

## **Bullying and Harassment Policy**

### **1. Intent**

The City of Albany is committed to meeting its obligation to provide a working environment free from harassment and bullying. The scope of this policy extends beyond City of Albany premises, for example, applying during employee events such as parties or employee attendance at conferences.

The City of Albany recognises it has a legal and ethical responsibility to ensure that employees are not subject to inappropriate behaviour that will not only affect their performance but also their health and wellbeing.

All employees have a responsibility to challenge bullying, harassment or unfair treatment of any kind that they witness and to bring it to the attention of relevant managers or Human Resources ensuring that this type of behaviour will not be tolerated.

### **2. Scope**

This policy applies to all of the City of Albany employees, contractors, volunteers, apprentices / trainees and work experience students at all City of Albany worksites, with breaches of this policy treated as misconduct or serious misconduct where deemed appropriate.

### **3. Responsibilities**

All City of Albany employees are responsible for ensuring that breaches of this policy do not occur.

All staff are entitled to:

- recruitment and selection decisions based on merit and not affected by irrelevant personal characteristics;
- work free from discrimination, bullying and harassment; and
- the right to raise issues or to make an enquiry or complaint in a reasonable and respectful manner without being victimised.

All staff must:

- follow the standards of behaviour outlined in this policy and the City of Albany's Code of Conduct;
- avoid gossip and respect the confidentiality of complaint resolution procedures; and
- treat everyone with dignity, courtesy and respect.

#### **3.1 Additional responsibilities of managers and supervisors**

Managers and supervisors have a leadership role and must also:

- model appropriate standards of behaviour;
- take steps to educate and make staff aware of their obligations under this policy and the law;

- intervene quickly and appropriately when they become aware of inappropriate behaviour;
- act fairly to resolve issues and enforce workplace behavioural standards, making sure all relevant parties are heard;
- help staff resolve complaints informally;
- refer formal complaints about breaches of this policy to Human Resources; and
- ensure staff who raise an issue or make a complaint are not victimised.

#### **4. What is bullying at work?**

Bullying can take many forms, including unwelcome jokes, teasing, nicknames, emails, pictures, text messages, social isolation or unfair work practices. Bullying behaviour can be obvious or covert and may involve, for example, any of the following types of behaviour:

- Aggressive or intimidating conduct
- Belittling or humiliating comments
- Spreading malicious rumours
- Teasing, practical jokes or 'initiation ceremonies'
- Exclusion from work-related events
- Unreasonable work expectations, including too much or too little work, or work below or beyond a worker's skill level
- Displaying offensive material
- Pressure to behave in an inappropriate manner.

However, in order for it to be defined as bullying the behaviour is usually repeated and unreasonable, inappropriate, offensive or degrading and could be reasonably regarded as creating a risk to health and safety to individuals at the workplace.

#### **5. What is unlawful harassment?**

Unlawful harassment occurs when a person, or a group of people, is intimidated, insulted or humiliated because of one or more characteristics. Unlawful harassment can arise as the result of a single incident as well as repeated incidents.

Just because someone does not object to inappropriate behaviour in the workplace at the time, does not mean that they are consenting to the behaviour.

Harassment can occur through behaviour such as:

- telling jokes about particular racial groups;
- sending explicit or sexually suggestive emails or texts;
- displaying offensive or pornographic websites or screen savers;
- making derogatory comments or taunts about someone's race or religion, gender or sexual orientation;
- asking intrusive questions or statements about someone's personal life;
- creating a hostile working environment, for example, where the display of pornographic materials or crude conversations, innuendo or offensive jokes are part of the accepted culture.

## 5.1 Sexual harassment

Sexual harassment is a specific and serious form of harassment. It is any unwelcome sexual behaviour, which could be expected to make a person feel offended, humiliated or intimidated. Sexual harassment can be physical, spoken or written. It can include:

- comments about a person's private life or the way they look;
- sexually suggestive behaviour, such as leering or staring;
- brushing up against someone, touching, fondling or hugging;
- sexually suggestive comments or jokes;
- displaying offensive screen savers, photos, calendars or objects;
- repeated unwanted requests to go out;
- insults or taunts of a sexual nature;
- sending sexually explicit emails or text messages;
- behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

Sexual harassment in the workplace can occur at work, at work-related events, between people sharing the same workplace, or between colleagues outside of work. All staff and volunteers have the same rights and responsibilities in relation to sexual harassment.

A single incident is enough to constitute sexual harassment, it doesn't have to be repeated. All incidents of sexual harassment, no matter how large or small or who is involved, require employers and managers to respond quickly and appropriately. The City of Albany recognises that comments and behaviour that do not offend one person can offend another.

## 6. What is not bullying or harassment

A single incident of unreasonable behaviour does not constitute bullying.

An isolated incident of inappropriate or unreasonable behaviour may be an affront to dignity at work but as a one off incident is not considered to be bullying. However as part of providing a workplace that is free from behaviours that pose a risk of injury or harm to employees, these type of incidents should not be ignored and may breach other City policies.

'Reasonable management practices' are not classed as bullying and can include (but are not limited to):

- a direction to carry out reasonable duties and instructions;
- a direction to comply with City rules, protocols, policies and procedures;
- setting reasonable goals, standards and deadlines;
- providing reasonable comments and advice (including relevant negative comments or feedback) on the work performance of an individual or group;
- rostering and allocating reasonable working hours;
- performance managing employees in accordance with the City's policies and procedures;
- providing informal and formal feedback about behaviour and conduct in a reasonable way; or
- implementing organisational change or restructuring.

The following conduct does not constitute unlawful harassment:

- a person receives reasonable comment and advice (including relevant negative comments or feedback) from managers and supervisors on the work performance of an individual or group;
- a person is not offered a job because, notwithstanding that reasonable adjustments have been made, they cannot meet the inherent requirements of the job;
- another applicant was preferred in a recruitment and selection or promotion process where they have better demonstrated the skills and experience to meet the required criteria of the job;
- the City implements specific equal employment opportunity or 'affirmative action' strategies, plans or programs designed to ensure genuine equal opportunities in the workplace, particularly in relation to groups that have been disadvantaged in the past.

## **7. Breach of policy**

A breach of this policy may have the following actions, but are not limited to:

- Disciplinary action up to and including termination of employment;
- The complainant receiving an oral or written apology from the respondent with a commitment to cease the behaviour;
- The parties being required to participate in some form of counselling, mediation or conciliation;
- The respondent undertaking training in relation to their behaviour; and
- Drawing up a management plan to document agreed or proposed actions by the parties.

## **8. Vexatious claims and claims made without reasonable cause**

Employees should not raise allegations which are vexatious or without reasonable cause. Any allegations which are later shown to be vexatious or made without reasonable cause will be dealt with according to the City of Albany disciplinary proceedings.

'Without reasonable cause' means that a claim is made without there being any real reason, basis in fact(s) or purpose.

Vexatious means that:

- the main purpose of a claim is to harass, annoy or embarrass the other party;  
or
- there is another purpose for the grievance other than the settlement of the issues arising in the claim (or response).

## **9. Making a Complaint**

As far as possible, employees should attempt to resolve issues informally by one of the following means:

- Directly approaching the person (either on their own or with another

person as a support person) they believe is responsible for the bullying / harassment and:

- Telling them which behaviour they consider unreasonable and unacceptable; and
- Asking them to stop; and
- Keeping a written record of this action.

If a worker believes they have experienced or witnessed behaviour in breach of this policy and an attempt to informally resolve the matter fails or is not appropriate they can make a complaint in any of the following ways:

- To their manager / supervisor or, if their manager / supervisor is the person whose behaviour is concerning them, the next person of seniority in their area;
- To a Grievance Officer / OSH Representative; or
- A member of Human Resources Department.

Whether or not the matter has been raised formally and whether or not the allegations have been raised verbally or in writing, managers / supervisors are responsible for addressing workplace bullying. If a manager / supervisor receives a complaint or otherwise becomes aware of workplace bullying, they should take action to attempt to resolve the matter.

Where a manager / supervisor is unsure whether the alleged behaviour may constitute bullying, they should contact the Human Resources Department.

The matter will be thoroughly investigated and a report of the facts made in complete confidence. All complaints will be treated seriously and confidentially with the appropriate support and action taken to resolve the offending behaviour.

*Please refer to the Grievance Handling Policy & Procedure regarding lodging a formal complaint and to understand the process and how it will be dealt with.*

## **10. Confidentiality and Victimisation**

The parties to a bullying / harassment complaint are required to maintain confidentiality in relation to the concern or complaint. The parties must not disclose, by any form of communication, either the fact or the substance of the allegations or issues to anyone other than a support person, Human Resources, a qualified counsellor or other professionals bound by confidentiality.

The victimisation of people making complaints is unlawful and will not be tolerated. A person must not victimise or otherwise subject another person to detrimental action as a consequence of that person raising, providing information about, or otherwise being involved in the resolution of a complaint under City policies and procedures.

Any breach of either the confidentiality or non-victimisation requirements will be treated seriously by the City, and may result in disciplinary action. Any such breach will be referred for investigation and dealt with according to the City of Albany disciplinary proceedings.

## **11. Further Support**

For more information please contact:

- For policy queries, support or training please contact the Human Resources Department;
- For policy queries please contact a Grievance Officer / OSH Representative;
- For personal support please consider the Employee Assistance Program (EAP).

## **12. Associated Documents**

- Occupational Safety & Health Policy
- Grievance Handling Policy & Procedure
- Managing and Improving Performance and Workplace Procedure
- Equal Employment Opportunity and Discrimination Policy
- Employee Code of Conduct
- Council Policy: Code of Conduct (Council Member's, Committee Members, Staff and Volunteers)

## **13. References:**

- Occupational Safety and Health Act, 1984
- Occupational Safety and Health Regulations, 1996
- Fair Work Act 2009 (Cth)
- Sex Discrimination Act 1984 (Cth)
- Racial Discrimination Act 1975 (Cth)
- Disability Discrimination Act 1992 (Cth)
- Age Discrimination Act 2004 (Cth)
- Australian Human Rights Commission Act 1986 (Cth)

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