

	<p><b><i>Discrimination, Bullying and Sexual Harassment Prevention Policy</i></b></p> <p><i>Policy No. HRPOL 06</i></p>	<b>Version No:</b>	1.0
		<b>Responsible Officer/s</b>	Manager Organisational Development
		<b>Issued:</b>	
		<b>Next Review:</b>	<b>Dec 2019</b>

## 1. Purpose

The District Council of Grant believes that providing a workplace free from unlawful discrimination, bullying, victimisation and sexual harassment can deliver advantages to our business, people and workplace. Treating people fairly has a positive impact on employees and customers and enhances our reputation as an employer of choice.

The District Council of Grant is committed to a culture of fair treatment where the rights of all are protected, and to ensuring that all those participating in the workplace are treated with respect, dignity and fairness with the aim of creating an environment which promotes positive working relationships.

## 2. Commitment

The District Council of Grant is committed to providing a workplace which is free from unlawful discrimination, bullying, victimisation, and sexual harassment.

These behaviours are unacceptable and will not be tolerated.

The Council will:

- Clearly convey to all staff that behaviour which constitutes discrimination, bullying or sexual harassment is not tolerated at the Council.
- Appoint Contact Officer/s to provide information and assistance to employees.
- Have procedures in place to manage complaints of discrimination, bullying and/or sexual harassment which:
  - Are accessible;
  - Observe the principles of natural justice;
  - Provide support for people making a report;
  - Provide clear links to disciplinary procedures to deal with identified breaches and vexatious complaints; and
  - Protect against victimisation of a complainant or a person associated with a complainant.

## 3. Scope

All employees, volunteers, labour hire employees and contractors providing labour and services to Council have a responsibility to comply with this policy and promote standards of conduct at all times. This policy applies at work, attending work functions and at work related social events.

## 4. Unlawful Behaviours

Discrimination, bullying and sexual harassment involve the unlawful mistreatment of a person at work by another individual or group of individuals. It does not necessarily involve physical contact, as the most common forms of discrimination, bullying and harassment involve verbal abuse.

### 1. Discrimination

The **South Australian Equal Opportunity Act 1984** promotes equality of opportunity between people and prohibits certain kinds of discrimination against people. It is unlawful to discriminate against people because of their particular personal characteristics or because they belong to a certain group.

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Direct discrimination is when people are treated unfairly because of their age, sex, chosen gender, race, disability, sexuality, marital or domestic partner status, pregnancy, caring responsibilities, association with a child, identity of spouse or domestic partner, religious appearance or dress.

Indirect discrimination occurs when treatment appears to be equal but is unfair on certain people because of their age, sex or chosen gender, race, disability, sexuality, marital or domestic partnership status, pregnancy or caring responsibilities.

It is unlawful to treat people unfairly on the grounds of work, education, providing goods and services, accommodation, clubs and associations, granting qualifications, advertising and selling land.

## 2. Workplace Bullying

Bullying is defined in the **Work Health Safety Act (SA) 2012** as repeated and unreasonable behaviour directed toward a worker or group of workers that creates a risk to health and safety.

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 regard for the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

Single incidents of unreasonable behaviour can also present a risk to health and safety and will not be tolerated.

Examples of bullying could include:

- Abusive, insulting or offensive language;
- Behaviour or language that frightens, humiliates, belittles or degrades, including criticism that is delivered with yelling and screaming;
- Teasing or regularly making someone the brunt of practical jokes;
- Displaying material that is degrading or offending;
- Spreading gossip, rumours and innuendo of a malicious nature;
- Assigning a greater proportion of unpleasant work to a person;
- Physical assault or unlawful threats.
- Ignoring or isolating a person.

It is reasonable for managers and supervisors to allocate work and to give fair and reasonable feedback on a worker's performance. These actions are not considered to be workplace bullying if they are carried out lawfully and in a reasonable manner, taking the particular circumstances into account.

Bullying is not:

- Reasonable action taken in a reasonable manner by an employer to transfer, demote, discipline, counsel, retrench or dismiss an employee;
- A decision by an employer, based on reasonable grounds, not to award or provide a promotion, transfer or benefit in connection with an employee's employment.

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### 3. Harassment

The effects of harassment are similar to Workplace Bullying, the difference being that practices of unfair treatment names as harassment are informed by and concerned with the same grounds as those described under Discrimination and covered by the **South Australian Equal Opportunity Act 1984**.

### 4. Sexual Harassment

The **South Australian Equal Opportunity Act 1984** describes Sexual Harassment as sexual behaviour which makes people feel offended, afraid or humiliated and in the circumstances, it is reasonable to feel that way.

It is unlawful to sexually harass people in employment, education, goods and services, and accommodation.

Sexual harassment is determined from the point of view of the person feeling harassed. It is how the behaviour is received not how it is intended that counts.

### 5. Victimisation

Under the **South Australian Equal Opportunity Act 1984** it is unlawful to treat people unfairly because they have used the Equal Opportunity Laws. Victimisation is unfairly treating people for complaining or helping others to complain, either within their organisation or to the Equal Opportunity Commission.

### 6. Whistleblowing

Under the **South Australian Equal Opportunity Act 1984** it is unlawful to treat people unfairly because they are whistleblowers.

The **Whistleblowers Protection Act 1993** makes it against the law to victimise people for disclosing information or taking legal action against people who do so in good faith.

## 5. Raising Grievances or Concerns

Grievances and/or concerns will be dealt with quickly, seriously, confidentially and constructively. There are a number of options available to people which are detailed in the supporting *Discrimination, Bullying and Sexual Harassment Prevention Procedure*.

Where grievances and/or concerns are not considered to be unlawful under legislation ie. bullying, sexual harassment or discrimination, please refer to the guidelines within the Workplace Behaviours Procedure.

## 6. Vicarious Liability

The Council recognises that it may be vicariously liable for the actions of its people unless it can demonstrate that it has taken reasonable precautions to prevent unlawful discrimination, bullying and harassment.



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**7. Responsibilities**

The Chief Executive Officer has ultimate responsibility for implementing the Discrimination, Bullying and Sexual Harassment Prevention Policy.

Employees will share the responsibility for maintaining a culture of fair treatment by treating everyone they deal with fairly and by not engaging in unlawful behaviour.

**8. References:**

**Federal Legislation**

- Disability Discrimination Act 1992
- Workplace Gender Equality Act 2012
- Human Rights Commission Act 1986
- Privacy Act 1988
- Racial Discrimination Act 1975
- Sex Discrimination Act 1984

**State Legislation**

- Equal Opportunity Act 1984 (SA)
- Racial Vilification Act 1996 (SA)
- Whistleblowers Protection Act 1993 (SA)
- Work Health Safety Act 2012 (SA)
- Fair Work Act 1994 (SA)

**Other Related References**

- Discrimination, Bullying and Sexual Harassment Prevention Policy
- Workplace Behaviours Procedure
- Code of Conduct for Council Employees
- Code of Conduct for Council Members
- Code of Conduct for Volunteers
- Whistleblowers Policy
- Fraud and Corruption Prevention Policy

**Further Information**

- Equal Opportunity Commission website [www.eoc.sa.gov.au](http://www.eoc.sa.gov.au)
- Safe Work Australia Website [www.safeworkaustralia.gov.au](http://www.safeworkaustralia.gov.au)

**9. Review**

This Policy shall be reviewed by the District Council of Grant at minimum every four (4) years, within 12 months of a general election (or where significant change to legislation or other matters could affect this policy).

Action	Date	Minute Reference
Adopted by Council	05 September 2016	16115.3