

# **RESPECT IN THE WORKPLACE (MANAGING BULLYING AND NEGATIVE WORKPLACE BEHAVIOURS) POLICY**

<b>Policy Number:</b>	2.1.4
<b>Approved by:</b>	CEO
<b>Date Approved:</b>	May 2026
<b>Date of Next Review:</b>	May 2028
<b>Applicable to Unit(s):</b>	Whole Organisation
<b>Responsible Officer:</b>	Manager People and Capability
<b>Related Policies:</b>	<i>Discipline and Performance Management Policy Prevention of Sexual Harassment Policy Equal Opportunity and Anti-Discrimination Policy Councillor and Staff Interaction Policy</i>
<b>Related Documents:</b>	<i>Employee Code of Conduct Councillor Code of Conduct</i>
<b>Statutory Reference:</b>	<i>Equal Opportunity Act 2010 Local Government Act 2020 Accident Compensation Act 1985 Charter of Human Rights &amp; Responsibilities Act 2006 Fair Work Act 2009 Protected Disclosure Act 2012 The Sex Discrimination Act 1984 Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022 (Cth) Occupational Health and Safety Act 2004</i>

## **1. POLICY STATEMENT**

### **1.1 Purpose**

Wellington Shire Council (Council) is committed to providing, as far as reasonably practicable, a working environment that is safe and without risks to health, safety and wellbeing. This policy provides guidance to support Employees and Managers on how to identify harmful behaviours at work, respond to workplace issues and promote safe, positive working environments.

Bullying is a workplace behaviour that can cause significant harm. Council has a zero-tolerance approach to bullying and other negative workplace behaviour. Employees who have been found to have either committed or condoned bullying or other serious negative workplace behaviour will be subject to disciplinary action which may ultimately lead to the termination of their employment.

This policy recognises that while not all negative workplace behaviours will meet the threshold for a formal discipline process, they remain unacceptable, can be a risk to Employee health and wellbeing, and if unaddressed, may escalate to bullying or other serious negative workplace behaviour. Council has an obligation to identify, address and reduce these behaviours.

Conduct that may constitute sexual harassment must be managed in accordance with Council's stand-alone Prevention of Sexual Harassment policy, rather than under this policy.

Council is committed to educating all employees and relevant persons as to the nature, effects and individual rights and responsibilities associated with all forms of inappropriate workplace behaviour.

## **1.2 Scope**

This policy applies to (but is not limited to):

- how Council provides services to clients and how it interacts with other members of the public;
- all aspects of employment, recruitment and selection, conditions and benefits, training and promotion, task allocation, shifts, hours, leave arrangements, workload, equipment and transport;
- on-site, off-site, work-related social functions, conferences – wherever Employees may be as a result of their working duties;
- out of work hours interaction where there is a strong connection to the employment relationship; and
- employee treatment of other staff, clients and members of the public encountered in the course of undertaking their Council duties or activities.

## **1.3 Principles**

Bullying and negative workplace behaviours are a serious occupational health and safety concern in that they pose a significant risk to the health, safety and wellbeing of Employees.

Harm caused by bullying and other negative workplace behaviour can have an impact on many aspects of an Employee's life. Witnesses to bullying and negative workplace behaviours may also be negatively impacted by the conduct.

Council has an obligation under the *Occupational Health and Safety Act 2004* (Vic) to provide and maintain, as far as is reasonably practicable, a safe work environment for our Employees, including by addressing and appropriately responding to bullying and other negative workplace behaviours. Council may be held liable if reasonable steps are not taken to prevent and respond to negative workplace behaviours.

The *Equal Opportunity Act 2010* also requires Council to take reasonable and proportionate steps to eliminate discrimination, harassment and victimization in the workplace as far as practicable.

Bullying and other negative workplace behaviours may also constitute a breach of the Employee (or Councillor) Code of Conduct and may be the subject of Council's disciplinary process.

Employees are required to conduct themselves in a manner that is consistent with Council's values and behavioural principles set out in the applicable Code of Conduct and are expected to identify, and report conduct that is inconsistent with these.

In the context of bullying and negative workplace behaviours, taking personal responsibility and demonstrating the following is particularly relevant:

- Integrity
  - acting with respect, honesty, reliability, trust, tolerance and understanding;

- using powers responsibly and reporting improper conduct;
- promoting an environment that encourages respect for colleagues and others by creating an environment that is free from discrimination, harassment, bullying and disrespectful and negative workplace behaviours.
- Leading by example - modelling behaviours based on Council values and acting in an ethical manner. Managers must also provide a safe, encouraging and supportive work environment.

#### 1.4 Objectives

Council aims to prevent, address and reduce the incidence of bullying and other negative behaviours in the workplace by:

- Maintaining a zero tolerance of bullying and negative workplace behaviours,
- Creating a working environment that is free from bullying and harassment where everyone is treated with dignity, courtesy and respect,
- Monitoring the work environment and promoting awareness of this policy,
- Expecting all staff to model respectful workplace behaviours, positive and inclusive leadership styles, and to act in accordance with the Employee (or Councillor) Code of Conduct and values,
- Raising awareness (through providing information, instruction, training and support) of what constitutes bullying and other negative workplace behaviours, as well as outlining expected standards of behaviours and ways to prevent and manage these behaviours,
- Encouraging early intervention through local resolution where possible and reasonable in the circumstances,
- Addressing concerns, issues and reports regarding bullying and other negative workplace behaviours in a timely and sensitive manner,
- Encouraging and supporting Employees to raise, discuss and report bullying and other negative workplace behaviours and messaging that all reports are to be taken seriously, and
- Providing appropriate reporting processes.

This policy recognises that bullying and other negative workplace behaviour may occur in-person or online, when an Employee is working from their usual workplace(s), or when working outside their usual place of work.

## 2. GENERAL

### 2.1 Table 1 - Definitions

<b>Bullying</b>	<p>WorkSafe Victoria defines workplace bullying as repeated, unreasonable behaviour directed at an Employee or group of Employees that creates a risk to health and safety. These repeated behaviours may be overt or subtle.</p> <p><b>Repeated</b> refers to persistent or ongoing nature of the behaviour and can involve a range of behaviours over time.</p> <p><b>Unreasonable behaviour</b> refers to behaviour that a reasonable person, having regard to all the circumstances, would see as unreasonable, including behaviour that is <b>victimising, humiliating, intimidating or threatening</b>.</p>
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**Risk to health and safety** refers to the possibility that **harm** may come as a result of a potential hazard.

Behaviours which are repeated or part of a pattern of behaviour in circumstances where the Employee knows or should know that such behaviour is likely to cause physical or mental harm (including self-harm) to the other Employee or arouse fear of such harm, may constitute bullying and include:

- making threats towards or directing abusive or offensive acts towards another Employee,
- using abusive or offensive words or performing abusive or offensive acts in the presence of another Employee,
- acting in any other way that could reasonably be expected to cause physical or mental harm to another Employee (including self-harm), or arouse fear of such harm,
- physical or verbal intimidation,
- demeaning language or verbal abuse,
- outbursts of anger or aggression,
- excluding or isolating Employees,
- psychological harassment or intimidation,
- assigning meaningless tasks unrelated to the job,
- giving Employees impossible assignments,
- changing work rosters to deliberately inconvenience particular Employees, and
- deliberately withholding information that is vital for effective work performance.

These behaviours may be direct or indirect, and can occur face-to-face, or via email, SMS messages or social networking sites. This list of behaviours is not exhaustive.

Bullying may also give rise to criminal conduct. Matters involving potential Employee criminal conduct must be promptly reported to external authorities and dealt with in accordance with Council's obligations under relevant laws.

While a single incident of bullying-type behaviour will not meet the WorkSafe Victoria definition of workplace bullying, it remains unacceptable and negative workplace behaviour that may, if substantiated, constitute misconduct.

Single instances of bullying-type behaviour, while not meeting the definition of bullying described above, will nonetheless be managed under Council's Discipline and Performance Management Policy.

<b>Client</b>	Client is defined inclusively to include all persons to whom services are provided by Wellington Shire Council.
<b>Council</b>	Means Wellington Shire Council, being a body corporate constituted as a municipal Council under the Local Government Act 2020.

<b>Councillors</b>	Councillors is defined to include the elected representatives (Councillors) democratically voted for by the residents and ratepayers of Wellington Shire.
<b>Discrimination</b>	<p>Discrimination happens when a person, or a group of people, is treated less favourably than another person or group because of their background or certain characteristics.</p> <p>Discrimination occurs when an individual is treated unfairly or unfavourably at work on the basis of an attribute or characteristic that is protected by law.</p> <p>Discrimination in employment may occur in a number of ways including:</p> <ul style="list-style-type: none"> <li>○ job advertisements,</li> <li>○ interview questions,</li> <li>○ refusing to employ someone,</li> <li>○ setting unfair terms of employment,</li> <li>○ assigning work (e.g. type, volume, quality of tasks given),</li> <li>○ denying access to training programs,</li> <li>○ refusing or limiting access to opportunities for promotion or higher duties, transfers or other Employee benefits,</li> <li>○ refusing or limiting access to reasonable adjustment, and</li> <li>○ termination of employment if the action is based on an attribute.</li> </ul> <p>Discrimination includes direct or indirect discrimination on the basis of an attribute.</p> <p><b>Direct discrimination</b> occurs if a person treats, or proposes to treat, someone with a protected attribute (personal characteristic) unfavourably at work because of that attribute.</p> <p><b>Indirect discrimination</b> occurs if a person imposes, or proposes to impose, a requirement, condition or practice that has, or is likely to have, the effect of disadvantaging a person or group with a protected attribute, and where that requirement, condition or practice is not reasonable.</p> <p>Attributes that are protected under anti-discrimination laws include (but are not limited to): age; breastfeeding; carer status; disability; employment activity; gender identity; industrial activity; lawful sexual activity; marital status; parental status; physical features; political belief or activity; pregnancy or potential pregnancy; race; religious belief or activity; sex; sex characteristics; sexual orientation; spent conviction; and personal association with someone who has, or is assumed to have, one of these attributes.</p> <p>Discrimination on the basis of defence reserve service is also a prohibited ground.</p> <p>It is unlawful to directly or indirectly discriminate against someone in employment (some exceptions apply at law). In addition, Council has a positive duty to eliminate discrimination.</p>

<p><b>Disrespectful workplace behaviour</b></p>	<p>An umbrella term covering any disrespectful behaviour at work that is unacceptable, unprofessional or offensive that has negative consequences for individuals, teams and Council.</p> <p>Disrespectful behaviour includes, but is not limited to, rudeness and discourteous conduct, and behaviour that is inconsistent with Council's values and the Employee (or Councillor) Code of Conduct.</p> <p>Part 5 of this Policy addresses disrespectful workplace behaviour that does not typically meet the threshold for commencing a misconduct process within Council's Discipline and Performance Management Policy, though remains unacceptable in the workplace.</p>
<p><b>Employee</b></p>	<p>Employee is defined inclusively to include employees of Wellington Shire Council including employees covered by the current Wellington Shire Council Enterprise Agreement and Executive Officers as well as persons seeking employment, contract workers, consultants, agency on-hire staff, students and volunteers. The legislation and instruments mentioned in this policy may apply to particular categories of staff.</p>
<p><b>Harassment</b></p>	<p>Harassment is a single or sequence of unwelcome offensive comment(s) or actions and can include behaviour such as telling insulting jokes about particular racial groups, displaying racially offensive or pornographic posters or screen savers, making derogatory comments about someone's race or disability, or asking intrusive questions about someone's personal life.</p> <p>Harassment can be against the law when it is discriminatory (discrimination), when it includes conduct of a sexual nature (sexual harassment) or when it causes a risk to someone's health or safety (occupational health and safety).</p> <p>If the behaviour is <i>not</i> on the basis of a protected personal characteristic or attribute it may, instead, be workplace bullying.</p>
<p><b>Manager</b></p>	<p>Means an employee responsible for managing/supervising an employee or volunteer – typically managers, coordinators, team leaders and supervisors.</p>
<p><b>Members of the public</b></p>	<p>Members of the public means any other individual not described above, which includes ratepayers, customers, independent contractors, vendors, suppliers and/or any parties involved in a business relationship with Wellington Shire Council.</p>
<p><b>Misconduct</b></p>	<p>Means any breach by an individual undertaking Council duties or activities of the standards set in Council's Codes of Conduct. Typically it involves behaviour that is unacceptable, improper, or wrongful. For the purpose of this policy, bullying, discrimination and harassment, if substantiated, are likely to constitute misconduct.</p> <p>Each case needs to be considered individually.</p>
<p><b>Negative Workplace Behaviour</b></p>	<p>Bullying, single-instances of bullying-type behaviour, discrimination and harassment or other types of behaviour of a serious nature which would, if substantiated, constitute a breach of the Employee or Councillor Code of Conduct.</p>

	Negative workplace behaviour includes an Employee displaying violence towards another employee or making threats of violence to employees, clients, members of the public – as well as of their family or friends.
<b>Sexual Harassment</b>	Sexual harassment is defined as any unwanted, unwelcome, or uninvited behaviour of a sexual nature which makes a person feel humiliated, intimidated or offended. Please see the Wellington Shire Council Prevention of Sexual Harassment Policy for further information.
<b>Victimisation</b>	<p>Treating someone less favourably or threatening to treat someone less favourably because they have:</p> <ul style="list-style-type: none"> <li>○ asserted their rights under equal opportunity law,</li> <li>○ made a report (such as a bullying, harassment or discrimination report),</li> <li>○ assisted/supported someone else in making a report (such as a bullying, harassment or discrimination report),</li> <li>○ participated in a reports process (such as an enquiry, fact-finding or formal investigation in relation to a bullying, harassment or discrimination report),</li> <li>○ refused a direction because carrying out that direction would be discrimination, harassment or victimisation.</li> </ul> <p>Noting the above, examples of victimisation include, but are not limited to:</p> <ul style="list-style-type: none"> <li>○ bullying and intimidation by co-workers,</li> <li>○ being denied a promotion or moved to a role in another location or with less pay/responsibility,</li> <li>○ dismissal from employment.</li> </ul>
<b>Workplace</b>	<p>This policy relates to negative behaviours occurring at work (whether working at an office location, home office or remotely), covering behaviours which occur across a range of workplace settings including:</p> <ul style="list-style-type: none"> <li>○ at an office location – including on the work premises, as well as in common areas such as the carpark, lifts, reception area and bathrooms,</li> <li>○ field-based work settings,</li> <li>○ at work-related events, including meetings or when carrying out work related functions outside the usual physical work premises, such as attending a conference,</li> <li>○ in online spaces through technologies and social media platforms, where the interaction is connected to employment, including when working remotely,</li> <li>○ between people sharing the same workplace, such as contractors or people sharing a co-working space.</li> </ul> <p>While this policy deals with conduct occurring in the course of work (whether at a physical or remote workplace), in certain circumstances, an Employee’s conduct out of hours, which has a sufficient connection to the employment relationship, may also be investigated.</p>

## **2.2 Responsibilities**

### **Employees and Councillors:**

Must:

- Comply with this policy;
- Model appropriate behaviour;
- Promote respectful behaviours in the workplace;
- Participate in any training provided by Council including completing any assessments as required;
- Treat information in relation to claims of bullying, harassment and discrimination with appropriate confidentiality;
- Ensure that a person is not victimised for making, or being involved in a report; and
- Act in accordance with the relevant Code of Conduct and Wellington Shire Council's values, policies and procedures.

### **Managers:**

In addition to their responsibilities as Employees, those with people management responsibilities must also:

- Monitor the work environment;
- Promote awareness and implementation of this policy within their area including ensuring Employees are aware of how and where to make a report;
- Treat all reports of bullying and harassment seriously and take prompt and appropriate action to address them;
- Discuss the report with their immediate supervisor as appropriate; and
- Contact People and Capability for further detail on management of reports of bullying and harassment.

### **Mayor:**

In addition to their responsibilities as a Councillor, the Mayor must also:

- Monitor the Councillor environment;
- Promote awareness of this policy with Councillors;
- Treat all reports of bullying and harassment seriously and take prompt and appropriate action to address them including consulting the Chief Executive Officer for further detail on management of reports of bullying or harassment.

### **Equal Employment Opportunity (EEO) Contact Officers**

- Listen to an employee's concerns about bullying and/or harassment
- Not form a view about the merit of any allegations but not diminish or seek to excuse bullying or harassing behaviour
- Provide information about the internal complaint process
- Advise the employee that in some situations where serious allegations are raised, for example, that may expose Council to legal liability or where there is a serious risk to the health of an employee, the issue may need to be formally reported via Council's Speak Up Platform (hosted by Your Call)
- Where appropriate, provide support for a person if they want to try to resolve the issue personally
- Provide information about available support services, for example, Employee Assistance Program

- Raise awareness in the workplace about Wellington Shire Council's policies and procedures in relation to inappropriate workplace behaviour including bullying and/or harassment.

**People and Capability Team:**

In the context of this policy, People and Capability is responsible for:

- Providing advice in relation to matters covered by this policy;
- Assisting Employees and Managers in understanding their roles and responsibilities;
- Conducting reviews and/or engaging an independent external reviewer to do so; and
- Assisting with assessing whether a report of bullying or negative workplace behaviour requires action under a different process.

**3. BULLYING AND OTHER NEGATIVE WORKPLACE BEHAVIOURS IN THE WORKPLACE**

**3.1 Identifying bullying and other negative workplace behaviours**

*Workplace behaviours likely to be considered bullying or negative behaviour that warrant formal misconduct investigation and disciplinary action*

- Table 1 of this policy sets out the types of behaviours where experienced by an individual or group, and repeated, or occurring as part of a pattern of behaviour, are likely to be bullying. The list of behaviours is not exhaustive and other types of behaviour may also constitute Bullying and warrant a formal misconduct investigation.
- While a single instance of any listed behaviour in the table in the Definition section of this policy will not meet WorkSafe Victoria's definition of bullying, it is still unacceptable behaviour that, if substantiated, may constitute misconduct and warrant a formal misconduct investigation. If interpersonal conflict or disrespectful workplace behaviour does not warrant formal disciplinary action, it will be dealt with in accordance with section 5 of this policy.

*Behaviours likely to be considered discrimination or harassment which warrant formal misconduct investigation and possible disciplinary action*

- The following types of behaviour, where directed towards an individual, are likely to be considered discrimination or harassment:
  - dismissing or not employing or promoting a person due to a personal attribute (see definitions at Table 1 of this policy), for example, the person's pregnancy status or potential to fall pregnant, race or sexual orientation,
  - threats or verbal intimidation,
  - providing feedback in a demeaning or humiliating manner,
  - offensive comments, emails or jokes,
  - displaying offensive material.

The above list is not exhaustive and other types of behaviour may also constitute behaviour which may warrant commencing a misconduct process in accordance with Council's Discipline and Performance Management Policy.

**3.2 What is not bullying or other negative workplace behaviour**

Reasonable management action carried out in a reasonable manner does not constitute bullying or any other negative workplace behaviour. Managers have a legitimate authority to direct and control how

work is performed.

Generally, the following behaviours are examples of what may constitute reasonable management action and will not constitute bullying or any other form of negative workplace behaviour when carried out in a respectful and reasonable manner:

- legitimate, constructive and fair management feedback on an Employee's performance or behaviour from managers, including raising concerns in relation to unsatisfactory performance,
- legitimate and courteous comment and feedback on working arrangements, whether originating from managers to Employees or from Employees to managers,
- managers allocating work and setting reasonable expectations in relation to delivery of work, including in relation to quality and timeframes,
- discussion with management in relation to career development and planning during performance feedback, whether formal or informal,
- isolated incidents of behaviour such as abruptness, sharpness or rudeness.

### **3.3 Reporting bullying or other negative workplace behaviours**

Council has zero tolerance for any form of bullying or negative workplace behaviours in the workplace.

Council encourages Employees to report bullying (and single instances of bullying-type behaviour), discrimination or harassment to their Manager in the first instance. If however, an individual feels this is not appropriate in the circumstances or they do not feel comfortable or safe reporting matters to their Manager they may report their experience in one of the following ways:

- Emailing or speaking to your direct line manager (Manager);
- If you are not comfortable talking to your Manager, you may:
  - Contact People and Capability;
  - Escalate to your next line up in management;
  - Contact a Wellington Shire Council Equal Employment Opportunity Contact Officer;
  - Contact a Wellington Shire Council Health and Safety Representative
  - Log a grievance report via Council's Speak Up Platform (hosted by Your Call) (noting initially only People and Capability will see this);
  - Make a public interest disclosure; or
  - Talk to the person directly – This should be done only if the individual feels comfortable and safe doing so (noting this approach may suit some situations and people but not others).

Should matters reported by an Employee be assessed by the Manager/People and Capability as not warranting a misconduct investigation, the matters may be referred to management under section 5 of this policy. Managers in receipt of a report must consult the People and Capability team.

Employees who experience behaviour that they consider to be less serious than bullying (or a single instance of bullying-type behaviour), discrimination or harassment should respond to these matters in accordance with section 5 of this policy.

Managers must also consider whether a report of bullying or other negative workplace behaviour may indicate a broader problem in the workplace and in the workplace culture and take appropriate steps to monitor and address any cultural issues.

Councillors should refer to section 4.5 for guidance on processes to follow.

### **3.4 Witnessing bullying and other negative workplace behaviours**

Where another Employee observes behaviour that they consider to be bullying (or a single instance of bullying-type behaviour), discrimination or harassment towards another Employee they may wish to check their interpretation of the behaviour with the person who experienced it and establish if the Employee is of the view that the behaviour is not appropriate.

Where possible and reasonable in the circumstances, the witness should establish whether the Employee who experienced the behaviour feels safe and able to report their concerns. If the witness is concerned about the nature of the conduct observed or that the matter will otherwise remain unaddressed, the witness should raise the matter with their own line manager or make a 'grievance' report via Council's Speak Up Platform (hosted by Your Call).

### **3.5 Misconduct**

If the reported or observed behaviour is assessed as conduct that may constitute misconduct (for example, bullying, discrimination or harassment, a single instance of bullying-type behaviour or other negative workplace behaviour), further action may be taken in accordance with Council's Discipline and Performance Management Policy.

## **4. ADDITIONAL CONSIDERATIONS**

### **4.1 Confidentiality**

Where appropriate, reports of bullying and negative workplace behaviours will be treated in confidence to protect an employee's personal privacy as much as possible. However, matters of bullying (and other negative workplace behaviours) or potential criminal conduct are serious and should be considered accordingly.

In some instances, a matter may need to be escalated or referred without agreement from the employee, particularly in circumstances that may:

- Constitute a criminal offence;
- Constitute an occupational health and safety risk; or
- Require disciplinary action.

Only relevant persons in Council will be advised of the report and any arrangements necessary for the purpose of managing the report. At the time a report is made, the Manager People and Capability should notify the parties who, within the organisation, will be privy to this information.

Notwithstanding the above, Employees are not precluded from making disclosures to a representative (including a union representative) or support person;

- for the purposes of obtaining advice; or
- where the Employee is required by law; or
- to an immediate family member; or
- in the course of seeking assistance from EAP, a counsellor, psychologist or other medical practitioner.
- Where a matter is classified as 'public interest disclosure,' parties must also comply with their obligations under the *Public Interest Disclosure Act 2012* (Vic).

## **4.2 Health, safety and Accessibility**

It is recognised that participating in processes described under this policy may have an impact on Employee health and wellbeing, including Employees who experience the behaviour, Employees who report the behaviour, Employees who are witnesses to the behaviour and Employees whose behaviour is the subject of reports. Council will ensure that health and wellbeing supports are offered to Employees who participate in processes described under this policy.

Council will support Employees affected by bullying or other negative workplace behaviours in making reports of this conduct and in participating in any process required to deal with a report.

Council will listen to and work with Employees, including witnesses and others impacted by bullying or other negative workplace behaviours, to ensure their safety and well-being as required by the *Occupational Health and Safety Act 2004*.

Council will inform an Employee who is subject to processes described under this policy that they have access to the Employee Assistance Program (EAP) or equivalent and provide the relevant details. Wellington Shire Council's EAP provider is Converge International 1300 687 327.

## **4.3 Reprisals and harassment**

Any person found to victimise, harass or take reprisal action against people participating in procedures associated with this policy may be subject to separate disciplinary action.

## **4.4 Information or claims without substance**

This policy must not be used to pursue personal grievances against Employees that cannot reasonably be considered bullying or other negative workplace behaviours.

A report that is vexatious, malicious or made in bad faith may be considered misconduct and referred to management in accordance with Council's Discipline and Performance Management Policy.

## **4.5 Councillors**

Councillors are required to act in accordance with the Councillor Code of Conduct and Council's Councillor and Staff Interaction Policy.

Councillors are encouraged to speak to the CEO in the first instance of experiencing or witnessing bullying or negative workplace behaviours.

Councillors have full access to the Employee Assistance program. In the event that the CEO feels that other resources could be required for support, the General Manager Corporate Services and/or the Mayor can assist in handling the process internally.

Where the issue cannot be resolved, Councillors have the ability to commence an external mediation process which is facilitated by an external and independent mediator engaged by the CEO and failing that, commencement of the internal arbitration process which involves an independent arbiter.

Councillors also have the option to contact external bodies, such as the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) or Victoria Police or the Victorian Civil and Administrative Tribunal (VCAT).

For further details see the Councillor Code of Conduct.

#### **4.6 External Reports**

Employees have the right to make an application to the Fair Work Commission for an order to stop bullying. If reported behaviours demonstrate breaches of Equal Opportunity and Sexual Harassment laws, please refer to Council's Equal Opportunity and Anti-Discrimination Policy and Prevention of Sexual Harassment Policy.

### **5. DISRESPECTFUL WORKPLACE BEHAVIOUR AND INTERPERSONAL CONFLICT THAT MAY WARRANT PROCEEDING TO COUNCIL'S DISCIPLINARY AND PERFORMANCE MANAGEMENT POLICY**

#### **5.1 Identifying disrespectful workplace behaviour**

*Workplace behaviour which is not likely to be considered bullying or other negative workplace behaviour*

- A safe, healthy workplace culture can be undermined over time by persistent incidences of disrespectful workplace behaviour, even if the behaviour is unintentional.
- Disrespectful workplace behaviour is not acceptable in the workplace; however, in practice some types of these behaviours will generally fall below the threshold of the misconduct process because they:
  - involve an error of judgment or innocent mistake,
  - are not intentional or wilful; and/or
  - are behaviours which are generally less serious than misconduct.
- Some Employees may perceive certain disrespectful workplace behaviours as bullying, even though it does not meet the definition of bullying (or does not present as a single-instance of bullying-type behaviour). Such disrespectful workplace behaviour can still have a range of negative impacts on Employees and must be addressed when it is observed or reported.
- Employees may experience work or personal pressures or stresses from time to time, however, this will never be an acceptable explanation for disrespectful workplace behaviour.
- If repeated, disrespectful workplace behaviours that have not previously risen to the level of being subject to Section 3 of this policy may escalate and subsequently require management under Section 3.
- Further information on managing disrespectful workplace behaviours which, if substantiated, would not constitute misconduct can be found at section 5.3 of this policy.

*Isolated incidents of disrespectful behaviour*

- Isolated incidents of disrespectful behaviour such as abruptness, sharpness or rudeness, while unacceptable, generally do not meet the WorkSafe definition of bullying. However, if the behaviour does continue over a period of time, it may be deemed to be bullying or otherwise characterised as behaviour that warrants formal misconduct investigation under Council's Discipline and Performance Management Policy (see Section 3 of this policy).

## *Interpersonal conflict*

- While it is inevitable that interpersonal conflict will arise in most workplaces, differences of opinion or disagreements will generally not constitute bullying (or a single instance of bullying type behaviour), discrimination, victimisation or harassment. Where interpersonal conflict arises in the workplace, Employees are expected to engage respectfully and professionally with each other and, where possible, focus on strengthening working relationships by reflecting on the situation and determining the most effective course of action to resolve the conflict.
- Interpersonal conflict may be addressed in accordance with the strategies and approach described below at section 5.3 of this policy. Given the nature of interpersonal conflict, it is suggested that Employees and Managers give consideration to participating in an agreed facilitated discussion where appropriate in the circumstances. It is suggested that the facilitated discussion may be conducted by either a manager or appropriately trained professional to address the concerns raised in the first instance.
- Where interpersonal conflict is not appropriately managed, it has the potential to escalate into negative workplace behaviour. This policy recognises that interpersonal conflict will often be able to be dealt with at a local level, however, depending on the nature of the conduct that accompanies interpersonal conflict, it may give rise to an investigation and disciplinary action. This is particularly relevant when it involves instances of negative behaviour between parties.

### **5.2 Witnessing disrespectful workplace behaviour**

Where an Employee observes behaviour that they consider to be disrespectful workplace behaviour towards another Employee, they may wish to first check their interpretation of the behaviour with the person who experienced it and establish if the Employee agrees that the behaviour is not appropriate.

Where possible and reasonable in the circumstances, the witness should establish whether the Employee who experienced the behaviour feels safe and is able to deal with the issue themselves or by discussing the matter with their manager. If the witness remains concerned about the nature of the incident or that the matter will otherwise remain unaddressed, the witness should raise the matter with their own line manager or a member of the People and Capability Team.

### **5.3 Responding to reports or observations of disrespectful workplace behaviour**

#### **5.3.1 Employee-led resolution**

Issues may be prevented from escalating to more serious conduct or bullying behaviours if they are addressed locally. Sometimes, people may see their behaviour as innocent or unintentional, however, they need to be able to consider its effect on others. When feedback is shared, an Employee may then have the opportunity to reflect, consider alternative approaches and, ideally, cease the disrespectful workplace behaviour.

An Employee with a concern is encouraged to deal with the issue themselves as a first step if they feel safe and otherwise able to do so. This may include raising concerns with the other person in a constructive way and seeking clarification of the other person's perspective – as the other Employee may not be aware of the consequences of their actions or that their behaviour is inappropriate. Alternatively, the Employee may consider speaking to the person about the concern in the company of a support person or representative (e.g. an Equal Employment Opportunity Contact Officer).

If an Employee is not comfortable or does not feel safe raising the concern with the other person/s directly, including in circumstances where the other person has more authority or due to the nature of the behaviour, the Employee may consider using the support of someone to facilitate their communication with the other person.

### **5.3.2 Manager-led resolution**

Where Employee-led or facilitative support is not the most appropriate strategy, the matter can be escalated to a Manager with line management responsibility. Managers are accountable for identifying and managing a response to inappropriate behaviour, whether it is directly observed by or reported to them either verbally or in writing. Managers must act as soon as possible in response to any inappropriate behaviours that may potentially cause harm to other Employees. Even if a stand-alone event may not warrant action under section 3 of this policy, the behaviour may still negatively impact the individual involved and may be a pre-cursor to bullying.

Making a report can be challenging for the impacted Employee, and managers will need to support the Employee's wellbeing following the disclosure or report of disrespectful behaviour, including by ensuring Employees have access to the Employer's EAP details.

The action taken in response to the identified behaviours will be based on the Employer's initial assessment of the concerns, including the nature and severity of the conduct. In assessing reports or observed inappropriate behaviours, managers need to remain objective and obtain a clear understanding of the situation. Managers should listen to the Employee and demonstrate respect and concern while remaining impartial and avoid judging or blaming the Employee who has reported the disrespectful workplace behaviour.

Where the manager believes the relationship between parties may further deteriorate and present a risk to the health and wellbeing of Employees involved or others, in consultation with the People and Capability Team, the manager may temporarily assign alternative duties, change reporting lines or re-locate Employees while the matter is being resolved.

Depending on the nature of the behaviour, the manager may choose to talk to all Employees involved, either individually or together to: discuss the behaviours and their impact; discuss any different interpretations of the incident(s); discuss expectations of appropriate behaviour in the workplace; and explore practical ways forward that are, ideally, acceptable to all parties.

If concerns regarding disrespectful workplace behaviours are not successfully addressed through local approaches, or these approaches are not deemed appropriate by management due to the nature of the concerns, the matter may proceed to more formal resolution strategies. The manager may also wish to consider impacts to the broader workplace culture, and review training options and workspace configuration.

If unsure of the appropriate action to take, managers should seek advice from a member of the People and Capability team as early as possible or request an independent assessment of the concerns raised.

### **5.3.3 Independent assessment of the concerns**

Where appropriate in the circumstances, through the People and Capability Team, an independent person may be appointed to assess the concerns and provide advice and guidance on the options for addressing the reported behaviour. Assessments should be undertaken by an impartial person who is independent of the parties involved in the concerns and has had limited previous direct involvement in

the management of the matters or concerns.

This independent person may be internal or external to Council and will be determined on a case-by-case basis, noting not all cases require an independent assessment, and that this person may be a representative from the People and Capability team.

An independent person may speak to the specific people concerned and may choose to speak to others involved in the matter if necessary. The independent person should provide a safe environment for expressing concerns, identify ways to address the behaviour and provide opportunities to rebuild damaged interpersonal relationships and strengthen teams.

An independent assessment of concerns is not an investigation or misconduct process. Local processes should be forward-looking and focus on resolving the conflict and supporting working relationships, in consultation with the Employee, rather than proving that something inappropriate happened or establishing the facts of what did or did not happen.

The role of an independent person is to examine, identify and recommend a way forward, bearing in mind that:

- interpersonal issues should be dealt with quickly. The longer they are ignored, the more difficult it will be to resolve them,
- if not resolved, such issues may have an impact on the health and wellbeing of those involved,
- unresolved issues may contribute to a negative impact on the work or performance of those involved (which may also be due to the impacts on an Employee's health and wellbeing arising from the issues raised),
- parties should be treated with respect and with acknowledgement of the distress they feel rather than making a judgment as to who is right or wrong.

As part of this process, an independent person will objectively consider and recommend a way forward that is appropriate in the circumstances. The assessment findings are to be documented in a report for People and Capability and the relevant Manager, and provide reasons for the recommendations.

Recommendations may include, but are not limited to, the following options:

- awareness raising session/s on appropriate behaviour,
- suggesting resolution strategies such as mediation or facilitated discussion,
- reassignment or a change to working hours or locations,
- an agreement on protocols to manage the relationship moving forward,
- referring the matter to a performance management process, including informal performance management options,
- referring the matter to a misconduct process, which may include a formal investigation,
- any other actions deemed appropriate,
- no further action.

There may be occasions where the Employee raising the concerns does not wish the concerns to be referred to a formal misconduct process and would prefer to engage in other resolution strategies. However, where the matters have been referred for an independent assessment, it is not appropriate to commence other processes to address the Employee's concerns until this assessment has been concluded and an appropriate way forward recommended (which may include referral to a misconduct process).

The recommendations arising through an independent assessment will be considered by the People and Capability team in consultation with the relevant Manager, and take into account the preferences of the

Employee who raised the concern, along with Council's duty of care to provide a safe workplace for all employees.

It is important to note the assessment process:

- Is used to inform decisions, not to prove misconduct.
- May identify issues that pinpoint specific performance or behavioural concerns, which may then be relied upon by management to draft allegations if a misconduct process proceeds.
- Ensures procedural fairness should the assessment findings be used as part of a misconduct process. This requires misconduct procedures to provide:
  - o Disclosure - providing the Employee with a copy of the findings that are adverse or prejudicial to them (i.e. the allegations are put forward to the Employee).
  - o Opportunity to respond - allowing the Employee to respond to the findings and present their own version of events before any disciplinary action is finalised.

In the instance of a referral to a misconduct process, the decision-maker in the misconduct/disciplinary process must evaluate the information within the documented assessment against other evidence (which may also include formal investigation findings) and the employee's response.

#### **5.3.4 Resolution strategies**

There are numerous strategies that can be used to address disrespectful workplace behaviour and interpersonal conflict that may fall short of bullying and other negative workplace behaviour. Such strategies may include:

**Facilitated discussion** may occur where mediation is not feasible and involves parties either electing or being directed to participate in an unstructured discussion facilitated by an independent person. The aim of a facilitated discussion is to prompt the parties to focus on the key issues with a view to achieving a mutually acceptable resolution.

**Conflict coaching** may be appropriate where one of the parties may want to develop their capacity to appropriately respond to the situation themselves. A conflict coach will work with the Employee to clarify key issues and explore options for resolution. After the session/s, the Employee may choose to deal with the concerns directly or otherwise elect to progress the matter to mediation or other resolution option.

**Workplace training** is facilitated by an independent person, and can be utilised where inappropriate behaviours may be indicative of broader cultural issues. Workplace training involves participation of all parties who have been directly involved or affected by inappropriate behaviours, including management, and enables all parties to participate in a discussion regarding the issues and contribute to the development of resolution.

Where appropriate in the circumstances, workplace training or coaching may also be offered to an individual who is engaging in identified disrespectful behaviour where the behaviour is considered to be in part or wholly due to issues with the individual's particular management, leadership or communication style.

**Mediation** is most effective as an early intervention strategy and can only occur if parties agree and are willing to participate in the process. The mediator creates a nonconfrontational, cooperative forum for the parties to identify key issues and develop agreed outcomes. Any outcomes will be documented, and the mediator will provide a copy of the agreement to each party.

#### **5.3.5 Other management action**

As part of, or following, the above resolution strategies, the Employer may adopt other practical changes to resolve or mitigate the concerns between the parties including but not limited to changing working arrangements or changing reporting lines. Any changes need to be discussed with the parties concerned and implemented as part of a supportive – not punitive – process.

Where Employees do not agree to engage in reasonable opportunities provided by the Employer to resolve the concerns, they must suggest reasonable alternative strategies. Where resolution strategies cannot be agreed to, Employees will be expected to raise any further concerns in a reasonable and respectful manner and engage professionally with each other on a day-to-day basis.

It is important that in making such arrangements (e.g., changes to working arrangements) there is no attribution of blame. Such arrangements may not always lead to a resolution, as they may leave the underlying problem unaddressed and are more likely to be successful where used in conjunction with other strategies to address any underlying issues.

Where in undertaking steps to address interpersonal conflict or other disrespectful workplace behaviour under this section 5, it becomes apparent the behaviour may constitute bullying (or a single instance of bullying-type behaviour), discrimination or harassment, the matter should be dealt with in accordance with section 3 of the policy.

#### **5.4 Timeframes**

Employees are encouraged to raise any concerns as soon as possible. However, this policy recognises that Employees may need more time to make a report under this policy or may not feel secure in raising a report due to a variety of reasons. The timeliness of a report will not, therefore, in itself be a valid reason for the Employer not to investigate or address a matter raised under this policy.

Reports of disrespectful behaviour will be addressed in a timely manner. Any process or actions taken under Section 5 of this policy to address disrespectful behaviour should be commenced as soon as possible, and ideally within 28 days of the behaviour being reported.

If actions under section 5 of this policy do not commence within 28 days of the behaviour being reported, the reasons for the delay must be communicated to the Employees involved, and, where possible, new timeframes should be communicated.

If an instance of disrespectful behaviour has previously been raised and addressed, it should not be raised again. However, if further instances of disrespectful behaviour arise, previously addressed examples may be raised again to demonstrate a pattern of harmful workplace behaviour (seen further at section 5.5 of this policy).

#### **5.5 Monitoring and review**

Behavioural change can be a gradual process and it is important for management to monitor workplace behaviour and culture to ensure that inappropriate conduct does not return. This may involve follow-up discussions with one or both parties as well as observing the workgroup more broadly.

If disrespectful workplace behaviour recurs, Employees are encouraged to notify their manager or People and Capability contact. Recurrence of disrespectful workplace behaviour may result in referral to management of these concerns under a performance or misconduct process under Council's Discipline and Performance Management Policy.

## 6.0 HUMAN RIGHTS

Council is committed to upholding the Human Rights principles as outlined in the *Charter of Human Rights and Responsibilities Act 2006 (Vic)* and referred to in Council's Human Rights Policy. The Human Rights Checklist has been completed and this policy accords with Council's policy commitment to uphold human rights principles.

## 7.0 REGULAR POLICY REVIEW

This policy will be reviewed every two years and if necessary following significant incidents if they occur.

**This policy** is approved by the Chief Executive Officer on 7 May 2026.



**DAVID MORCOM**  
Chief Executive Officer

## REVISION HISTORY

VERSION	DATE	MAJOR / MINOR UPDATE	SUMMARY OF CHANGES
1.0	May 2024	New Council Policy	Policy converted from Employee Policy to Council Policy. Formatting changes. policy application was amended to reference 'others' rather than 'volunteers, labour hire workers, Councillors and clients' and definition of 'individuals' included, being defined as employees, volunteers, labour hire workers, Councillors, any Wellington Shire Council Committee members and clients of Wellington Shire Council. Addition of 'working from home' as an off site work location
2.0	May 2026	Major update	Policy completely rewritten into format to incorporate disrespectful workplace behaviours and options to address these. This is an extension beyond bullying and negative workplace behaviours (discrimination, harassment and violence).