Human Resources
COUNCIL REFERENCE:	Ordinary Council Meeting 28 June 2016 – Item 11.2
POLICY REVIEW DATE:	Three (3) years from date of adoption
FILE NUMBER:	130/1 & 49/4
RELEVANT LEGISLATION	<ul style="list-style-type: none"> • Age Discrimination Act 2004 (Cth) • Anti-Discrimination Act, 1977 (NSW) • Australian Human Rights Commission Act 1986 (Cth) • Disability Discrimination Act 1992 (Cth) • Industrial Relations Act 1996 (NSW) • Local Government Act 1993 (NSW) • Local Government (State) Award 2014 • Racial Discrimination Act, 1975 (Cth) • Sex Discrimination Act, 1984 (Cth) • Work Health Safety Act 2011 (NSW) • Work Health Safety Regulation 2011 • Workplace Relations Act 1996 (Cth)
RELATED POLICIES / PROCEDURES / PROTOCOLS	<ul style="list-style-type: none"> • Attraction and Engagement Protocol • Code of Conduct • EEO and Diversity Management Plan • Performance & Misconduct Protocol • Safety Management System – Safety Procedure on Aggressive and Abusive Customers • Safety Management System – Safety Procedure on Workplace Violence and Bullying • Social Media Protocol • Use and Access of Electronic Mail Protocol • Use and Access of Internet

POLICY HISTORY

VERSION	DATE APPROVED	DESCRIPTION OF CHANGES
1.0	26.3.2002	New policy adopted
2.0	23.01.2007	Renamed Respect at Work Policy
3.0	22.09.2009	Amended Respect at Work Policy
4.0	14.08.2012	Policy title changed from Respect at Work to Equity, Diversity & Respect Update of legislation and relevant policies Addition of email internet statement.
5.0	28.06.2016	Updated to reflect new policy format and to ensure the content of the document is clear and succinct; the title of People & Performance has been changed back to Human Resources; objectives and statement updated; addition of liability information; additional legislation and policies included and definitions updated.

