

## 1 Policy History

Revision No.	Council Meeting Date	Minute No.	Adoption Date
1	Internal		23/08/2008
2	Internal		17/11/2009
3	Internal		20/10/2015
4	Internal		27/05/2019 (SMT)
5	27/08/2024	24/232	27/08/2024

## 2 Policy Objective

Griffith City Council ('the Council') aims to provide an environment where employees and others in the workplace are treated fairly and with respect, and are free from unlawful discrimination, harassment, vilification and bullying.

Council aims to ensure that when employment decisions are made, they are based on merit, not on irrelevant attributes or characteristics that an individual may possess. Council also tries to create a work environment which promotes good working relationships.

## 3 Policy Scope

This Policy applies to employees, agents and contractors (including temporary contractors) of administrators appointed under section 256 of the *Local Government Act 1993* (NSW) members of council committees, conduct reviewers, delegates of council, work experience employees and volunteers of Council, collectively referred to in this Policy as 'Council Officials'.

This Policy is not limited to the workplace or work hours. This Policy extends to all functions and places that are work related. For example, work lunches, conferences, Christmas parties and client functions. Equal Employment Opportunity (EEO) laws apply to all areas of employment, as well as the provision of goods and services.

This Policy does not form part of any Council Official's contract of employment. Nor does it form part of any other Council Official's contract for service.

## 4 Policy Statement

### 4.1 EEO Laws

Under EEO laws, discrimination, vilification, sexual harassment, bullying and victimisation are unlawful and strictly prohibited.

## 4.2 Discrimination

### 4.2.1 Direct discrimination

Direct discrimination in employment occurs when a person is treated less favourably than another in their employment because of a reason or ground which is prohibited by law. The prohibited grounds of discrimination are set out in the Federal, State and Territory laws and include sex, race, age etc. A full list of the grounds of discrimination which operate federally and in NSW will be relevant, and are listed out below.

- Race (including colour, nationality, descent, ethnic, ethno-religious or national origin)
- Sex
- Pregnancy (including potential pregnancy)
- Carers' responsibilities, family responsibilities, carer or parental status, being childless
- Breastfeeding
- Industrial/trade union membership, non-membership or activity
- Employer association membership, non-membership or activity
- Temporary absence from work because of illness or injury
- HIV/AIDS
- Spent convictions
- Religious belief or activity
- Marital status, relationship status
- Homosexuality, transsexuality, sexuality, sexual preference, lawful sexual activity, gender identity
- Disability, including physical, mental and intellectual disability
- Age (including compulsory retirement)
- Political belief or activity
- Criminal record
- Medical record
- Defence service
- Association (i.e. association with a person who has one or more of the attributes for which discrimination is prohibited)

### 4.2.2 Indirect discrimination

Indirect discrimination may occur when an employer imposes a policy, requirement or condition which applies to everyone equally but it in fact operates to disadvantage a particular group because of a characteristic of that group, such as their sex, age, race (ie - a prohibited ground of discrimination).

Example: The Council imposes a height restriction on all applicants for the position of 'Parking Officer', that is, an applicant must be over 185cm (6 feet) tall in order to be successfully considered for the position. This requirement at first glance appears

fair because it applies to all applicants irrespective of gender. However, in practice this requirement will disadvantage women as a group because statistically, women are naturally shorter than men. So, the effect is to disadvantage women because of their sex.

Discrimination also includes the situation where a Council Official harasses another person based on a ground of discrimination. Harassment is unwelcome conduct that a reasonable person would expect to offend, humiliate or intimidate.

### **4.3 Vilification**

Vilification is a public act which incites hatred, severe contempt or severe ridicule of a person or group, because of race, homosexuality, transgender, transsexuality or HIV/AIDS. Vilification is a particularly serious breach of EEO laws and will be dealt with accordingly.

### **4.4 Sexual Harassment**

Sexual harassment is unwelcome conduct of a sexual nature, which makes a person feel offended, humiliated or intimidated. Conduct can amount to sexual harassment even if the person did not intend to offend, humiliate or intimidate the other person. However, conduct will not be sexual harassment if a reasonable person, having regard to all the circumstances, would not have anticipated that the conduct would offend, humiliate or intimidate the other person. Sexual harassment does not have to be directed at a particular individual to be unlawful. Behaviour which creates a hostile working environment for other Council Officials can also be unlawful.

Examples of sexual harassment include, but are not limited to:

- physical contact such as pinching, touching, grabbing, kissing or hugging
- staring or leering at a person or at parts of their body
- sexual jokes or comments
- requests for sexual favours
- persistent requests to go out, where they are refused
- sexually explicit conversations
- displays of offensive material such as posters, screen savers, Internet material etc
- accessing or downloading sexually explicit material from the Internet
- suggestive comments about a person's body or appearance
- sending rude or offensive emails, attachments or text messages.

### **4.5 Bullying**

Bullying is repeated, unreasonable behaviour directed towards an individual or group that creates a risk to health and safety. Unreasonable behaviour means behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten. Single incidents of unreasonable behaviour can also create a risk to health and safety and may escalate into bullying. There is no requirement that bullying be intentional.

It is not bullying for a manager or supervisor to counsel a Council Official about their performance. Performance counselling is a necessary part of ensuring that Council Officials meet the Council's standards of work and behaviour. Also, other reasonable managerial actions such as disciplinary action, work directions and orders, and allocation of work in compliance with business needs and systems do not constitute bullying.

#### **4.6 Victimisation**

Victimisation is where a person is retaliated against or subjected to a detriment because they have lodged a complaint, they intend to lodge a complaint or they are involved in a complaint of unlawful conduct. Council Officials must not retaliate against a person who raises a complaint or subject them to any detriment.

#### **4.7 Rights and responsibilities**

All Council Officials must:

- understand and comply with this Policy;
- comply with the Council's Code of Conduct;
- ensure they do not engage in any unlawful conduct towards other Council Officials, customers/clients or others with whom they come into contact through work;
- ensure they do not aid, abet or encourage other persons to engage in unlawful conduct;
- follow the complaint procedure in this Policy if they experience any unlawful conduct;
- report any unlawful conduct they see occurring to others in the workplace in accordance with the complaint procedure in this Policy; and
- maintain confidentiality if they are involved in the complaint procedure.

Council Officials should be aware that they can be held legally responsible for their unlawful conduct.

Council Officials, who aid, abet or encourage other persons to engage in unlawful conduct, can also be legally liable.

#### **4.8 Breach of this Policy**

All Council Officials are required to comply with this Policy at all times. If an employee breaches this Policy, they may be subject to disciplinary action. In serious cases this may include termination of employment. Agents and contractors (including temporary contractors) who are found to have breached this Policy may have their contracts with the Council terminated or not renewed. For other Council Officials a breach of this Policy could result in you losing your position.

If a person makes an unfounded complaint or a false complaint in bad faith (eg - making up a complaint to get someone else in trouble or making a complaint where there is no foundation for the complaint), that person may be disciplined and may be exposed to a defamation claim.

## **4.9 Complaint handling procedure**

If a Council Official feels that they have been subjected to any form of unlawful conduct contrary to EEO laws this Policy or the Council's Code of Conduct, they should not ignore it. The Council has a complaint procedure for dealing with these issues. The complaint procedure has numerous options available to suit the particular circumstances of each individual situation. The manner in which a complaint will be handled is solely at the discretion of the Council's Complaint Officer. The Complaints Officer in the Council's workplace is the Human Resources & Risk Manager.

## **4.10 Examples of the ways in which a complaint can be dealt with**

### **4.10.1 Confront the Issue**

If a Council Official feels comfortable doing so, they should address the issue with the person concerned. A Council Official should identify the offensive behaviour, explain that the behaviour is unwelcome and offensive and ask that the behaviour stop. It may be that the person was not aware that their behaviour was unwelcome or caused offence.

This is not a compulsory step. If a Council Official does not feel comfortable confronting the person, or the Council Official confronts the person and the behaviour continues, the Council Official should report the issue to the Council's Complaints Officer. The Complaints Officer in the Council's workplace is the Human Resources & Risk Manager.

If a Council Official is unsure about how to handle a situation and is also unsure if they want to make a complaint they should contact the Human Resources & Risk Manager for support and guidance.

### **4.10.2 Report the Issue**

A Council Official should report the issue to a Complaints Officer. The Complaints Officer in the Council's workplace is the Human Resources & Risk Manager.

The Human Resources & Risk Manager will aim to deal with the Council Official's complaint in accordance with this Policy. There are two complaint procedures that can be used: informal and formal (detailed further below). The type of complaint procedure used will be determined by the nature of the complaint that is made.

### **4.10.3 Informal Complaint Procedure**

Under the informal complaint procedure there is a broad range of options for addressing the complaint. The procedure used to address the issue will depend on the individual circumstances of the case. Possible options include, but are not limited to:

- a) the Human Resources & Risk Manager discussing the issue with the person against whom the complaint is made; and/or

- b) the Human Resources & Risk Manager facilitating a meeting between the parties in an attempt to resolve the issue and move forward.

The informal complaint procedure is more suited to less serious allegations that if founded, would not warrant disciplinary action being taken.

#### **4.10.4 Formal Complaint Procedure**

The formal complaint procedure involves a formal investigation of the complaint. Formal investigations may be conducted by the Human Resources & Risk Manager or a person from outside the Council, appointed by the Council (under the approval of the General Manager)

An investigation generally involves, collecting information about the complaint and then making a finding based on the available information as to whether or not the alleged behaviour occurred. Once a finding is made, the Human Resources & Risk Manager or the external investigator will make recommendations about resolving the complaint.

If the Council considers it appropriate for the safe and efficient conduct of an investigation, Council Officials may be required not to report for work during the period of an investigation. The Council may also provide alternative duties or work during the investigation period. Generally, Council Officials will be paid their normal pay during any such period.

#### **4.11 Confidentiality**

The Human Resources & Risk Manager will endeavour to maintain confidentiality as far as possible. However, it may be necessary to speak with other Council Officials in order to determine what happened, to afford fairness to those against whom the complaint has been made and to resolve the complaint. If a complaint is raised and it appears that unlawful conduct has potentially occurred, the Council will endeavour to take appropriate action in relation to the complaint.

All Council Officials involved in the complaint must also maintain confidentiality, including the Council Official who lodges the complaint. Spreading rumours or gossip may expose Council Officials to a defamation claim. Council Officials may discuss the complaint with a designated support person or representative (who is not a Council Official employed or engaged by the Council). However, the support person or representative must also maintain confidentiality.

#### **4.12 Possible outcomes**

The possible outcomes will depend on the nature of the complaint and the procedure followed to address the complaint. Where an investigation results in a finding that a person has engaged in unlawful conduct, breach of this Policy or breach of the Code of Conduct that person may be disciplined. The type and severity of disciplinary action will depend on the nature of the complaint and other relevant factors. Where the investigation results in a finding that the person complained against has engaged in serious misconduct, this may

result in instant dismissal. Any disciplinary action is a confidential matter between the affected Council Official and the Council.

Agents and contractors (including temporary contractors) who are found to have engaged in unlawful (see Clause 7 – Related Legislation) conduct and/or breached this Policy or the Council's Code of Conduct, may have their contracts with the Council terminated or not renewed. For other Council Officials, a breach of this Policy or the Council's Code of Conduct could result in the loss of their position.

The Council may take a range of other non-disciplinary outcomes to resolve a complaint, depending on the particular circumstances. Examples include, but are not limited to:

- training to assist in addressing the problems underpinning the complaint;
- monitoring to ensure that there are no further problems;
- implementing a new policy;
- requiring an apology or an undertaking that certain behaviour stop; and/or
- changing work arrangements.

## 5 Questions

If a Council Official is unsure about any matter covered by this Policy, a Council Official should seek the assistance of the Human Resources & Risk Manager.

## 6 Definitions

Council Official - employees, agents and contractors (including temporary contractors) of administrators appointed under section 256 of the *Local Government Act 1993* (NSW) members of council committees, conduct reviewers, delegates of council, work experience employees and volunteers of Council

Complaints Officer - Human Resources & Risk Manager

Support Person – Not to be a Council Official employed or engaged by the Council. Must also maintain confidentiality.

## 7 Related Legislation

Racial Discrimination Act 1975 (Cth)  
Anti-Discrimination Act 1977 (NSW)  
Sex Discrimination Act 1984 (Cth)  
Sex Discrimination and Fair Work Amendment Bill (respect at work) 2021  
Australian Human Rights Commission Act 1986 (Cth)  
Disability Discrimination Act 1992 (Cth)  
Age Discrimination Act 2004 (Cth)  
Fair Work Act 2009 (Cth)  
Work Health and Safety Act 2011 (Cth)  
Work Health and Safety Act 2011 (NSW)

## 8 Variations

The Council reserves the right to vary, replace or terminate this policy.

## 9 Directorate

Economic & Organisational Development



## EEO Management Plan 2024-2028

### Introduction

Griffith City Council Equal Employment Opportunity (EEO) Management Plan has been prepared in accordance with EEO legislation requiring Council to take appropriate action to eliminate discrimination and promote equal opportunity for persons in designated groups in relation to employment matters.

### Scope

The EEO Management Plan applies to all staff, as all staff are obliged to follow non-discriminatory practice in the workplace. Council, being the responsible employer, is legally accountable for discrimination in employment matters.

### 1. Communication Awareness

**Objective – Griffith City Council will raise awareness of EEO principles and corporate practices with Council staff, members of the public and prospective employees by ensuring easy access to EEO related information and promoting EEO principles through training, policies and corporate practices in the workplace.**

Actions	Target	Responsibility	Performance Measures
Promote Council as an EEO employer by ensuring that EEO statements are included in all job advertisements and EEO information	Members of the public	Workforce Planning	Information available on website and in job advertisements
Ensure access to EEO information by providing information on Council's intranet, information management systems, noticeboards and publications	All Council staff	Human Resources & Risk Management Workforce Planning Communications	Information in various formats available to staff
Review and monitor annually Council printed and digital publications to	Council staff	Human Resources & Risk Management Workforce Planning	Publications comply with EEO principles

<b>Actions</b>	<b>Target</b>	<b>Responsibility</b>	<b>Performance Measures</b>
ensure compliance with EEO principles		Communications	
Include EEO in induction training for new staff	New Council staff	Workforce Planning Managers	Training delivered for all new staff.  Include activity in Annual Report - Statement of activities to implement EEO management plan.

## 2. Policy, Practices, Evaluation and Reporting

**Objective – Griffith City Council will ensure that its policies and corporate practices support the application of EEO principles**

<b>Actions</b>	<b>Target</b>	<b>Responsibility</b>	<b>Performance Measures</b>
Annually review Council's personnel policies and corporate practices to ensure EEO principles are included and applied	Council staff	Human Resources & Risk Management Director/Managers	Policies and corporate practices reviewed and updated (if required)
EEO responsibilities included in all position descriptions	Council staff	Workforce Planning	All position descriptions contain EEO responsibilities  Include activity in Annual Report - Statement of activities to implement EEO management plan.
Handle disputes arising from EEO related issues in accordance with relevant policies	Council staff	Human Resources & Risk Management Directors/Managers	Grievances are acknowledged within 2 business days of receipt of complaint  Include activity in Annual Report - Statement of activities to implement EEO management plan.
Report on EEO progress and	Members of the public	Human Resources & Risk Management	Annual review – Refer to LG

<b>Actions</b>	<b>Target</b>	<b>Responsibility</b>	<b>Performance Measures</b>
activities in Council's Annual report			Professionals annual survey return
Review and monitor accessibility to Council facilities and parking and make recommendations to address barriers or obstacles	Council staff	Human Resources & Risk Management Disability Inclusion Access Committee	Incorporated into WHS site inspections
Make reasonable physical workplace adjustment, (where possible), for roles involving staff with disabilities	Council staff	Human Resources & Risk Management	Job adjustment reviewed as required
Maintain a list of languages spoken by staff who can assist other council employees in providing a service to members of the public from a diverse background	Customer Service, Library and Community Services staff	Workforce Planning	Maintain Staff language register
Collect data related to EEO	Council Employees	Human Resources & Risk Management Workforce Planning	Annual review – Refer to LG Professionals annual survey return

### 3. Appointment, Selection and Recruitment Process

**Objective – Council's appointment, selection and recruitment processes are in accordance with EEO principles**

<b>Actions</b>	<b>Target</b>	<b>Responsibility</b>	<b>Performance Measures</b>
Review Council's Recruitment policies and procedures to ensure compliance with EEO principles	All staff	Workforce Planning	Policies reviewed annually

<b>Actions</b>	<b>Target</b>	<b>Responsibility</b>	<b>Performance Measures</b>
Ensure all staff involved with recruitment and selection process are trained in EEO principles and interview/selection process	Staff involved with selection process	Workforce Planning	Panel members have attended training
Ensure all staff acting in higher grade positions are selected in accordance with EEO principles and corporate practices	All staff	Workforce Planning Human Resources & Risk Management Directors/Managers	Compliance with EEO audited routinely

### *Council official acknowledgement*

*I acknowledge:*

- *receiving the Council Policy;*
- *that I will comply with the Policy; and*
- *that there may be disciplinary consequences if I fail to comply, which may result in the termination of my employment, the cancellation of my engagement, or the loss of my position.*

Your name:

Signed:

Date:

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