

Equal Employment Opportunity Policy

<p>Purpose</p>	<p>Darebin City Council (“Council”) is proud of the diversity of its workforce and recognises the strengths this provides in meeting the needs of our community. It is committed to providing a workplace where employees are valued, respected and free from all forms of discrimination, harassment, bullying, occupational violence and victimisation.</p> <p>This Equal Opportunity Policy (the “Policy”) identifies the conduct that is prohibited and articulates what constitutes discrimination, harassment, bullying, occupational violence and victimisation in the workplace.</p> <p>Council aims to:</p> <ul style="list-style-type: none"> a) Provide a workplace that is free from discrimination, harassment, bullying, occupational violence and victimisation b) Ensure that all employees are given a fair and equal chance to participate in all aspects of employment c) Create a working environment where all employees are treated with fairness, dignity and respect at all times d) Promote appropriate standards of conduct at all times e) Provide effective procedures for resolving grievances f) Treat all grievances in a sensitive, fair, timely and confidential (as far as possible) manner g) Protect employees from victimisation or reprisals for lodging a grievance.
<p>Scope</p>	<p>This Policy applies to everyone who works at the Council - employees (whether employed on a full-time, part-time, fixed term or casual basis), agency staff, contractors, consultants, agents, customers, clients, volunteers and visitors to Council.</p> <p>Visitors to Council include work experience students, customers and members of the public in workplaces.</p>
<p>Definitions and Abbreviations</p>	<p>Direct Manager – means an employee who has staff reporting to them and may be a Coordinator, Team Leader, Manager, General Manager or the Chief Executive Officer.</p> <p>Direct Discrimination – Direct discrimination occurs when a person treats, or proposes to treat, someone unfavourably than another person because of one of the Protected Attributes. It is irrelevant whether or not the person is aware that their conduct is discriminatory, intends to discriminate or that the attribute is not the only reason for the discriminating treatment.</p> <p>Indirect discrimination - Indirect discrimination occurs when an unreasonable requirement, condition or practice is imposed which disadvantages, or is likely to disadvantage a person with a Protected Attribute.</p>

	<p>Merit - Refers to the job related qualities of an individual and includes demonstrable skills, abilities, aptitudes, qualifications and experience.</p> <p>Occupational Violence – Any incident where an employee is physically attacked or threatened in the workplace. Occupational violence can be perpetrated by a co-worker (including a manager or direct manager), a customer or client, a person known to the organisation or employee, or a stranger (intruder).</p> <p>Protected Attributes – The list of personal characteristics contained within anti-discrimination legislation. Discrimination against or harassment of an individual based on the Protected Attributes is unlawful.</p> <p>Victimisation – When an employee is treated in a detrimental way because they made a complaint, or they intended to make a complaint, in relation to behaviour prohibited under this policy. Victimisation also includes detrimental treatment towards witnesses or potential witnesses to the alleged behaviour.</p> <p>Vilification (including racial and religious vilification) - occurs when someone incites hatred towards, serious contempt for or severely ridicules a person or group of persons on the ground of their race, religion, sexuality, gender identity, colour, nationality, descent, ethnicity, ethno-religious status, national origin, homosexuality, HIV or aids status or trans-gender status, disability, sexual orientation or lawful sexual activity.</p> <p>Workplace – Place of employment, where a person attends and is required to carry out the roles and responsibilities outlined at the commencement of their working relationship with Council or as altered during their working life at Council. It also includes any work-related context when a person is representing or doing work on behalf of or for Council, whether on Council premises or off-site, including conferences, work functions, team lunches, Christmas parties or business trips.</p>
<p>Policy Statement(s)</p>	<p>Discrimination, harassment, bullying, occupational violence and victimisation are not only unacceptable; they are unlawful, pursuant to anti-discrimination legislation. Council is committed to:</p> <ul style="list-style-type: none"> a) Providing a work environment that fosters mutual respect and working relationships free of all forms of discrimination, harassment, bullying, occupational violence and victimisation b) Ensuring the processes and practices of Council are consistent with this Policy c) Providing training and induction programs to ensure employees are educated about their rights and responsibilities in relation to equal opportunity d) Ensuring prospective employees are assessed on merit, including their skills, qualifications, abilities and experience, in accordance with Council’s Recruitment and Selection Policy e) Ensuring the talents, potential and diverse qualities of all employees increase Council’s effectiveness as an organisation f) Ensuring employees, including volunteers, Agency staff, contractors and work experience students, have access to information and advice in relation to equal opportunity principles and procedures g) Ensuring every employee has access to the Grievance and Investigation Process if they feel they have been subjected to discrimination, harassment, bullying or any other breach of this Policy

- h) Ensuring that grievances are dealt with in a timely and confidential (as far as possible) manner. Management will continue to liaise with the employee and their support person in relation to the status of the grievance and/or investigation.

It is the responsibility of People and Development (P&D), Managers, and all employees to create a work environment free from discrimination, harassment, bullying, occupational violence and victimisation and to comply with all the responsibilities listed for them within this Policy.

What is Unlawful Discrimination?

Protected Attributes

Discrimination on the basis of the following characteristics is unlawful and will not be tolerated by Council:

- Age
- Breastfeeding
- Disability or impairment
- Employment activity
- Gender identity
- Industrial activity
- Intersex status
- Lawful sexual activity
- Marital or relationship status
- Physical features
- Political belief or activity
- Pregnancy
- Race
- Religious belief or activity
- Sex
- Sexual orientation
- Status as a parent or carer
- Irrelevant criminal conviction/an expunged homosexual conviction (a person who has successfully applied to have their historic homosexual conviction removed from the record)
- Personal association with someone who has, or is assumed to have, one of the above personal characteristics

Direct and Indirect Discrimination

Unlawful discrimination may be direct or indirect.

Direct discrimination is when a person treats, or proposes to treat, a person with a protected attribute unfavourably, because of that attribute. Direct discrimination may happen because people make unfair assumptions about what people with certain characteristics can and cannot do.

Indirect discrimination is also against the law and refers to situations where treating everyone the same is unfair. This occurs when an unreasonable requirement, condition or practice that purports to treat everyone the same ends up either actually,

or is likely to, disadvantage someone with a personal characteristic protected by the law.

Discrimination can also become systemic when entrenched, structural and sometimes institutional patterns of behaviour or actions affect a range of people. These behaviours and actions may be part of organisational culture and may be reinforced by policies and procedures. If there are many grievances about the same or similar issues, it may be a result of systemic discrimination.

When is Discrimination Unlawful?

Discrimination is unlawful in eight areas of public activity, including employment; employment-related areas; education; in the provision of goods and services and disposal of land; accommodation; clubs and club members; sport and in local government.

Discrimination in Employment

Council seeks to ensure that applicants for employment are selected on merit and are afforded equal opportunity in relation to entry into employment with Council. In addition, Council seeks to ensure that employees have an equal chance for selection, secondment, promotion and training and development opportunities based solely on demonstrated skills, qualifications, abilities and performance, without any form of discrimination.

In some instances the *Equal Opportunity Act 2010 (Vic)* allows employers to limit employment offers to people with a particular characteristic and this is not unlawful discrimination. Council reserves its right to act in accordance with any such lawful exemptions.

What is Sexual Harassment?

Sexual harassment occurs when a person:

- makes an unwelcome sexual advance, or
- makes an unwelcome request for sexual favours to another person, or
- engages in any other unwelcome conduct of a sexual nature in relation to another person; and
- a reasonable person, having regard to all the circumstances would have anticipated that the other person would be offended, humiliated or intimidated.

Sexual harassment can include offensive material or behaviour which creates a hostile work environment.

Sexual Harassment does not extend to mutual attraction or private, consenting friendships, whether sexual or otherwise.

An employee can be sexually harassed by another employee, contractor, service provider, client or customer. Sexual harassment is not just unlawful during working hours or in the workplace itself. Sexual harassment is unlawful in any work related context including conferences, work functions and business trips.

Some examples of sexual harassment include:

- unwelcome touching, patting, pinching or brushing against another person
- staring or leering at a person or at parts of their body
- jokes, gestures, actions or comments of a sexual or sexually demeaning nature
- unwanted sexual propositions or advances
- displays of sexually graphic material including posters, pinups, cartoons and computer graphics
- email communications of a sexual nature
- repeated invitations to go out after prior refusal
- sex based insults, taunts, teasing or name calling
- accessing pornographic websites while at work.

What is Racial Harassment?

Racial harassment is conduct which occurs in a public place, including a workplace, which is engaged in because of a person's race, colour, nationality or ethnic origin and which is reasonably likely to offend, humiliate or intimidate.

Some examples of racial harassment include:

- racial threats, abuse, insults and taunts
- racial pranks
- comments about a person's racial features
- insensitive jokes related to race
- derogatory remarks about a person's skin colour or appearance
- unwelcome remarks about a person's cultural observances
- offensive notices, photographs or statements on an employee notice board
- racist jokes sent via email
- racially abusive comments or songs
- negative stereotyping of particular ethnic groups.

What is Racial and Religious Vilification?

Council will not accept any forms of racial and religious vilification, as prohibited by the *Racial and Religious Tolerance Act 2001* (Vic). Racial and religious vilification is public behaviour that incites or encourages hatred, serious contempt, revulsion or serious ridicule against another person or group of people, because of their race or religion.

What is Bullying?

Workplace bullying is repeated unreasonable behaviour directed toward a person or group of people that creates a risk to health and safety. Risk to health and safety includes a risk to the mental or physical health of the person.

"Unreasonable behaviour" is behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten.

A broad range of behaviours can be considered to be bullying.

Direct bullying includes:

- abusive, insulting or offensive language

- spreading misinformation or malicious rumours
- behaviour or language that frightens, humiliates, belittles or degrades, including criticism that is delivered with yelling or screaming
- displaying offensive material
- inappropriate comments about a person's appearance, lifestyle or their family
- 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 includes:

- unreasonably overloading a person with work or not providing enough work
- setting timelines that are difficult to achieve or constantly changing deadlines
- setting tasks that are unreasonably below or beyond a person's skill level
- deliberately excluding, isolating or marginalising a person from normal work activities
- withholding information that is vital for effective work performance
- deliberately denying access to information, consultation or resources
- deliberately changing work arrangements, such as rosters and leave to inconvenience a particular worker or workers
- unfair treatment in relation to accessing workplace entitlements such as leave or training
- other inappropriate behaviour of a similar nature.

Differences of opinion, performance management, conflicts and personality clashes can happen in any workplace, but usually they do not result in bullying.

Bullying is not an acceptable part of Council's work culture. It makes the workplace unsafe and contravenes work health and safety laws. Bullying behaviour may cause person to lose their self-confidence and perform their work in a manner that impedes them from meeting performance objectives. If bullying occurs in the workplace or a working environment it can cause harm to a person's health and wellbeing, both physical and psychological.

What is Not Bullying?

Managers have the right to direct and control how work is done. Bullying is not the legitimate and reasonable exercise of managerial direction. For example, bullying is not:

- a legitimate and reasonable performance management process
- legitimate comments, constructive feedback or advice on standards of work
- deciding not to select someone for a promotion or work opportunity
- disciplinary action in accordance with Council's Disciplinary Procedure
- rostering or allocation of work that complies with approved systems and processes.

In addition, Council's processes or practices such as restructuring, or the implementation of new business processes or organisational change do not constitute bullying.

What is Occupational Violence?

Occupational violence is any incident where an employee is physically attacked or threatened in the workplace. Occupational violence can be perpetrated by a co-worker (including a manager or direct manager), a customer or client, a person known to Council or employee, or a stranger (intruder).

The term applies to all forms of physical attacks or threats on an employee including, but not limited to:

- striking, kicking, biting, spitting or any other type of direct physical contact
- throwing objects
- attacking with knives, guns, clubs or any other type of weapon
- pushing, shoving, punching, tripping, grabbing
- any form of indecent physical contact
- verbal threats of violence against another person.

Any instances of occupational violence must be reported immediately and will not be tolerated. Any report of occupational violence will be treated as serious and will be dealt with under Council's disciplinary procedure and/or through relevant authorities.

Grievances

Grievances concerning EEO matters (i.e. bullying, discrimination, harassment, occupational violence or victimisation) should be made according to Council's Grievance and Investigation Procedure.

Flexible Work Arrangements

In accordance with anti-discrimination and workplace legislation and to enable an employee to balance work and non-work commitments, Council will comply with its obligation to give serious consideration to an employee's request for flexible work arrangements in circumstances where the employee:

- has parental or carer responsibilities
- has a disability
- is 55 years or older
- is experiencing violence from a member of the employee's family or another person
- provides care or support to a member of the employee's immediate family.

When considering the request, consideration will be given to whether the request should be agreed to for trial period, for a fixed period; or whether the arrangement can be ongoing. Council will also assess the request against:

- impact on service delivery;
- need to provide continuity of care and/or service to our community;
- impact on workloads and other employees;
- ability to meet role outcomes, organisational and department objectives;
- ability to meet core and peak period demands when employees are required to be at work;
- impacts on other departments;
- degree to which work needs to be supervised; and
- need to provide a safe working environment.

	<p>The above considerations are examples only. It is possible that other or additional considerations may be relevant in relation to a request made.</p> <p>Council respects employee privacy and will only ask for information necessary to make a decision in relation to the request.</p> <p>Council will keep a record of discussions in relation to the request along with any other materials that form the basis of the decision.</p> <p>All information obtained during the process of a request will be received, handled and stored in accordance with applicable privacy laws.</p>
<p>Responsibilities</p>	<p>How are individuals responsible for the success of the policy?</p> <p>All employees are expected to read and understand this policy and should ensure they do not behave in a manner that may be perceived as discriminatory, disrespectful, harassing or bullying and should discourage this behaviour in the workplace.</p> <p>All employees have responsibility to:</p> <ul style="list-style-type: none"> • In no way engage in discrimination, harassment, bullying, occupational violence of victimisation towards another employee, prospective employee, Agency staff, consultant, contractor, customer, agent, client, volunteer or visitor to the workplace • Familiarise themselves with and comply with this Policy • Act in a manner that ensures Council is a workplace free from discrimination, harassment, bullying, occupational violence and victimisation • Ensure that they do not divulge any information relating to a grievance made under this policy to any party not directly involved in investigating or resolving the grievance • Be aware that Council treats breaches of this Policy seriously and will take action if/and or where appropriate. <p>How are managers responsible for the success of the policy?</p> <p>All managers are expected to understand and implement this policy and must display a positive commitment to the policy and to maintaining and enhancing a workplace based on cooperation, mutual trust, respect and open communication.</p> <p>All Managers have responsibility to:</p> <ul style="list-style-type: none"> • Ensure that they are familiar with this Policy • Support and apply the Policy in their respective work areas and to monitor the working environment to ensure that acceptable standards of conduct are observed at all times • Promote awareness of the Policy to employees reporting to them • Model the behaviours required to ensure the organisation is free from discrimination, harassment, bullying, occupational violence and victimisation

	<ul style="list-style-type: none"> • Ensure all reasonable steps are taken to prevent discrimination, harassment, bullying, occupational violence and victimisation occurring in the workplace • Ensure that employment related decisions are made on the basis of merit as referred to in Council's Recruitment & Selection Policy • Act as the first point of contact and ensure that all grievances are dealt with in accordance with the Grievance and Investigation Procedure • Treat all grievances seriously and confidentially (as far as possible) and act immediately on any reports or conduct in breach of this Policy. <p>How are People and Development responsible for the success of the policy?</p> <ul style="list-style-type: none"> • Understand the current legislation and its principles • Ensure that this Policy reflects the current anti-discrimination and workplace legislation • Ensure that aspects of the current legislation are accurately reflected in the various policies across the organisation e.g. Council's Recruitment & Selection Policy • Promote awareness of the Policy throughout the organisation • Ensure all employees are informed and aware of their obligations under the current legislation by providing EEO training and displaying EEO information around Council's facilities • Model the behaviours required to ensure the organisation is free from discrimination, harassment, bullying, occupational violence and victimisation • Provide information and assistance to employees in determining what might constitute discrimination, harassment, bullying, occupational violence and victimisation in the workplace • Ensure that all information received is kept confidential (as far as possible) and that any grievance is only discussed with the relevant parties (as far as possible) • Ensure that where a grievance has been raised it is dealt with in accordance with the Grievance and Investigation Procedure. <p>How are Contact Officers responsible for the success of the policy?</p> <ul style="list-style-type: none"> • Understand the current legislation and its principles • Provide information and assistance to employees in determining what might constitute discrimination, harassment, bullying, occupational violence and victimisation in the workplace • Provide advice and assistance in the early stages assisting potential persons to resolve any specific problems themselves • Ensure that all information received is kept confidential (where possible). 		
<p>Organisational Values</p>	<p>Council's organisational values enable and support the effective design and application of this policy by guiding staff in the course of their work.</p> <table border="1" data-bbox="496 1792 1522 2020"> <tr> <td data-bbox="496 1792 1005 2020"> <p>We Make a Difference: We are driven by our desire to make a difference for the people we serve. Our work is purposeful and creates a positive impact for the community. We are proud to work here. Our work matters.</p> </td> <td data-bbox="1008 1792 1522 2020"> <p>We have Integrity: We act with integrity and transparency in conversations and decision-making. Through open and clear communication, we build trust. We're honest. We walk the talk.</p> <p>We show Respect: We are diverse, inclusive, respectful and caring. We</p> </td> </tr> </table>	<p>We Make a Difference: We are driven by our desire to make a difference for the people we serve. Our work is purposeful and creates a positive impact for the community. We are proud to work here. Our work matters.</p>	<p>We have Integrity: We act with integrity and transparency in conversations and decision-making. Through open and clear communication, we build trust. We're honest. We walk the talk.</p> <p>We show Respect: We are diverse, inclusive, respectful and caring. We</p>
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	<p>We are Accountable: We are empowered to own and take responsibility for our actions. We follow through on our commitments and deliver on our promises. We make it happen.</p> <p>We are Collaborative: We are united by a common purpose to serve the community. We work together, connecting within our teams and across the organisation. We are inclusive and collaborative. We are one.</p>	<p>encourage everyone to have a voice and we listen to each other. We recognise one another's contributions and treat people fairly. We look after each other.</p> <p>We are Creative: We are bold, courageous and innovative. We try new things, experiment and continuously improve. We are open-minded, creative and forward-thinking. We are leaders.</p>
Breach of Policy	Breaches of policies are treated seriously. Any concerns about non-compliance should be reported immediately to the owner of this policy.	

GOVERNANCE

Parent Strategy/ Plan	N/A
Related Documents	<p>This policy should be read in conjunction with Council's:</p> <ul style="list-style-type: none"> • Code of Conduct (Excellence in Governance at Darebin City Council – Employee Code of Conduct) • Performance Planning & Review (PPR) Policy and toolkit • Employee Assistance Program Information Sheet <p>These can be accessed from the intranet under People and Development.</p>
Supporting Procedures and Guidelines	<p>Grievance and Investigation Procedure</p> <p>Disciplinary Procedure</p>
Origin	<p>State and Federal legislation relevant to the obligations set out in this Policy includes:</p> <p><i>Federal Legislation</i></p> <ul style="list-style-type: none"> • Disability Discrimination Act 1992 • Human Rights and Equal Opportunity Commission Act 1986 • Sex Discrimination Act 1984 and Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013 • Racial Discrimination Act 1975 • Age Discrimination Act 2004 • Fair Work Act 2009 <p><i>State Legislation</i></p> <ul style="list-style-type: none"> • Equal Opportunity Act 2010 • Local Government Act 1989 • OHS Act 2004 Victoria • Racial & Religious Tolerance Act 2001 • Victorian Charter of Human Rights and Responsibilities 2006 • Privacy and Data Protection Act 2014 • This Policy is not intended in any way to diminish the requirements as outlined in the legislation listed above.

	<p>The Victorian Charter of Human Rights and Responsibilities 2006</p> <p>The <i>Victorian Charter of Human Rights and Responsibilities 2006</i> (the Charter) contains an agreed set of human rights, freedoms and responsibilities protected by law. The Charter aims to ensure government bodies, public bodies, local councils and public servants observe certain rights when creating laws, setting policies and providing services.</p> <p>Council is committed to upholding all of the rights, principles and values set out in the Charter and to educating employees on the rights set out in the Charter. Darebin City Council also requires all employees and all others who conduct business on behalf of Council to act in accordance the rights, principles and values set out in the Charter.</p> <p>Vicarious Liability</p> <p>Under anti-discrimination legislation, the employer as well as the alleged perpetrator of unlawful conduct may be legally responsible for the discrimination or harassment that occurs in the workplace. An employer generally will not be vicariously liable if it can prove that it took all reasonable steps to prevent the person from engaging in the unlawful conduct.</p>
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! All Darebin policies and procedures must be developed through the lens of key Darebin strategies, plans and related considerations. See the **Darebin Policy Review Lens** to inform and guide policy development and review.