

KENTISH COUNCIL POLICY

HARRASMENT, BULLYING AND DISCRIMINATION

Policy Number 02:24:2009

POLICY NUMBER	02:24:2009
PURPOSE	This Policy aims to provide a workplace that is free from all forms of harassment, discrimination and bullying.
STATUTORY AUTHORITY	<i>Age Discrimination Act 2004 (Cth)</i> <i>Anti-Discrimination Act 1998 (Tas)</i> <i>Australian Human Rights Commission Act 1986 (Cth)</i> <i>Disability Discrimination Act 1992 (Cth)</i> <i>Fair Work Act 2009 (Cth)</i> <i>Local Government Act 1993 (Tas)</i> <i>Racial Discrimination Act 1975 (Cth)</i> <i>Sex Discrimination Act 1984 (Cth)</i> <i>Work Health and Safety Act 2012 (Tas)</i> <i>Workers Rehabilitation and Compensation Act 1988 (Tas)</i>
COVERAGE	This policy applies to all employees of the Kentish Council.
POLICY	Adopted 16 June 2009 Minute 7.3.5 Reviewed 17 November 2015 Minute 11.4.5
REVIEW	The effectiveness of this Policy will be reviewed every 2 years.



1. OBJECTIVE:

The Kentish Council is an Equal Opportunity Employer. While the nature and inherent requirements of employment roles may vary within the Kentish Council workplace, an intrinsic aspect of every role is that employers and employees treat each other with dignity and respect.

Discrimination, bullying and harassment will not be tolerated in any Kentish Council workplace. All employees, particularly those in a leadership role, need to ensure that proper standards of conduct are maintained at all times.

Kentish Council workplaces should be stimulating, pleasant and productive environments. Discrimination, bullying and harassment erode individual rights, lowers morale and interferes with the effectiveness of work environments by making them hostile, unpleasant or offensive.

Kentish Council recognises its responsibility to ensure that the rights of its employees and clients are protected. These include the rights to be physically and psychologically safe and to be treated fairly and with respect.

If a complaint is made, Kentish Council will provide a fair basis of information dissemination, conciliation, investigation and decision-making; observing the principles of 'due process' and 'natural justice'.

Kentish Council in making this policy, recognises that when discrimination, bullying and harassment occurs in the work environment the effects are likely to include an unproductive work setting and also psychological, and even physical, damage to an employee's health and wellbeing. Potentially, discrimination, bullying and harassment can cause problems which impact upon not only a person's career but also their personal life.

2. PRINCIPLES:

- All employees are entitled to make a complaint if they believe that they are not being treated with dignity and respect.
- Interventions that restore productive work practices (including conciliation and/or mediation) are the preferred approach to the complaint resolution process.
- Where this is not successful, a process to assist parties to reach an acceptable outcome will be used before utilising any formal investigative process.
- The principles of natural justice shall apply at all stages of the complaint resolution process.

Kentish Council shall use its best endeavours to maintain the confidentiality of complaints.

3. EXPLANATION:

Bullying: Workplace bullying occurs when an individual or group of individuals repeatedly behaves unreasonably towards a worker or a group of workers at work and the behaviour creates a risk to health and safety.

The following behaviours could be considered as bullying:



- Aggressive and intimidating conduct
- Belittling or humiliating comments
- Victimisation
- Spreading malicious rumours
- Practical jokes or initiation
- Exclusion from work-related events, and
- Unreasonable work expectations.

Reasonable management action conducted in a reasonable manner does not constitute workplace bullying.

Discrimination: Discrimination is behaviour that favours one particular individual or group over others based on an attribute, whether known or assumed. Under the *Tasmanian Anti-Discrimination Act 1998*, two types of discrimination are recognised; *direct* and *indirect*.

Direct Discrimination – Direct discrimination is where an individual or group is treated less favourably due to a particular attribute.

The following actions could be considered as direct discrimination:

- Not to employ or promote a person because of their nationality, sexuality etc
- To terminate an employee because they took parental leave (because family responsibilities is a protected attribute).

Indirect discrimination – Indirect Discrimination takes place if a person imposes a condition, requirement or practice which is unreasonable in the circumstances and has the effect of disadvantaging a member of a group of people who:

- Share, or are believed to share, a prescribed attribute; *or*
- Share, or are believed to share, any of the characteristics imputed to that attribute more so than a person who is not a member of that group.

The following actions could be considered as indirect discrimination:

- Offering training opportunities to employees only at limited and rigid times which prevents employees with parental responsibilities from attending the training.
- Not providing reasonable equipment to allow an employee with a back injury to stand and still do computer work.

Protected Attributes - A person must not discriminate against another person on the grounds of any of the following attributes:-

- Race;
- Age;
- Sexual orientation;
- Lawful sexual activity;
- Gender;
- Gender identity;
- Intersex
- Marital status;
- Relationship status;
- Pregnancy;
- Breastfeeding;



- Parental status;
- Family responsibilities;
- Disability;
- Industrial activity;
- Political belief or affiliation;
- Political activity;
- Religious belief or affiliation;
- Religious activity;
- Irrelevant criminal record;
- Irrelevant medical record; or
- Association with a person who has or is believed to have any of these attributes.

Harassment: Workplace harassment is any conduct which offends, humiliates, intimidates, insults or ridicules another person on the basis of a protected attribute in circumstances in which a reasonable person would have anticipated that the other person would be offended, humiliated, intimidated, insulted or ridiculed.

The following actions could be considered as harassment:

- Telling a joke about a homosexual person which may offend someone who is homosexual.
- Telling a worker who is pregnant that they are getting fat or must be having twins which is offensive.

Protected Attributes - A person must not harass another person on the grounds of any of the following attributes:-

- Race;
- Age;
- Sexual orientation;
- Lawful sexual activity;
- Gender;
- Gender identity;
- Intersex
- Marital status;
- Relationship status;
- Pregnancy;
- Breastfeeding;
- Parental status;
- Family responsibilities; or
- Disability.

Sexual Harassment: Sexual harassment is any unwanted or unwelcome conduct which is of a sexual nature and is unreasonable in the circumstances and a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated, intimidated, insulted or ridiculed.

Sexual harassment takes place if a person:-

- Subjects another person to unsolicited acts of physical contact of a sexual nature;
- Makes an unwelcome sexual advance or an unwelcome request for sexual favours to another person;



- Makes an unwelcome remark or statement with sexual connotations to another person or about another person in that person's presence;
- Makes any unwelcome gesture, action or comment of a sexual nature;
- Engages in conduct of a sexual nature in relation to another person that is offensive to that person.

The following actions could be considered as sexual harassment:

- Physical contact against an employee such as touching, patting, pinching, deliberate pushing against a person, kissing or embracing.
- Verbal comments such as innuendo, smutty jokes, suggestive comments, persistent unwelcome social invitations, intrusive questions about a person's sex or private life and requests for sexual favours.

Inciting Hatred: Inciting Hatred is conduct which occurs in a public place that incites physical harm, hatred, serious contempt or severe ridicule towards a person or group on the basis of race, sexuality, disability or religion.

The following actions could be considered as Inciting Hatred:

- Remarks about a person's race, disability, sexual orientation or religious belief which could make other people hate or ridicule them.
- Encouraging violence against people who have a particular race, disability, sexual orientation, religious belief or damaging their property.

Victimisation: Victimisation takes place if a person subjects, or threatens to subject, another person or an associate of that other person to any detriment because that person:

- made, or intends to make, a complaint;
- gave, or intends to give, evidence or information in connection with any proceedings;
- alleged, or intends to allege, that any person has committed an act which would amount to a contravention any laws;
- refused or intends to refuse to do anything that would amount to a contravention of any laws;
- has reasonably reported a breach of this policy.

The following actions could be considered as Victimisation:

- Terminating or threatening to terminate employment.
- Taking disciplinary action (e.g giving an employee a written warning).

4. COMPLAINTS:

If an employee believes they are subject to discrimination, bullying or harassment, there are a number of options available for resolving a complaint. While the options are not interdependent, employees are encouraged to progress through the options in a way that will provide a satisfactory outcome with the least anguish for the employee concerned as well as other employees in the immediate work area.

The options available to the employee subjected to unacceptable behaviour are:-

- Do nothing;



- Speak to the person(s) involved directly;
- Write a note to the person(s) involved;
- Seek assistance from your manager, supervisor, etc.;
- Conciliation and/or mediation facilitated by a competent manager, HR staff member or external mediator;
- Lodge a formal complaint.