

## 1. POLICY CERTIFICATION

<b>Policy title:</b>	<b>Bullying, Harassment and Discrimination Policy</b>
<b>Policy number:</b>	<b>HR002</b>
<b>Category:</b>	<b>Policy</b>
<b>Classification:</b>	<b>HR</b>
<b>Status:</b>	<b>Approved, In-Force</b>

## 2. PURPOSE

The purpose of this policy is to affirm Roper Gulf Regional Council's (Council) commitment to providing a safe working environment free of in accordance with its legislative obligations.

Council understands and recognises that bullying, unlawful discrimination, harassment and sexual harassment is unlawful and causes serious harm. Council is committed to ensuring that the workplace is safe, fair and free from bullying, harassment, and discrimination for all employees, Councillors, contractors, visitors and customers. Council is committed to promoting a working environment which supports and sustains good working relationships.

Workplace bullying, harassment, sexual harassment and unlawful discrimination is a breach of Council's Work Health and Safety Policy, Code of Conduct, and various legislative items.

## 3. ORGANISATIONAL SCOPE

This policy applies to all Council employees, contractors, visitors and customers in the workplace on Council owned or leased property, at Council organised events or any location or event associated with Council.

## 4. POLICY STATEMENT

Council affirms its commitment to meeting its prescribed Duty of Care to duty to provide a safe workplace, and this is inclusive of the provision and maintenance of 'safe systems of work' (Section 19(3)(c) *Work Health and Safety (National Uniform Legislation) Act 2011*).

Council affirms its commitment to meeting its positive legislated duty to eliminate unlawful discrimination, sexual harassment, and victimisation in the workplace (Part 2A *Anti-Discrimination Act 1992*, Part IIA *Sex Discrimination Act 1984* (Cth)).

As such, all employees of Council have a legal and moral responsibility to treat each other fairly and with respect. All reports of bullying, harassment, sexual harassment and discrimination will be treated seriously and with empathy by Managers, Supervisors or Work Health and Safety Coordinator.

Bullying, harassment, sexual harassment and discrimination will not be tolerated by Council. If, after an investigation by a nominated (internal or external) investigating officer, it is found that bulling, discrimination, harassment or sexual harassment has taken place, appropriate disciplinary action will be taken against the person responsible, which may include dismissal.

## 5. DEFINITIONS

<b>Bullying</b>	<p>Bullying is defined at Section 789FD of the <i>Fair Work Amendment Act 2013</i> (Cth) as when an individual or group of individuals <i>repeatedly</i> behave unreasonably towards a worker, and that behaviour creates a risk to health and safety.</p> <p>Such behaviour is inclusive (not limited to):</p> <ul style="list-style-type: none"> <li>• yelling, screaming or offensive language;</li> <li>• excluding or isolating employees;</li> <li>• psychological harassment;</li> <li>• intimidation;</li> <li>• assigning meaningless tasks unrelated to the job;</li> <li>• giving employees impossible jobs;</li> <li>• deliberately changing work rosters to inconvenience particular employees;</li> <li>• undermining work performance by deliberately withholding information vital for effective work performance;</li> <li>• constant unconstructive criticism and/or nitpicking;</li> <li>• suppression of ideas; and</li> <li>• overloading a person with work or allowing insufficient time for completion and criticising the employees work in relation to this.</li> </ul> <p>Bullying is unlawful, and inconsistent with Council's Primary Duty of Care obligations to provide a safe workplace.</p> <p>Reasonable management action does not constitute bullying.</p>
<b>Designated</b>	appointed for a specific function
<b>Discrimination</b>	For the purposes of this policy, Discrimination refers to unlawful discrimination which is inclusive of unfair or unfavourable treatment on the grounds of attributes like race, sex, sexual orientation, relationship status, irrelevant criminal history or age, or any other reason prescribed by Part 3 of the <i>Anti-Discrimination Act 1992</i> ; or other legislative instrument.
<b>Harassment</b>	Any behavior that has the effect of offending, humiliating or intimidating the person at whom it is directed is considered harassment. It makes the work environment unpleasant and sometimes even hostile. If a person is being harassed then their ability to do their work is affected. Reasonable management action does not constitute bullying.
<b>Prohibited</b>	Not allowed
<b>Reasonable</b>	Having sound judgement; fair and sensible; as much as is appropriate

	<p>or fair; moderate.</p>
<b>Reasonable Management Action</b>	<p>The law accepts that managers and employers may need to act if a worker is not doing their job well. They can take 'reasonable management action' to:</p> <ul style="list-style-type: none"> <li>• help the employee improve their work;</li> <li>• address poor performance or behaviour.</li> </ul> <p>It is 'reasonable management action' for an employer to:</p> <ul style="list-style-type: none"> <li>• start performance management processes (such as a performance improvement plan);</li> <li>• take disciplinary action for misconduct;</li> <li>• tell a worker about work performance that is not satisfactory;</li> <li>• tell a worker their behaviour at work is not appropriate;</li> <li>• ask a worker to perform reasonable duties as part of their job; or</li> <li>• take action to maintain reasonable workplace standards.</li> </ul> <p>But the way the employer takes these actions must also be 'reasonable'. If they are not reasonable, and they are repeated, these actions could still be bullying.</p>
<b>RGRC</b>	Roper Gulf Regional Council
<b>Sexual Harassment</b>	<p>Section 28A of the <i>Sex Discrimination Act 1984</i> (Cth) defines sexual harassment as when a person makes an unwelcome sexual advance, an unwelcome request for sexual favours, or engages in other unwelcome conduct of a sexual nature in relation to a person.</p> <p>This occurs in circumstances where it is possible that the person harassed would be offended, humiliated or intimidated. Sexual harassment can be subtle and implicit rather than explicit</p>
<b>Vexatious or Frivolous Complaints</b>	<p>Complaints that are malicious, untrue or unfair, trivial, misconceived or lacking in substance, fails to disclose any prohibited conduct, or are made to unfairly annoy, frighten, punish or take revenge, or otherwise inflict harm on someone else.</p>
<b>Victimisation</b>	<p>Victimisation takes place if a person or party subjects or threatens to subject another person or an associate of the other person to their detriment.</p> <p>A person shall not victimise another person because the other person:</p> <ol style="list-style-type: none"> <li>(a) has made, or intends to make, a complaint; or</li> <li>(b) has given, or intends to give, evidence or information in connection with proceedings under a policy or a law; or</li> <li>(c) has alleged, or intends to allege, that a person has committed an act which would amount to a contravention of a policy or a law; or</li> <li>(d) has done anything in relation to a person under or by reference</li> </ol>

	to a policy or law.
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## 6. PRINCIPLES

### 6.1 Workplace bullying

Workplace bullying is repeated, unreasonable behaviour, directed towards a worker or a group of workers that creates a risk to health and safety. It includes both physical and psychological risks and abuse.

*'Repeated behaviour'* refers to the persistent nature of the behaviour and can refer to a range of pattern of behaviours over a period of time (for example, verbal abuse, unreasonable criticism, isolation and subsequently being denied opportunities – e.g.. a pattern is being established from a series of events).

*'Unreasonable behaviour'* means behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten another person.

#### **Examples of workplace bullying**

Bullying behaviours can take many different forms, from the obvious (direct) to the more subtle (indirect). The following are some examples of both direct and indirect bullying.

##### *Direct Bullying:*

- Abusive, insulting or offensive language;
- Spreading of misinformation or malicious rumours;
- Behaviour or language that frightens, humiliates, belittles or degrades, including over criticising, or criticism that is delivered with yelling or screaming;
- Displaying offensive material;
- Inappropriate comments about a person's appearance, lifestyle, their family or sexual preferences;
- Teasing or regularly making someone the brunt of pranks or practical jokes;
- Interfering with a person's personal property or work equipment; or
- Harmful or offensive initiation practices.

##### *Indirect Bullying:*

- Unreasonably overloading a person with work, or not providing enough work;
- Setting timeframes that are difficult to achieve, or constantly changing them;
- Setting tasks that are unreasonably below, or above, a person's skill level;
- Deliberately excluding or isolating a person from normal work activities;
- Withholding information that is necessary for effective work performance;
- Deliberately denying access to resources or workplace benefits and entitlements, for example, training, leave; and
- Deliberately changing work arrangements, such as rosters and leave, to inconvenience a particular worker or workers.

The above examples do not represent a complete list of bullying behaviours. They are indicative of the type of behaviours which may constitute as bullying, therefore unacceptable to Council.

A single incident of unreasonable behaviour does not usually constitute bullying. However, it should not be ignored as it may have the potential to escalate into bullying behaviour.

Bullying in the workplace is harmful not only to the target of the behaviour but damages Council's culture and reputation. It is unacceptable and will not be tolerated.

## 6.2 What is not bullying

A Manager/Coordinator can make decisions about poor performance, take disciplinary action, and direct and control the way work is carried out. Reasonable management action that is carried out in a reasonable way is not bullying. It is not bullying to ask someone to do their job properly as long as the way you communicate it is appropriate for example being asked to do something reasonable and being asked in a reasonable way.

## 6.3 How bullying is different to discrimination

Discrimination happens when there's 'adverse action', such as firing or demoting someone because of a person's characteristics like their race, religion or sex.

Bullying happens when someone in the workplace repeatedly behaves unreasonably towards another person or a group of people and causes a risk to health and safety in the workplace. This behaviour doesn't have to be related to the person or group's characteristics and adverse action doesn't have to have happened.

## 6.4 Unlawful Discrimination

Everyone has the right to equal opportunity. Unlawful discrimination happens a person is subjected to unfavourable or unfair treatment based on certain attributes.

Section 19 (1) of the *Anti-Discrimination Act 1992*, prohibits discrimination on the following attributes:

- (a) race;
- (ab) language, including signed language;
- (b) sex;
- (ba) gender identity;
- (c) sexual orientation;
- (ca) sex characteristics;
- (d) age;
- (e) relationship status;
- (ea) accommodation status;
- (eb) employment status;
- (ec) employment in sex work or engaging in sex work, including past employment in sex work or engagement in sex work;
- (f) pregnancy;
- (g) carer responsibilities;
- (h) breastfeeding;
- (j) disability;
- (ja) HIV/hepatitis status;
- (jb) subjected to domestic violence;
- (k) trade union or employer association activity;
- (m) religious belief or activity;
- (n) political opinion, affiliation or activity;

- (p) irrelevant medical record;
- (q) irrelevant criminal record;
- (qa) the person's details being published under section 66M of the *Fines and Penalties (Recovery) Act 2001*;
- (r) association with a person who has, or is believed to have, an attribute referred to in this section.

It is not unlawful for a person to discriminate against another person on any of the attributes referred to in subsection (1) if an exemption under Part 4 or 5 applies.

## 6.5 Sexual Harassment

Sexual Harassment is defined at Section 28A of the *Sex Discrimination Act 1984* (Cth), and referenced at Clause 5 of this policy. Council has a prescribed legislated duty to prevent sexual harassment in the workplace. Sexual harassment complaints may be settled at the workplace level in accordance with policy and directives (including the formal complaints process). However, employees who have been sexually harassed at work have the right to make a complaint to the Anti-Discrimination Commission (Northern Territory) and the Australian Human Rights Commission (Commonwealth).

There are legislated penalties for victimisation of complainants or witnesses involved in sexual harassment complaints, or associated investigations, or processes. Council considers such actions to be serious disciplinary matters.

## 6.6 Bullying, Harassment and Discrimination Reporting

Where employees believe they have been the subject of bullying, sexual harassment, harassment or discrimination on any grounds, they should in the first instance raise the matter with their supervisor, or Manager, contact the Human Resource Manager or Work Health and Safety Coordinator.

Employees may also contact the Anti-Discrimination Commission (Northern Territory) and the Australian Human Rights Commission (Commonwealth).

All reports will be treated seriously, and confidentially, and dealt with in accordance with the COR005 Corporate Process Policy.

Any employees who require assistance with reporting are encouraged to contact the Human Resources business unit.

## 6.7 Obligations

Council has an obligation to provide a safe workplace, including the prevention of bullying, harassment, and unlawful discrimination. Council affirms its commitment to meeting this obligation.

Council has an obligation to ensure no-one is disadvantaged or victimised as a result of a complaint being made or investigated, and affirms its commitment to meeting this obligation.

Council, as part of these commitments, offers all employees an Employment Assistance Program that provides a free, confidential, counselling service. Details of this service are provided internally, and any employee who requires assistance with access is encouraged to contact the Human Resources business unit.

## 6.8 Disciplinary Action

Depending on the seriousness of the matter this could include instant dismissal. Vexatious complaints/claims will be taken seriously and may result in disciplinary action in accordance with the Code of Conduct. Any criminal matters including assault will be referred to Police for their action.

## 7. REFERENCES

Acknowledgements (original author/source documents)	
Related Policies	<ul style="list-style-type: none"> <li>COR005 Corporate Processes Policy</li> <li>COR006 Code of Conduct (Staff)</li> <li>COR003 - Work Health and Safety Policy</li> </ul>
Applicable Law (not exhaustive)	<ul style="list-style-type: none"> <li><i>Fair Work Act 2009 (Cth);</i></li> <li><i>Fair Work Amendment Act 2013 (Cth);</i></li> <li><i>Work Health and Safety (National Uniform Legislation) Act 2011;</i></li> <li><i>Anti-Discrimination Act 1992;</i></li> <li><i>Local Government Act 2019; and</i></li> <li><i>Sex Discrimination Act 1984 (Cth)</i></li> </ul>

## 8. DOCUMENT CONTROL

Policy number	HR002
Policy Owner	Human Resource Manager
Infoxpert ID	678024
Endorsed by	Council
Date approved	12/4/2012
Revisions	April 2014, November 2016, April 2024
Amendments	<p>27 August 2014</p> <p>November 2016 – 1. Change of name from HR002 Bullying and Harassment Policy to HR002 Bullying, Harassment and Discrimination Policy. 2. More detail added under Principles that includes - workplace bullying – what it is, examples, what isn't bullying, how different from discrimination; inclusion of discrimination</p> <p>April 2024</p>
Next revision due	2028

## 9. CONTACT PERSON

Position

Human Resources Manager

Contact

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