

# EQUAL OPPORTUNITY AND ANTI-DISCRIMINATION POLICY

<b>Policy Number:</b>	2.1.1
<b>Approved by:</b>	Chief Executive Officer
<b>Date Approved:</b>	December 2024
<b>Date of Next Review:</b>	December 2026
<b>Applicable to:</b>	Councillors, Council employees and temporary staff, volunteers, contractors and consultants engaged by Council
<b>Responsible Officer:</b>	Manager People and Capability
<b>Related Policies:</b>	Human Rights Policy Occupational Health & Safety Policy
<b>Related Documents:</b>	Equal Opportunity, Anti-Discrimination and Bullying & Harassment Procedure Discipline and Performance Management Policy Workplace Grievance process Enterprise Agreement No. 11 Sexual Harassment Policy Respect in the Workplace (Bullying, Harassment and Discrimination) Policy EEO Committee Terms of Reference
<b>Statutory Reference:</b>	<i>Disability Act 2006</i> <i>Equal Opportunity Act 2010</i> <i>Local Government Act 2020</i> <i>Occupational Health and Safety Act 2004</i> <i>Accident Compensation Act 1985</i> <i>Charter of Human Rights and Responsibilities Act 2006</i> <i>Fair Work (Commonwealth Powers) Act 2009</i> <i>Public Interest Disclosures Act 2012</i> <i>Sex Discrimination Act 1984</i> <i>Racial and Religious Tolerance Act 2001</i> <i>Racial Discrimination Act 1975</i> <i>Age Discrimination Act 2004</i>

## OVERVIEW

The purpose of this policy is to ensure that Wellington Shire Council effectively maintains a culture of commitment to equal opportunity and the prevention of unlawful discrimination and other inappropriate workplace behaviour.

## THE POLICY

Wellington Shire Council is committed to the principles of equal opportunity which are central to the core values of the organisation that celebrates the diversity and inclusion of its people. As such, Council advocates equal opportunity for all council stakeholders including employees, Councillors, contractors, visitors, volunteers, work experience/vocational students and customers. Wellington Shire Council is committed to preventing racism against Aboriginal and Torres Strait Islander people .

This Policy applies at all times when an individual is representing Council, engaging in work on behalf of Council, and pertains to, but is not limited to, Council premises or off-site work locations.

Off-site work locations include business trips, seminars or conferences and working at customer sites. It applies to meetings, events, interactions and functions that are organised by Council, or which are attended on behalf of Council with during or after hours.

### ***Equal Opportunity Act 2010***

The *Equal Opportunity Act 2010* protects people from discrimination on the basis of their individual or personal attributes, and supports those who have been discriminated against. Some other features:

- it makes discrimination and treatment of an individual on the basis of a protected attribute (personal characteristic) unlawful, and prohibited in a range of settings;
- provides a duty to provide reasonable adjustments for people with disabilities;
- specifies an obligation for employers to accommodate the responsibilities of a parent or carer;
- clarifies protection of employees, volunteers and unpaid workers;
- aims to further promote and protect the right to equality as set out in the *Charter of Human Rights and Responsibilities Act 2006*; and
- aims to eliminate discrimination, sexual harassment and victimisation to the greatest possible extent.

### **Discrimination**

Discrimination is regarded as unfavourable treatment of a person in public life due their one of their personal characteristics or on the basis of a 'Protected Attribute' as per the *Equal Opportunity Act 2010*, the *Local Government Act 2020*; *Occupational Health and Safety Act 2004* and *Fair Work Act 2009*.

Each legislative protection has a different list of what is classed as a 'Protected Attribute'; however the list below is a summary:

- age;
- breastfeeding;
- disability or impairment;
- employment activity;
- gender identity;
- industrial activity or union membership;
- intersex status
- lawful sexual activity;
- relationship status;
- parental status or status as a carer;
- physical features;
- profession, trade or occupation;
- political belief/activity;
- pregnancy;
- race (including colour, nationality, ethnicity and ethnic origin);
- religious belief or activity;
- sex (male, female or intersex);

- sexual orientation (gay, lesbian, bisexual, queer, heterosexual, etc);
- spent conviction; an expunged homosexual conviction;
- personal association (whether as a relative or otherwise) with a person who is identified by reference to any of the above attributes.

**Direct discrimination** occurs if a person treats or proposes to treat a person with an attribute unfavourably because of that attribute.

Some examples of direct discrimination include:

- not offering training to an older employee because of their age;
- not inviting a coworker to a social event because they have children;
- excluding a work colleague from a work-related event because they are pregnant.

**Indirect discrimination** occurs if a person imposes, or proposes to impose, a requirement, condition, policy or practice, that:

- has, or is likely to have, the effect of disadvantaging persons with an attribute; and
- the policy or practice applies equally to everyone or a whole group of people, but there is no valid business reason for it.

Some examples of indirect discrimination are:

- scheduling team meetings before the start of working hours as parents who have childcare responsibilities may not be able to attend;
- holding a team building event at a venue that does not permit access or participation by an employee with a disability.

Unlawful discrimination can occur even if it is unintended. If the organisation can show that there is good reason for its policy or program, it is not considered indirect discrimination.

### **Equal Employment Opportunity**

Wellington Shire Council advocates for equal employment opportunity to enhance workplace diversity and embed a culture that maximises the contribution for all employees.

Council takes all reasonably practicable steps to provide a safe workplace environment that is free from unlawful discrimination, victimisation and harassment including:

- Annual staff training in equal opportunity, human rights and the prevention of discrimination and/or harassment;
- Promoting the benefits of diversity and maintaining an inclusive workplace;
- Maintaining equal opportunity for promotion, recruitment and selection of employees;
- Maintaining an Equal Employment Opportunity (EEO) Committee and provide EEO Contact Officers;
- Regular reviews of internal and external complaint handling and grievance processes.

### **Equal Opportunity for Promotion, Recruitment and Selection**

Wellington Shire Council makes decisions about the promotion, recruitment and selection of staff on the basis of merit in fair and open competition according to the skills, qualifications, knowledge, attitude and behaviors relative to the position involved.

Further to this, Council is committed to attracting and retaining the best people for the job regardless of age, gender, ethnicity, race, religion, sexual orientation or identity.

All applicants for positions at Council are made aware of our commitment to equal employment opportunity at pre-employment selection, staff induction and through ongoing annual training for all employees.

### **Equal Employment Opportunity (EEO) Committee**

The role of the EEO committee is to provide a forum for the promotion and discussion of EEO and human rights at Council. Committee members also undertake the duties of EEO Contact Officers to assist staff in finding information relating to discrimination, bullying or harassment, if that should occur. Refer to the EEO Committee Terms of Reference for more information.

### **Racial or Religious Vilification**

Racial or religious vilification is defined as conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of, a person or group of persons on the basis of their race or religious belief. Serious racial or religious vilification that involves a threat to harm another person or their property is a criminal offence.

Some examples of racial or religious vilification are:

- sending an email to your workmates which jokes about racial stereotypes;
- making threats to harm a work colleague because they are of another faith (serious religious vilification).

### **Victimisation**

Victimisation means subjecting or threatening to subject a person to some form of detriment because they have:

- lodged, or are proposing to lodge, a complaint of discrimination or harassment;
- provided information or documents to an internal investigation or an external agency;
- attended a conciliation conference with an agency (such as with Fair Work or Victorian Human Rights Commission);
- reasonably asserted their rights, or supported someone else's rights, under anti-discrimination laws;
- made an allegation that a person has acted unlawfully under anti-discrimination laws.

Some examples of victimisation are:

- dismissing an employee because they have made, or have indicated they will, make a complaint about unlawful discrimination in the workplace;
- excluding or isolating a workmate because they have made a complaint of harassment against one of your friends at work.

### **Responsibilities for Managers and Supervisors**

Council expects Managers and Supervisors to lead by example and exhibit positive attitudes and behavior in line with Council values to:

- ensure employees in their business unit or team understand their obligations under this policy;
- provide leadership to the organisation by demonstrating appropriate attitudes and behavior

at all times and ensure others in the workplace model these behaviours;

- promote awareness of the avenues for advice and the complaints procedures with respect to discrimination;
- treat complaints and behaviour which may constitute discrimination seriously and take appropriate action to investigate observations or reports of unlawful discrimination, victimisation or harassment, even if there is no formal complaint;
- encourage employees in their business unit or team to treat each other with dignity, courtesy and respect;
- ensure that a person is not victimised for making, or being involved in, a complaint of discrimination; and
- treat all complaints seriously and confidentially.

### **Responsibilities for all employees**

Council expects all employees to exhibit positive attitudes and behavior in line with Council values to:

- demonstrate compliance with this Policy;
- report any incident of discrimination that they have experienced or witnessed;
- participate in any training provided by Council, including completing allocated e-learning modules;
- model appropriate behaviour, including behaviours reflecting Council's values and in alignment with Council's Employee Code of Conduct; and
- treat any allegations or complaints of discrimination with appropriate confidentiality.

### **What happens if this policy is breached?**

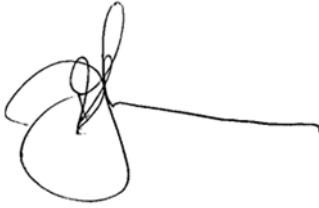
Council will consider disciplinary action against any individual or group in breach of this policy. Depending on the outcome of an internal or external investigation and the severity of the breach, disciplinary action may range from provision of training or counselling through to verbal or written warning or termination of employment/engagement with Council.

An individual who commits a serious breach of this policy may also be in breach of the *Equal Opportunity Act 2010*, *Occupational Health and Safety Act 2004* and the *Crimes Act 1958 (Vic)*. This may result in individual prosecution of the person and a possible fine, intervention order or jail sentence. Where there is an alleged breach of this policy, all information must be treated confidentially, to the extent possible, by all parties involved.

Where a complaint is serious and disciplinary action needs to be taken, information will be disclosed only to those people who need to know about the complaint. The obligation of confidentiality does not prevent Council from using or disclosing any information necessary to initiate or defend any legal proceedings, or to make any submissions in relation to any inquiry or complaint, or to refer a matter to the Victoria Police.

It is unlawful to victimise a person for making a legitimate complaint of workplace bullying. Furthermore, an individual reporting a legitimate complaint will not be disadvantaged or subject to negative treatment by Council.

**This policy** is approved by the Chief Executive Officer on 20 December 2024.



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**DAVID MORCOM**  
Chief Executive Officer

### REVISION HISTORY

VERSION	DATE	SUMMARY OF CHANGES
1.0	December 2022	Updated Responsible Officer title and legislative references
2.0	December 2023	Date of Next Review updated to: December 2024 Removal of harassment and sexual harassment sections as covered in other policies. Removal of details of EEO committee (refer to Terms of Reference). Protective legislations updated.
3.0	December 2024	Updated legislative references Updated date of next review to: December 2026 New specific reference to Aboriginal and Torres Strait Islander people to align with Child Safe Standard 1 Protected attribute list updated Addition of responsibilities for supervisors and Managers Addition of responsibilities for Employees Removal of Human Rights section in accordance with Council's policy decision