

Bullying and Harassment Prevention

Corangamite Shire

January 2024



**CORANGAMITE
SHIRE**

Council Policy



Bullying and Harassment Prevention Policy

Introduction

Corangamite Shire Council is committed to providing a safe and healthy workplace, free from bullying and harassment, and where everyone is treated fairly, with dignity and respect.

Bullying and harassment are unacceptable and unlawful under occupational health and safety legislation, and in some instances under equal opportunity legislation. Serious incidents of bullying may also be a criminal offence.

Purpose

This policy outlines everyone's legal responsibilities to prevent bullying and harassment in the workplace, and the process to follow if someone is bullied or harassed at work.

Scope

This policy applies to councillors when they are performing Council duties or attending Council workplaces, and to employees and other people who perform work for Council, including employees, contractors, work experience students and volunteers.

It applies to behaviours that occur during all aspects of employment including:

- Work performed wherever and whenever employees may be as a result of their duties, for example: out of hours or off-site work, when working from home, or when working with clients.
- During work-related events, for example at work related social functions or conferences.
- During online activity including the use of social media.

Definitions

Harassment

Workplace harassment, which can include bullying behaviour, is a form of unlawful discrimination that is related to a protected attribute or characteristic. It is behaviour that:

- Is unwelcome and unsolicited.
- The person considers to be offensive, intimidating, humiliating or threatening.
- A reasonable person would consider to be offensive, humiliating, intimidating or threatening.

Examples of harassment include, but are not limited to:

- Demeaning references to a person’s age, racial background, sexual orientation, gender identity, disability or other protected attribute.
- Downloading or displaying offensive material or objects.
- Yelling screaming, swearing or similar behaviour directed at someone which intimidates, frightens, coerces or offends them.

Harassment on the basis of a protected attribute does not need to be repeated – a one-off incident can constitute harassment.

Bullying

Workplace bullying is repeated unreasonable behaviour directed toward an employee, or group of employees, that creates a risk to health and safety. Bullying can be overt or subtle, and it may be difficult to immediately recognise. It can be psychological or physical. Bullying may be an accumulation of small incidents over long periods. Bullying can occur:

- Downwards by managers to employees
- Sideways between co-workers
- Upwards from workers to supervisors or managers.
- From councillor(s) to councillor(s)
- By councillors towards employees

Unreasonable behaviour

Unreasonable behaviour refers to behaviour that a reasonable person, having regard for the circumstances, would see as belittling, undermining, controlling, abusive, intimidating, excluding, offensive, victimising, humiliating, embarrassing or threatening.

Reasonable person test

The reasonable person test can put a behaviour into context and ensure that a decision about the behaviour does not rely on a decision maker’s own, perhaps limited perspective.

A reasonable person is a hypothetical person who exercises average care, skill and judgement in conduct and who is a comparative standard.

Policy Detail

Bullying and Discrimination

Bullying may be motivated by personal characteristics of the target such as competence or popularity. Bullying that is motivated by a characteristic protected by law may be discrimination and unlawful under anti-discrimination law. The behaviour does not have to be repeated to be discrimination, it may be a one-off event.

Details in relation to the protected attributes and discrimination are contained in the Equal Opportunity Policy.

Some types of bullying are also criminal offences, including violence, assault and stalking.

Bullying can have a negative impact on everyone – it is not just a problem for the victims of bullies.

How bullying can affect individuals

People being bullied at work might:

- Be less active or successful at work
- Be less confident in their work
- Feel scared, stressed, anxious or depressed
- Have their life outside work affected
- Want to stay away from work
- Lose trust in their colleagues and management
- Lack confidence and enjoyment about their work
- Have physical signs of stress

People who see others being bullied may feel angry, guilty and helpless about the situation.

Behaviours that may constitute bullying or harassment

- Any form of aggressive or frightening behaviour, including swearing or shouting at someone, banging fists on a desk, or stalking.
- Psychological harassment.
- Verbal abuse and constant ridicule.
- Repeated threats of dismissal.
- Deliberately excluding, isolating or marginalising a person from normal work activities (online or offline)
- Cyberbullying – through technologies such as instant messaging, text, email and social networking sites or forums
- Persistent and unjustified criticisms or complaints, often about small things.
- Humiliating a person through gestures, sarcasm, criticism and insults.
- Sniggering or gossiping about someone or spreading malicious or untrue rumours.
- Sabotaging a person's work, for example, by withholding or supplying incorrect information, hiding documents or equipment, not passing on messages and seeking to get a person into trouble.
- Unfair treatment in relation to accessing workplace entitlements such as leave or training.

The victim of the behaviour does not have to complain about the behaviour for it to be considered bullying or harassment.

What is not bullying?

Reasonable management action carried out in a reasonable manner is not bullying or harassment, including situations of reasonable management practice such as:

- Performance management processes, including setting goals and targets and requesting an improvement to work that is not up to standard.
- Allocating or rostering work in a fair way.
- Giving legitimate instructions and expecting them to be carried out.
- Deciding not to promote an employee.
- Giving an employee relevant negative feedback on their work.
- Taking disciplinary action(s).

Natural Justice

All people have a right to natural justice in an investigation or complaint. This includes:

- Being considered innocent until proven guilty.
- Being protected from false or malicious allegations.
- Being fully informed of the complaint and the complaint process.
- Having the right of reply to the complaint.
- Having a support person.
- The maintenance of confidentiality.

Related Legislation:

As employers and providers of services, councils have obligations under Occupational Health and Safety legislation and anti-discrimination laws to provide a safe workplace. The Crimes Act now extends to serious bullying which has a punishable jail term of up to ten years.

Federal

- *Fair Work Act (2009)*

State

- *The Victorian Equal Opportunity Act 2010*
- *Victorian Charter of Human Rights and Responsibilities Act 2006*
- *Victorian Local Government Act 2020*
- *Occupational Health and Safety Act 2004*
- *Crimes Amendment (Bullying) Act 2011*

Related Council Guidelines

The following guidelines and complaints handling procedures will assist people in complying with this policy:

- Employee Complaints, Grievance and Dispute Procedure
- Employee Code of Conduct
- Councillor Code of Conduct
- Occupational Health and Safety Policy
- Equal Opportunity Policy

References

- Fair Work Commission
- WorkSafe Victoria
- Victorian Human Rights and Equal Opportunity Commission.

Reporting Procedure

Council is responsible for providing a working environment free from bullying, harassment and other inappropriate workplace behaviours. Council does not tolerate bullying in the workplace and takes reports of bullying or harassment very seriously.

Any employee who believes that they have been bullied or harassed is strongly encouraged to take appropriate action by contacting their supervisor or the HR Department.

If bullying is violent or threatening, it may be a criminal offence and should also be reported to the police.

The complaint does not need to have come from the alleged victim. Witnesses to an incident may also raise a complaint in relation to bullying.

Complaints and grievances will be handled confidentially and fairly in accordance with the Corangamite Shire Complaints, Grievances and Disputes Procedure.

Bullying or harassment because of a protected attribute can be reported to:

Victorian Equal Opportunity and Human Rights Commission

1300 292 153 (*enquiry line*)

<https://www.humanrightscommission.vic.gov.au>

Bullying can be reported to:

Worksafe Victoria

Web site: <http://www.worksafe.vic.gov.au/>

Tel: 1800 136 089

or the

Fair Work Commission

Telephone: 1300 799 675

Email: <https://www.fwc.gov.au>

Gossip

It is not appropriate to talk with other staff, councillors or members of the community about a bullying complaint. Breaching the confidentiality of a complaint investigation is a serious matter and is likely to create new problems and make it harder to resolve the original issue.

Responsibilities

Councillors and Employees

Councillors (when performing duties on behalf of Council and attending Council workplaces) and employees have a responsibility to:

- Comply with this policy, related procedures and legislation.
- Respect the social and cultural diversity among other councillors, employees and customers.
- Report acts of bullying or harassment.
- Avoid gossip and respect the confidentiality of the complaint resolution procedures.

Supervisors/Managers

Supervisors and managers have additional responsibilities to:

- Model appropriate standards of behaviour.
- Know the principles supporting this policy to effectively deal with any concerns.
- Make it clear to staff that bullying or harassing behaviour will not be tolerated.
- Act immediately if they witness or are advised about any unlawful or unfair treatment.
- Treat staff complaints seriously and confidentially in accordance with the grievance procedures.

Human Resources/Risk Management Department

The Human Resources/Risk Department is responsible for reviewing and circulating this policy.

The department will also provide induction and ongoing training to ensure that employees are kept informed.

Review Date

January 2028

It is considered that this Policy does not impact negatively on any rights identified in the *Charter of Human Rights and Responsibilities Act 2006*.

The *Gender Equality Act 2020* requires Council to undertake gender impact assessments when developing or reviewing any policy, program or service which has a direct and significant impact on the public. This policy **will not** have a direct and significant public impact and a Gender Impact Assessment has not been undertaken.