

Equal Employment Opportunity Policy

Corporate & Community Services



June 2023

This policy was adopted by Council to set governing principles in place that align the strategic direction of the organisation with the Strategic Community Plan 2040, Outcome PF3: High performing and engaged people.

Objectives

To set out the Augusta Margaret River Shire's (Shire) commitment towards:

- promoting Equal Employment Opportunities (EEO) that are based upon the principles of merit and equity
- prohibiting and appropriately managing unlawful discrimination, harassment, workplace hostility, victimisation and bullying
- supporting a respectful, safe, inclusive and diverse workforce

Application

This Policy applies to all Shire workers, elected members, Council and others within the workplace with the following roles and responsibilities applying:

Elected members

- demonstrate and walk the Shire's values and not engage in any form of unlawful discrimination, harassment and bullying.

Council

- sets the overall policy directing the Shire in terms of diversity management and appropriate compliance with legislative requirements relating to EEO, anti-discrimination legislation and access and inclusion requirements.
- provides adequate resources for the management of equal employment opportunities in supporting the provision of a respectful, safe, inclusive and diverse workplace.

Chief Executive Officer

- lead and walk the Shire's values and not engage in any form of unlawful discrimination, harassment and bullying.
- ensures that Equal Employment Opportunities (EEO) policies and procedures are communicated, embedded and adhered to throughout the organisation.
- ensures that EEO and diversity outcomes are included in the Shire's strategic planning processes.
- supports and approves the Shire's Equal Employment Opportunity Plan and ensures that relevant policies and achievements are communicated to all staff under CEO endorsement.
- Sets measurable EEO, values and diversity measures that are monitored, reported and discussed at Executive Leadership Team meetings.

EQUAL EMPLOYMENT OPPORTUNITY POLICY

Reporting Officers

- lead the Shire's values and not engage in any form of unlawful discrimination, harassment and bullying.
- do everything they reasonably can to make sure the workplace is safe and healthy. This includes taking action to prevent, and respond to, workplace sexual harassment, discrimination, bullying and worker issues.
- ensuring the workplace is free from discrimination, harassment, or bullying, and that all workers comply with the Equal Employment Opportunity Policy, whilst also considering the inherent requirements of each role in the circumstances.
- not use, cause, instruct, aid, induce or knowingly permit another person to engage in discriminating, bullying or harassing behaviour in the workplace
- support the implementation of approved policy and planning initiatives.
- provide equal employment opportunity; providing access to facilities, programs or opportunities to meet special needs where reasonable and practicable.
- leading, modelling and assessing worker performance towards meeting the Shire's values within the workplace.

Workers

- demonstrate and walk the Shire's values and not engage in any form of unlawful discrimination, harassment and bullying.
- discourage any behaviour which involves discrimination, harassment or bullying
- complete any mandatory training regarding workplace discrimination, harassment and bullying appropriate to their role
- seek advice and report any behaviour which involves discrimination, bullying or harassment to an appropriate manager and/or Human Resources
- familiarise themselves and act in accordance with this Policy

Others within the workplace

- are responsible for not negatively impacting the health and safety of others within the workplace. This includes not sexually harassing, bullying or acting inappropriately towards others and following reasonable instructions relating to health and safety.

Definitions

Bullying: is repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to safety and health. Repeated behaviour refers to the persistent nature of the behaviour and can involve a range of behaviours over time. Unreasonable behaviour means behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

Discrimination: occurs when a person is treated less favourably than another person or group because of their background or certain personal characteristics.

Diversity: refers to the visible and invisible differences that exist between people, including (but not limited to) race, colour, physical features, sex, sexual orientation, gender identity, lawful sexual activity, age, physical or mental disability, marital status, family responsibilities, pregnancy, breast feeding, carer responsibilities, religion, political opinion, national extraction, social origin, industrial activity, or trade union membership. It also refers to diverse ways of thinking and ways of working.

Equal Employment Opportunities (EEO): is the principle that all persons can have equal access to employment opportunities based on merit, without fear of discrimination or harassment.

Inclusion: refers to ensuring that current, future and potential employees have equality of opportunity in the organisation without any barriers or obstacles as a result of their race, colour, physical features, sex, sexual identity, gender identity, lawful sexual activity, age, physical or mental disability, marital status, family responsibilities, pregnancy, breast feeding, carer responsibilities, religion, political opinion, national extraction, social origin, industrial activity or trade union membership.

Others within the workplace: may refer to but not limited to customers, visitors, key stakeholders, etc.

Sexual Harassment: occurs when:

- a) a person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed; or*
- b) engages in other unwelcome conduct of a sexual nature in relation to the person harassed;*

in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

Workers: A 'worker' is anyone who carries out work for an employer or business. This includes full-time, part-time and casual workers, workers on probation, maximum term -based workers, apprentices, trainees, contractors and volunteers.

Policy

This Policy requires that Shire workers and elected members actively prevent discrimination, bullying and harassment in the workplace.

1. Equal Employment Opportunities

The Shire will provide equal opportunity in respect to employment and employment conditions, including:

- Recruitment and selection
- Conditions of employment
- Performance planning, review and management
- Training and development
- Career development support

Decisions regarding recruitment, selection, conditions of employment, training and development and promotion are based on merit, performance, and capabilities, whilst considering operational requirements.

Under the State *Equal Opportunity Act 1984* (and its subsequent amendments), it is the responsibility of Local Government to prepare and implement an equal employment opportunity management plan in order to achieve the objects of the Act.

The legislation prescribes (Part IX – Division 3) that each management plan includes certain provisions, which detail the following:

- Policies and programs to achieve the objects of the Act.
- The means of communicating these policies and programmes to workers.
- The means of collecting and recording of appropriate information.

- The review of human resource practices within the Council (including recruitment techniques, selection criteria, training and staff development programmes, promotion and transfer policies and patterns, and conditions of service) with a view to the identification of any discriminatory practices.
- Outcome measures against which the success of the management plan in achieving the objects of the Act can be assessed.
- A means of revising and amending the management plan; and
- The appointment of people within the Shire's operations to implement the provision of the management plan.

The Shire's equal employment opportunity management plan will be regularly reviewed by Human Resources, with associated updates and annual reports submitted to the Director of Equal Opportunity in Public Employment.

2. Discrimination, Harassment & Bullying

The Shire is committed to and promotes the principle of equal opportunity for all staff and those seeking employment and will take reasonable and proportionate measures to eliminate, as far as possible certain discriminatory conduct, including sex discrimination, sexual harassment, sex-based harassment and certain acts of victimisation in the workplace. The Council accepts that it has a responsibility to create an environment free from discrimination, harassment and bullying. In achieving this outcome, the Shire will continue to develop policies, practices and guidelines consistent with the principles of equity, fair play and ethical conduct. Diversity management strategies demonstrate the Council's commitment to both the spirit and intent of anti-discrimination and equal opportunity.

The State *Equal Opportunity Act 1984*, *Public Interest Disclosure Act 2003*, *Criminal Code Act 1913(Chapter XI)*, *Gender Reassignment Act 2000*, *Work Health and Safety (General) Regulations 2022 (Section 55B)* and *Spent Convictions Act 1988* legislation and Commonwealth *Human Rights and Equal Opportunity Commission Act 1986*, *Racial Discrimination Act 1975*, *Sex Discrimination Act 1984*, *Fair Work Act 2009*, *Disability Discrimination Act 1992*, *Age Discrimination Act 2004*, *Workplace Gender Equality Act 2012*, render workplace discrimination and harassment (and other circumstances) unlawful on the following grounds:

- **Age** – being regarded as too young or old*
- **Breastfeeding** – or bottle feeding
- **Family responsibility** – having a caring role
- **Family status** – being a relative of a particular person or having the status of being a relative
- **Fines Enforcement Registrar's website** – having personal details published on the Registrar's website
- **Gender history** – having a reassigned gender as under the *Gender Reassignment Act 2000*
- **Gender identity** – including appearance, mannerisms or other gender related characteristics
- **Impairment** – having a current, past or assumed physical, intellectual or mental disability*
- **Marital or relationship status** – being single, married, de facto, separated, divorced or widowed
- **Political conviction** – including a lack of conviction
- **Pregnancy or potential pregnancy**
- **Race** – including skin colour, ethnicity or national origin or descent*
- **Racial harassment** – offensive or insulting comments or behaviour about a person's race

- **Racial vilification**
- **Religious conviction** – including a lack of conviction
- **Sex** – having biological characteristics that align your body with being male, female or intersex that may include physical, hormonal or genetic features that are neither wholly female nor wholly male, a combination of female and male or neither male or female.
- **Sexual harassment** – including unwelcome requests for sexual favours, touching and comments. In addition, including subjecting another person to a workplace environment that is hostile on the grounds of sex
- **Sexual orientation** – including heterosexuality, homosexuality, lesbianism, bisexuality or assumed sexual orientation
- **Spent Convictions**
- **Victimisation** – making a complaint concerning discrimination or Public Interest Disclosure (PID)
- **Psychosocial hazards** – relating to workplace interactions or behaviours including workplace bullying

* Includes discrimination on the ground that a relative or associate has this attribute.

Note: There are some instances where it is not unlawful to discriminate against a person based upon certain exceptions provided for within the legislation, these are sometimes applied by organisation's for justifiable operational or strategic reasons i.e. measures used to achieve equality. In such cases those justifiable legal exceptions would also apply to this Policy.

3. Respect, Diversity, and Inclusion

The Shire recognises the value in having a diverse and inclusive workforce. Diversity may result from a range of factors: origin, age, gender, sexual identity, race, religion, cultural heritage, lifestyle, education, physical ability, appearance, language, or other factors. We value the differences between people and the contribution these differences make to our workforce and ultimately to our customers.

The Shire's respect diversity and inclusion approach focuses on four principles:

- Having a values-based workplace where people "walk the Shire values".
- The organisation is committed to supporting all workers and managers officers in the achievement of a diverse and inclusive workplace. Managers are responsible for developing and encouraging a positive environment, where all employees are treated with respect and dignity.
- Diversity and inclusion and equal employment opportunity initiatives are undertaken through a planned approach that supports the Shire's strategic direction.
- Diversity and inclusion is everyone's responsibility – it is part of how the Shire works.

The Shire will actively embrace diversity and inclusion through the following:

- commit to ensuring that all workers are treated with respect, dignity, and openness
- developing, implementing and promoting training for workers and elected members to understand the Shire's zero tolerance to unlawful workplace discrimination, bullying and harassment.
- undertaking Equal Employment Opportunity planning, data collection and reporting.
- reward and recognise those employees demonstrating the Shire's values within the workplace.
- to improve employment opportunities for all people to obtain and maintain employment with the Shire.
- actively and flexibly seek to accommodate the unique needs of many different workers in the context of meeting Shire operational requirements.

- seek to ensure that our policies, procedures and practices do not prevent people from diverse backgrounds having equality of opportunity within the workplace.

4. Monitoring and Reporting

Human Resources is responsible for regularly monitoring, implementing, reviewing and reporting the implementation of this Policy, including providing updates and annual reports to the Director of Equal Opportunity in Public Employment.

Workers raising issues concerning potential breaches of this Policy may utilise the Shire's Issue Handling Procedure and seek the support of a Manager, Reporting Officer, Human Resources, Peer Supporter and Health and Safety Representative to assist with the resolution of the issue. This procedure does not eliminate the right of the worker to request assistance from an appropriate external body at any time.

5. Compliance and Consequences for Policy Breaches

Any breach of this Policy concerning unlawful discrimination, bullying and harassment will be considered serious and may result in the following action being taken:

Elected Members

Will be handled in accordance with the Shire's Code of Conduct for Councillors, Committee Member and Candidates.

Employee

The outcome of a breach may result in the employee facing disciplinary action up to and including termination of employment.

Contractor

The outcome of a breach may result in the contract being terminated for breach of conditions.

Volunteer

The outcome of a breach may result in the volunteer facing disciplinary action up to and including termination of membership.

Relevant legislation

Equal Opportunity Act 1984

Work Health and Safety (General) Regulations 2022

Public Interest Disclosure Act 2003

Local Government Act 1995

Criminal Code Act 1913(Chapter XI)

Gender Reassignment Act 2000

Spent Convictions Act 1988

Human Rights and Equal Opportunity Commission Act 1986

Racial Discrimination Act 1975

Sex Discrimination Act 1984

Fair Work Act 2009

Disability Discrimination Act 1992

Age Discrimination Act 2004

Workplace Gender Equality Act 2012

Related documents

Employee Code of Conduct

Councillor Code of Conduct

Councillor Behaviour Complaints Management Policy

Augusta Margaret River Shire Enterprise Agreement

Augusta Margaret River Shire Workforce Plan

Equal Employment Opportunity Management Plan

Access and Inclusion Plan

Work Health & Safety Policy

Document and version control table			
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