

**Murrindindi Shire Council Policy**

**Title:** Prevention of Bullying, Harassment and Occupational Violence

**Type:** Organisational  
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**Next Review Date:** 2017

**Revision History:**

<b>Date</b>	<b>Action</b>	<b>Who</b>
June 21 2005	Adopted	Council
September 8 2008	Review	Risk and Improvement Coordinator
June 4 2009	Review	Risk and Safety Committee
May 2010	Approval	Acting CEO
February 2014	Review incorporating Policy drafted for NE Regional Development Scheme (NERDS)	NERDS draft by CT Management Group Coordinator HR &Risk
February 2014	Stakeholder consultation	Support and Contact Officers Risk and Safety Committee member
March 2014	Staff consultation	All staff via Murri
May 2014	Approval	CEO

**1. Purpose**

The Murrindindi Shire Council is committed to providing employees, volunteers and other agents with a safe and healthy work environment free from bullying, harassment and occupational violence, and regards this to be a primary responsibility as an employer.

The purpose of this policy is to outline Council's position that bullying and workplace violence will not be tolerated and to provide guidelines for the processes to follow if any instances of bullying or other inappropriate behaviours outlined below are reported.

**2. Rationale**

Workplace bullying, harassment and occupational violence creates an unsafe working environment and increases risks to the health of employees. Bullying behaviour is repeated and unreasonable behaviour (see full definition) and undermines dignity and autonomy of its victims.

Employers have a duty, under Section 21 of the OHS Act, to ensure, so far as practicable, risks to health and safety as a result of bullying and violence in the workplace are eliminated or reduced. Council is committed to eliminating, as far as possible, all forms of bullying in the workplace and in its relationships with its users through a culture of openness, support, and accountability.

The objectives of the Prevention of Bullying, Harassment and Occupational Violence policy are to:

- Ensure that all employees understand the definition of workplace bullying
- Prevent bullying and maintain an environment that is free from workplace bullying
- Outline how complaints of workplace bullying, harassment or violence can be made and how claims will be treated by Council and
- Outline procedures to investigate and resolve incidents.

### **3. Scope**

The Prevention of Bullying, Harassment and Occupational Violence Policy applies to all workers including employees, contractors (temporary or otherwise), volunteers and agents of the Council, as well as visitors to Council premises.

This policy is not limited to the workplace or working hours, and will include all work related events including, but not limited to lunches, client functions, meetings and conferences as well as work related functions such as Christmas parties.

This policy also relates to, but is not limited to, the following types of communication:

- Verbal communication either over the telephone or in person in the workplace, and outside of it;
- Written communication such as letters, memos, notes, minutes of meetings;
- Electronic communication including emails, instant messaging services, text messages, intranet, faxes, and all forms of social media and networking forums such as Facebook, LinkedIn, Twitter.

### **4. Policy**

- 4.1. Council does not tolerate bullying conduct or any other behaviours inconsistent with this policy nor anyone taking reprisals against those who come forward to disclose such conduct.
- 4.2. All employees, volunteers, contractors and agents of Council are expected to comply with this policy, to behave in a professional manner and to treat each other and members of the public with dignity and respect when they are at work.
- 4.3. Council will take all reasonable steps to ensure that employees, volunteers, contractors and agents of Council are not subjected to bullying behaviours from members of the public in the course of their duties.
- 4.4. Council is committed to transparency and accountability in its administrative and management practices, and supports complaints or disclosures that reveal bullying behaviours, or conduct involving a substantial risk to public health and safety.
- 4.5. Anyone covered by this policy who experiences or witnesses bullying, harassment or violence should report any behaviour that violates this policy or any related law /regulation; or is a danger to public health or safety as soon as possible.
- 4.6. Anyone wishing to report an incidence of bullying behaviour experienced personally or of another employee should follow Council's Internal Grievance Resolution Procedure.
- 4.7. Anyone wishing to report an incidence of bullying behaviour from a member of the public or client should refer the matter to their Supervisor/Manager, and fill out an incident form.
- 4.8. Any report or disclosure will be regarded as serious matter and will be investigated as per the Internal Grievance Procedure recommended timeframes.
- 4.9. Council will train and educate employees as to the nature and effects of bullying, harassment and occupational violence.
- 4.10. Council will take all reasonable steps to protect people who make such disclosures from any detrimental action in reprisal for making the disclosure.
- 4.11. Council will afford natural justice to all parties including the person who is the subject of the alleged action.
- 4.12. All information will be treated confidentially and where information is required to be reported, this will be advised to the relevant party.

## Standards of Behaviour

Council aims to create positive working relationships, and requires everyone observe the Staff Code of Conduct and follow minimum standards of behaviour, including:

- Being polite and courteous to others
- Being respectful of the differences between people and their circumstances
- Ensuring they do not engage in any bullying or offensive behaviour(s) towards others
- Ensuring they do not assist or encourage others to engage in bullying or offensive behaviour(s);
- Following Council's Internal Grievance Resolution policy if they experience any bullying behaviour(s) personally
- Supporting colleagues and reporting any bullying behaviour(s) they see happening to others and
- Keeping information confidential if involved in any investigation of bullying behaviour(s).

## 5. Definitions and examples

<p><b>Bullying</b></p>	<p>Bullying is defined as repeated and unreasonable behaviour directed towards an employee or group of employees that creates a risk to the worker/s health, safety and wellbeing and is directed related to the workplace. Bullying does not have to be intentional, and includes any behaviour that could be expected to intimidate, offend, degrade, humiliate, undermine or threaten. Bullying is a form of harassment, may also be a criminal offence and can be prosecuted by WorkSafe in Victoria.</p> <p>In the context of this policy bullying behaviour(s) include harassment or occupational violence (see sub-definitions below).</p>
<p><b>Complaint</b></p>	<p>A complaint is about any type of situation, activity, behaviour or item which causes concern about work or workplace. It can be against or about a person or a workplace system or procedure. It includes actions of an individual or a group, and may involve using a system of work as a means of victimising, humiliating, undermining or threatening.</p>
<p><b>Complaint Handler</b></p>	<p>The person who handles the complaint to its conclusion. This will usually be the Manager and/or the HR representative.</p>
<p><b>Support and Contact Officer</b></p>	<p>Support and Contact Officers are staff members appointed and trained to provide advice, assistance, guidance and support to fellow employees in the areas of harassment, bullying, discrimination and victimisation.</p>
<p><b>Discrimination</b></p>	<p>Discrimination is treating someone less favourably, because of an attribute or personal characteristic, than someone with the same or different attribute or trait. Discrimination may include bullying and harassment over one of these traits. This may also breach EEO legislation and Council's EEO policy as well as this policy.</p>
<p><b>Employee Assistance</b></p>	<p>Employee assistance is available to refer people to specialist counselling service/s for any work related or personal problems which may impact upon job performance. HR can refer staff to these independent counsellors in order to ensure confidentiality.</p>
<p><b>Harassment</b></p>	<p>Harassment is a type of bullying but may arise from fewer incidents and is where a person is made to feel intimidated, insulted or humiliated because of their race, colour, national</p>

	or ethnic origin; sex; disability; sexual preference; or some other characteristic specified under anti-discrimination or human rights legislation.
<b>Inappropriate behaviour</b>	Inappropriate behaviour is any action which causes a staff member to feel uncomfortable or offended. More formally, it includes behaviour which can be described as harassing, bullying, discriminatory and victimising in its impact.
<b>Repeated behaviour</b>	Repeated behaviour refers to the persistent nature of the behaviour and can involve a range of behaviours over time.
<b>Occupational violence</b>	Occupational violence or assault differs from the definition above as it can result from a single incident or small number of incidents - whereas bullying tends to be an accumulation of incidents over a long period of time.
<b>Sexual Harassment</b>	Sexual harassment may not be intentional, and may include behaviour which initially appears mild or trivial but can constitute sexual harassment, particularly where there is formal inequality of personal status between individuals. A person sexually harasses another person if he or she: <ul style="list-style-type: none"> <li>▪ makes an <b>unwelcome</b> sexual advance or request for sexual favours to the other person; or</li> <li>▪ engages in any other <b>unwelcome conduct</b> of a sexual nature in relation to the other person, which a reasonable person, having regard for the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated.</li> </ul>
<b>Unreasonable behaviour</b>	Unreasonable behaviour means behaviour that a reasonable person, having regard for the circumstances, would see as unreasonable, and would expect to victimise, humiliate, undermine or threaten
<b>Worker</b>	Under the Fair Work Act amendments 2012, the definition now includes all people engaged in the workplace, not just employees.
<b>Workplace</b>	Bullying may be found to have occurred, outside the formal workplace, if there is a connection to the workplace. For example a person making demeaning comments about someone on a personal Facebook page.

Examples of bullying behaviour may include, but are not limited to:

- excluding or isolating employees
- psychological harassment
- verbal/non-verbal threats or abuse
- offensive or insulting language or attempting to humiliate someone in front of another
- sniggering, gossiping or spreading rumours or innuendo about someone
- intimidation
- laughing at someone in the workplace which is intended to make them feel uncomfortable or distressed
- any of the above behaviours in an on-line or social media environment
- taking and or sharing digital photographs that demean or humiliate a person (this may also contravene other legislation such as Privacy)
- individual or groups of employees forcing a new employee to participate in an “initiation” process; playing of practical jokes on or forcing an employee to undertake demeaning tasks.

In addition bullying may also include

- assigning meaningless tasks unrelated to the job
- assigning impossible tasks, setting unreasonable timelines or constantly changing deadlines
- deliberately changing rosters to inconvenience particular employees
- deliberately withholding information that is vital for effective work performance
- using a management style that is harsh, involves shouting, constant criticism or humiliation of an employee or group of employees in private or in front of their peers
- continuously and deliberately excluding someone from workplace activities including ignoring them and keeping them isolated from relevant communications about work issues.

Sexual harassment may

- be an isolated incident or a series of incidents
- include offensive or suggestive jokes, remarks, gestures (either to or in the hearing of the person they are directed at)
- unwanted advances
- unwelcome physical contact.

Workplace bullying does not include the taking of reasonable management actions which are carried out appropriately, including:

- Work performance (including performance management) and management procedures
- Allocation of work or legitimate directive to an employee, contractor or agent related to a job role
- Rostering and allocation of working hours
- Informing an employee, contractor or agent about inappropriate behaviour
- Disciplinary action or allocation of work according to Council practices and procedures or
- Organisational review and implementation of change.

Violence is defined as any incident where an employee is physically attacked or threatened. It may be a one-off event. Examples include

- striking, kicking, scratching, biting, spitting or any type of physical contact
- throwing objects
- pushing, shoving
- attacking with any type of weapon

Violence can come from

- a co-worker (including a supervisor, manager, agent, volunteer)
- a customer or client
- a person known to the organisation or employee
- an unknown person

Even when provoked (possibly by bullying) occupational violence will not be tolerated.

## **6. Procedure**

### **6.1. Amicable Resolution**

Anyone covered by this policy may and is encouraged to attempt to amicably resolve the matter with the person or people alleged to have engaged in bullying, if they feel comfortable in doing so.

The person should clearly state the offensive behaviour experienced, explain that the behaviour is unwelcome and offensive and ask that the behaviour does not continue. The other person(s) may not be aware that their behaviour or conduct was causing offense or was unwelcome.

This is not a compulsory part of the complaint procedure, and if an employee does not wish to confront the person(s) directly, then this is not encouraged.

## **6.2. Grievance Resolution**

Any report or disclosure of bullying or occupational violence is regarded as serious matter. If local resolution is not suitable or successful, the complaint will be investigated as per the Internal Grievance policy and the Enterprise Agreement.

## **6.3. Bullying of or by a client or member of the public**

Any complaints of bullying of a member of the public by a representative of Council, will be handled in line with both this policy, and our Complaints Resolution policy applying objective investigation and natural justice. Where the Council representative is labour hire or contractor, Council reserves the right to terminate the contract, but any sanctions against the individual would be managed by the legal employer.

Where a Council employee or other representative of Council under our duty of care is subjected to bullying by a client or member of the public, Council will investigate and implement measures to mitigate this. Depending on the situation some resolution may include providing them with support and training or other alternatives to manage the situation, transferring the employee, or rostering them to another client, modifying or withdrawing the service from the client, or reporting the behaviour to external authorities.

## **6.4. Outcomes**

Any employee who is found to have breached this Policy will be disciplined accordingly in line with Council's Discipline Policy.

The disciplinary action will depend on the nature and severity of the behaviour and may include first and final warning or termination of employment, which may be instant dismissal where serious or gross misconduct is deemed to have occurred.

Where the complaint involves a contractor or agent of Council and an investigation process reveals that a person has engaged in unlawful conduct or other behaviour which is prohibited by this Policy, those concerned may face termination of their engagement immediately, or will not be renewed in the future.

In addition to the remedies provided in the Discipline policy, other action to resolve or remedy the behaviour complained of, may include:

- Providing training to employees concerned regarding bullying;
- Requiring employees who have breached this policy to apologise to appropriate person(s);
- Adjusting working arrangements where appropriate;
- Providing counselling to employees (complainant and the person complained of);
- Placing employees on performance improvement plans to ensure improved behaviour; and/or
- Providing coaching and mentoring.

## **6.5. Appeal**

Where any party to the complaint is not satisfied with the resolution or outcomes they are entitled to seek a review, either on procedural or substantive grounds, from:

- the relevant General Manager
- escalate to the Chief Executive Officer or
- an external organisation for example a relevant union or the Equal Employment and Human Rights Commission

## **7. Supporting Documents**

- WorkSafe Victoria Prevention of Bullying and Violence at Work Guidance Note February 2003
- WorkSafe Victoria Preventing and Addressing Bullying at Work Edition No. 2 February 2009
- Council "Your Right to a Fair Go"
- Council "Preventing Workplace Bullying"

## **8. Related Legislation and Policy**

- Risk and Safety policy
- Internal Grievance Resolution policy
- Complaints Management policy
- Equal Employment Opportunity policy
- Employee Conduct Policy and Staff Code of Conduct
- Discipline policy
- Murrindindi Shire Council Enterprise Agreement 2012 (or its successor).
  
- Occupational Health and Safety Act 2004
- Local Government Act 1989
- Fair Work Act 2009 and Fair Work Regulations 2009
- Protected Disclosure Act 2012 and Protected Disclosure Regulations 2013
- Disability Discrimination Act 1992
- Equal Opportunity Act 2010
- Human Rights and Equal Opportunity Commission Act 1986
- Racial Discrimination Act 1975
- Racial Hatred Act 1995 (amendments to RDA)
- Sex Discrimination Act 1984

## **9. Governance**

- All workers and Council representatives have a responsibility to observe this policy
- All Supervisors and Managers are responsible for ensuring this policy is implemented in their respective work teams
- The implementation of this policy will be monitored at an organisational level by the Risk and Safety Committee

## **10. Portfolio and/or Riding Councillor Input**

N/A

## **11. Responsible Officer**

Coordinator Human Resources and Risk

## **12. Human Rights Charter**

This policy has been developed with consideration of the requirements under the Charter of Human Rights and Responsibilities.