DISTRICT COUNCIL OF Streaky Bay
29 Alfred Terrace, Streaky Bay SA 5680
T: (08) 8626 1001 E: dcstreaky@streakybay.sa.gov.au

WORKPLACE BULLYING, HARASSMENT AND WORKPLACE VIOLENCE POLICY

Policy No: **DCSB-HR-12.07**	Approved on: **16 July 2020**	Administered by: **Chief Executive Officer**
Last Reviewed: **New**	Review Date **July 2024**	Record No: **F16/624**
Classification: **Human Resources**		
Strategic Plan link: **Strategy 1.5.1** Develop and implement Human Resource Strategy to address staff attraction, recruitment, retention, succession planning, skills development and career progression.		
References and related Policies, Procedures and Forms: *Disability Inclusion Act 2018* *Equal Opportunity Act 1984* *Fair Work Act 1994* *Local Government Act 1999* *Racial Vilification Act 1996* *Work Health and Safety Act 2012* *Workplace Health and Safety Regulations 2012* DCSB-HR-12.08 Employee Assistance Program Policy DCSB-HR-12.02 Employee Code of Conduct DCSB-HR-12.11 Grievance and Dispute Resolution Policy DCSB-HR-PROC-12.08 Managing Unsatisfactory Performance Guideline DCSB-TC-19.01 Social Media Policy		

Contents

1. Definitions 3
2. Purpose 3
3. Scope 3
4. Standards of Behaviour 4
5. Bullying Behaviour 4
6. Harassment 5
7. Discrimination 5
8. Violence 5
9. Breach of Policy 6
10. Complaint Handling Procedure 6
11. Records 9
12. Further Information 9
13. Document History 10

1. Definitions

1.1 ***Bullying*** – is the repeated and unreasonable behaviour directed towards a worker or group of workers that creates a risk to health and safety

1.2 ***Council*** – means the District Council of Streaky Bay

1.3 ***Harassment*** – involves intimidating, offensive or humiliating physical or verbal conduct towards a person based on a protected characteristic such as their age, or race and range from unacceptable comments to physical violence; it includes sexual harassment which includes unwelcome sexual advances, requests for sexual favours and other unwelcome conduct of a sexual nature that could be expected to make a person feel offended, humiliated of intimidated.

1.4 ***Discrimination*** – is where a person or group of people are treated unfairly or less favourably than others because they have a particular characteristic or belong to a particular group of people.

1.5 ***Workplace Violence*** – is any incident where a person is abused, threatened or assaulted in circumstances relating to their work.

2. Purpose

2.1 This policy and associated guideline sets out the types of behaviours and conduct which will be taken to constitute bullying, harassment or violence and establishes procedures for handling complaints of occurrences of these matters in the workplace.

2.2 The District Council of Streaky Bay (Council) is committed to providing a workplace which is free from bullying, harassment, unlawful discrimination and violence.

2.3 Council aims to ensure all those participating in the workplace are treated with respect, dignity and fairness with an aim of creating an environment which promotes positive working relationships.

2.4 This policy and associated guideline is designed to ensure all employees understand what will be regarded as bullying, harassment, discrimination or violence and how claims will be treated by Council.

3. Scope

3.1 This policy and associated guideline applies to Elected Members, all Council employees, and contractors (temporary or otherwise).

3.2 This policy and associated guideline is not limited to the workplace or working hours, and will include all work related events which includes, but is not limited to, lunches, client functions, meetings and conferences as well as Council social functions.

3.3 This policy also relates to, but is not limited by the following types of communication where the behaviour is related to Workplace Bullying, Harassment or Violence:

3.3.1 verbal communication either over the telephone or in person in the workplace, and outside of it;

3.3.2 written communication including letters, notes, minutes of meetings etc;

3.3.3 internal and external electronic communication including (but not limited to):

- email;
- instant messaging;
- internal intranet;
- faxes;
- social media and networking forums including: Facebook, LinkedIn, Twitter and other forms of social media; and
- communications via text message.

4. Standards of Behaviour

4.1 In line with Council's commitment to creating a workplace which is free from workplace health and safety risks, fair treatment and one which strives to create positive working relationships, all those covered by this policy and associated guideline are expected to observe the following minimum standards of behaviour, including:

4.1.1 being polite and courteous to others;

4.1.2 being respectful of the differences between people and their circumstances;

4.1.3 ensuring they do not engage in any bullying, harassing, discriminatory or violent behaviour towards others in, or connected with the workplace which includes customers, clients, supervisors and other managers;

4.1.4 ensuring they do not assist, or encourage others in the workplace, or in connection with the workplace to engage in any bullying, harassing, discriminatory or violent behaviour or any type;

4.1.5 adhering to the complaint procedure in this policy (section 10) if they experience any bullying, harassing, discriminatory or violent behaviours personally;

4.1.6 reporting any bullying, harassing, discriminatory or violent behaviours they see happening to others in the workplace, or connected with the workplace, in line with the complaint procedure in this policy; and

4.1.7 keeping information confidential if involved in any investigation of bullying, harassment, discrimination or workplace violence.

4.2 These standards of conduct are intended to operate in addition to, and in conjunction with the Employee Code of Conduct.

5. Bullying Behaviour

5.1 Bullying is repeated, unreasonable behaviour directed towards a worker or group of workers that creates a risk to health and safety and is unlawful.

5.2 **Repeated behaviour** refers to the persistent nature of the behaviour and can involve a range of behaviours over time.

5.3 **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.

5.4 Examples of bullying may reasonably include (but are not limited to);

5.4.1 a manager or supervisor 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;

5.4.2 an employee being treated less favourably by another employee or group of employees in the workplace, including, but not limited to, intimidation, forcing an employee to participate in an "initiation" process, the playing of practical jokes or forcing an employee to undertake demeaning tasks;

5.4.3 sniggering or gossiping behind someone's back;

5.4.4 laughing at someone in the workplace which is intended to make them feel uncomfortable or distressed;

5.4.5 a manager setting unreasonable timelines or constantly changing deadlines for an employee to meet, or setting tasks that are unreasonably below or beyond a person's skill level; and / or

5.4.6 continuously and deliberately excluding someone from workplace activities including ignoring them and keeping them isolated from relevant communications about work issues.

5.5 What is not Bullying Behaviour?

5.5.1 Fair and reasonable management action taken in order to counsel and employee for instance of underperformance, investigating complaints made against employees, discipline for misconduct and other work directions in line with business needs does not amount to bullying.

6. Harassment

6.1 Harassment is sexual harassment which includes unwelcome sexual advances, requests for sexual favours and other unwelcome conduct of a sexual nature that could be expected to make a person feel offended, humiliated of intimidated.

7. Discrimination

7.1 Discrimination is where a person or group of people are treated unfairly or less favourably than others because they have a particular characteristic or belong to a particular group of people.

7.2 Protected traits include race, colour, sex, sexual orientation, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

8. Violence

8.1 Workplace violence is any incident where a person is abused, threatened or assaulted in circumstances relating to their work.

8.2 Examples of work-related violence include (but are not limited to):

- biting, spitting, scratching, hitting, kicking;

- throwing objects;
- pushing, shoving, tripping, grabbing;
- verbal threats;
- armed robbery;
- sexual assault; and
- attacking with knives, guns, clubs or any other weapon

9. Breach of Policy

9.1 All those individuals covered by this policy are expected to adhere to the standards of behaviour contained herein at all times. Any employee who is found to have breached this policy will be disciplined accordingly, which may lead up to, and include termination of employment.

9.2 If a contractor of Council is found to have breached this policy, their contract stands to be terminated, or may not be renewed in future.

10. Complaint Handling Procedure

10.1 All individuals covered by this policy who believe they have been subject to actions or words that constitute bullying, harassment, discrimination or violence, should act as soon as possible by following the procedure set out below.

10.2 Those individuals who believe they have witnessed bullying, harassing, discriminatory, or violent workplace behaviour by another individual, are also able to make complaints following the procedure set out below.

10.3 Amicable Resolution

10.3.1 In the first instance, the aggrieved employee should, wherever practicable, and if they feel comfortable doing so, attempt to amicably resolve the matter with the employee(s) or manager(s) or otherwise who are alleged to have engaged in bullying, harassing, discriminating or violent behaviours.

10.3.2 When confronting the issue, the individual should clearly state the offensive behaviour experienced, explain that the behaviour is unwelcome and offensive and ask that the behaviour cease.

10.3.3 The person may not be aware that their behaviour or conduct was causing offence or was unwelcome.

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

10.3.5 Where the alleged behaviour involves the employee's direct manager and it is not practical for them to directly resolve the matter, they shall immediately notify the Chief Executive Officer (CEO) who, with the employee's approval will endeavour to investigate and resolve the matter on an informal basis in accordance with the procedure set out below.

10.3.6 Where the alleged behaviour is that of the CEO, the Mayor or Local Government Association, Director Human Resources may be contacted.

10.4 Reporting Bullying, Harassment, Discrimination or Workplace Violence

All those covered by this policy should report instances of bullying to the supervisor or Senior Manager. The supervisor or Senior Manager will handle this complaint by using the procedure set out below.

10.5 Informal Complaint Procedure

An informal complaint procedure includes a range of alternatives which can be applied in a flexible manner in order to address different complaints in consideration of the relevant circumstances.

The informal complaint procedure is intended to be used for less serious allegations of bullying, harassment, or discrimination and instances which generally do not warrant disciplinary action being taken. An individual who is unsure whether or not to make a formal or informal complaint, may make an informal compliant first and decide if they want to escalate the complaint to a formal complaint after speaking with their supervisor / Senior Manager.

Different options for handling informal complaints may include, but are not limited to:

- the supervisor / senior manager having a conversation with the alleged bully about the behaviour complained of; and

- the supervisor / senior manager having a meeting with the individuals concerned in an attempt to reach a resolution.

it is expected a File Note of the above actions will be kept on the employee's Personnel File.

10.5.1 Formal Complaint Procedure

(a) Written complaint lodged

Where an individual wishes to lodge a formal complaint, they will be required to do so by communicating this in writing to the supervisor / Senior Manager.

A written complaint shall include the names of individuals concerned, details of the incident(s) and the names of any witnesses present. Please see below for Council's stance on maintaining individual's confidentiality in the course of handling complaints.

(b) Formal investigation commenced

Where a written complaint has been lodged, a formal investigation procedure will commence immediately. Formal investigations may be conducted by the supervisor / senior manager or the CEO or an external person who is appointed by the CEO e.g. an independent mediator.

Regardless of whether the investigation is carried out by a Council staff member, or by an independent body/person, the investigator will aim to follow the procedure set out below:

1. Clarify details of what took place and ensure that all necessary information is obtained;

2. Identify the outcome the complainant is seeking;

3. Discuss with the complainant their legal rights, including lodging a formal complaint with the South Australian Employment Tribunal;

4. Discuss the complaint made with the person/s accused of bullying; and

5. Make a determination as to whether the alleged behaviour occurred and if it constituted bullying, harassment, discrimination or workplace violence.

If Council feels it is appropriate in the interests of health and safety of employees concerned, and/or the efficiency of the investigation process, employee(s) may be requested to refrain from attending work for a period of time whilst the investigation is underway. Alternatively, employees may be given different duties or work to perform while the investigation is being conducted. Employees who are requested to do either of these will be paid at their normal rate of pay during this period.

Where it becomes apparent that the complaint made related to conduct which constitutes misconduct or otherwise warrants disciplinary action, the Council is to refer to the Managing Unsatisfactory Performance Guideline for further action and resolution.

10.5.2 Confidentiality

Whilst the person investigating the complaint will endeavour to preserve the confidentiality of the complainant and the person complained of, it may be necessary to speak with other workers or people involved to determine what happened and to maintain the integrity of the investigation process.

Where potentially unlawful conduct has occurred, Council will need to alert the appropriate authorities.
Those people who are involved in the complaint (including the complainant, witnesses etc.) are also under a duty to maintain confidentiality and display a commitment to uphold the integrity of the investigation process. If the complainant chooses to bring a support person with them to any meetings, they too are bound by confidentiality. Gossiping and/or the spreading of rumours as a result of, or in connection with, a process followed under this policy will not be tolerated under any circumstances and may lead to further disciplinary action for those concerned.

10.5.3 Outcomes

The outcomes of a formal or informal complaint procedure, will depend on the nature of the complaint, its severity and what is deemed appropriate in the relevant circumstances.

Where the results of an investigation procedure suggest that an individual is guilty of bullying, harassment, discrimination or violence, appropriate disciplinary procedures will be followed in line with Managing Unsatisfactory Performance Guideline. The disciplinary action will depend on the nature and severity of the behaviour and may include termination of employment, which may include instant dismissal where serious 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 contracts immediately, or will not be renewed in the future.

In addition to the remedies provided in the Managing Unsatisfactory Performance Guideline, other action may be deemed necessary to resolve or remedy the behaviour complained of, including but not limited to:

- 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.

10.5.4 Appeals procedure (internal)

If any parties involved are unhappy with the outcome, or the way the complaint handling procedure was managed by the supervisor / manager please contact Chief Executive Officer to discuss your concerns.

Where the Chief Executive Officer is the subject of the complaint and the Mayor or Director Human Resources from the Local Government Association has investigated the complaint, the aggrieved person may take their complaint to the Fair Work Ombudsman.

Once notified, the Chief Executive Officer will conduct a review of the procedure followed, the outcome issued and make a final determination on the issue. Once this determination is made, the person who has made the appeal will be notified of the outcome and this determination will be final.

11. Records

11.1 Recording of all information relating to the emergency will be maintained and kept by relevant departmental staff.

11.2 All emergency expenditure must be accounted for separately and minuted in a formal Council meeting following the event.

11.3 All records must be kept in accordance with Council's Records Management Guidelines, including the Elected Members Records Management Policy, and destroyed as per the current General Disposal Schedule.

12. Further Information

This policy will be available for inspection at Council's main office as listed below during ordinary business hours and available to be downloaded, free of charge, from the council's website at www.streakybay.sa.gov.au.

District Council of Streaky Bay Main Office
29 Alfred Terrace
Streaky Bay SA 5680

13. Document History

14. Version	Change Description	Date	Author
3.0	Added Harassment and Workplace Violence, updated all clauses to reflect current practices and requirements	16/07/2020	Karina Ewer