

Anti-Discrimination, Bullying and Harassment Policy

(Policy Number – KL-HRPOL018)
(Policy Type – Council)

1 Aim

The Latrobe and Kentish Councils' (the Councils') have established a municipal alliance resulting in a single workforce now operating across both Councils'.

The purpose of this policy is to ensure the Councils' values diversity in the workplace and are committed to providing and maintaining a safe and positive workplace, free from unlawful discrimination, harassment and bullying.

2 Policy Statement

The Councils' are committed to complying with the provisions of the *Anti-Discrimination Act 1998 (Tas)*, the anti-discrimination provisions of relevant legislative instruments and the requirements of section 63 (2) of the *Local Government Act 1993* which states:

1. *The general manager of a council may:*
 - (a) *appoint persons as employees of the council; and*
 - (b) *allocate duties to employees; and*
 - (c) *control and direct employees; and*
 - (d) *suspend or dismiss employees.*
2. *The general manager is to develop human resource practices and procedures in accordance with policies of the council to ensure employees of the council receive fair and equitable treatment without discrimination.*

This policy applies to all workers (a worker includes an employee, labour hire staff, volunteer, apprentice, work experience student, subcontractor, and contractor) and councillors of both Latrobe and Kentish Councils'.

3 Policy Detail

Purpose	Description
Objectives	<p>The Councils' are committed to:</p> <ul style="list-style-type: none">• create a working environment which is free from discrimination, harassment and bullying and where all staff and councillors are treated with dignity, courtesy and respect;• provide training and awareness sessions to ensure that all staff and councillors know their individual rights and responsibilities;• encourage the reporting of behaviour which breaches this policy;

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	<ul style="list-style-type: none"> • provide a safe and effective procedure for complaints based on the principles of natural justice; • treat all complaints in a sensitive, fair, timely and confidential manner; • protect workers and councillors from victimisation and reprisals for making complaints; and • promote appropriate standards of conduct at all times.
<p>Equal Opportunity Employer</p>	<p>The Councils' promote a working environment where equality of access is merit based, and the recognition and acceptance of diversity within the workplace is supported.</p> <p>Equal Opportunity is embedded in the Councils' internal employment practices, from training, promotion and recruitment to an environment where individuals can work effectively without fear of discrimination, bullying or harassment.</p> <p>Whilst roles within the Councils' vary, it is expected all workers will be treated with dignity and respect.</p> <p>As an Equal Opportunity Employer, the Councils' acknowledge their responsibility for ensuring the rights of everyone within the workplace is protected. The expectation includes but is not limited to the right to be physically and psychologically safe within the workplace, and to be treated equally, fairly and respectfully.</p>
<p>Definitions</p>	<p>Bullying</p> <p>Workplace bullying occurs when:</p> <ul style="list-style-type: none"> • an individual or group of individuals repeatedly behave unreasonably towards a worker or a group of workers within the workplace; and • the behaviour creates a risk to health and safety. <p>Reasonable management action conducted in a reasonable manner does not constitute workplace bullying.</p> <p>Discrimination on the ground of attributes</p> <p>A person must not discriminate against another person on the ground of any of the following attributes:</p> <ul style="list-style-type: none"> • Equal Employment Opportunity (EEO) principles and any underpinning legislation applying within the workplace; • there is acceptance of difference, ensuring all workers are treated fairly, with respect and dignity; • ensuring all decisions relating to appointment, promotion and career development are made without regard to any matters other than the individual's inherent ability to carry out the job;

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	<ul style="list-style-type: none"> • reasonable accommodations are considered and provided where necessary; and • inappropriate attitudes or behaviours are confronted. <p>The Councils' will treat seriously any instance of inappropriate behaviour and will confront attitudes based on inappropriate stereotypes. The disciplinary procedure outlines the process for managing inappropriate behaviour.</p> <p>Direct Discrimination</p> <p>Discrimination to which the <i>Anti-Discrimination Act 1998</i> applies is direct or indirect discrimination on the grounds of any prescribed attribute.</p> <p>Direct discrimination takes place if a person treats another person on the basis of any prescribed attribute, imputed prescribed attribute or a characteristic imputed to that attribute less favourably than a person without that attribute or characteristic.</p> <p>For direct discrimination to take place, it is not necessary:</p> <ol style="list-style-type: none"> a) that the prescribed attribute be the sole or dominant ground for the unfavourable treatment; or b) that the person who discriminates regards the treatment as unfavourable; or c) that the person who discriminates has any particular motive in discriminating. <p>Indirect Discrimination</p> <p>Indirect discrimination takes place if a person imposes a condition, requirement or practice which is unreasonable in the circumstances and has the effect of disadvantaging an individual member of a group of people who:</p> <ul style="list-style-type: none"> • share, or are believed to share, a prescribed attribute more than a person who is not a member of that group; or • share, or are believed to share, any of the characteristics imputed to that attribute more than a person who is not a member of that group. <p>For indirect discrimination to take place, it is not necessary that the person who discriminates is aware that the condition, requirement or practice disadvantages the group of people.</p> <p>Defamation</p> <p>Defamation occurs when a person or group of people intentionally damage a person or group's reputation by stating or writing derogatory or negative things about them which are untrue or baseless.</p>

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	<p>Harassment</p> <p>Harassment is defined as behaviour that makes someone feel intimidated, insulted or humiliated because of certain attribute they possess including ethnicity, gender, disability, sexual preference. Harassment can be intentional or unintentional. Harassment is also said to occur if the environment in which the person is working is 'hostile' or intimidating.</p> <p>Harassment may include behaviour, such as:</p> <ul style="list-style-type: none"> • telling insulting jokes about particular racial groups; • sending explicit or sexually suggestive emails or text messages; • displaying racially offensive or pornographic images in the workplace; or • making derogatory comments or taunts about someone's race or religion. <p>Harassment can range from serious to severe levels; however one-off incidents can still constitute harassment.</p> <p>Where behaviour is persistent, such behaviour can undermine the standard of conduct within a work area, eroding the wellbeing of the individual or the group being targeted.</p> <p>Workplace harassment must not be confused with respectfully delivered legitimate comment and advice (including relevant negative comment or feedback) from managers, supervisors and work colleagues on the work performance or work related behaviour of an individual or group.</p>
<p>Prohibition of Certain Conduct and Sexual Harassment</p>	<p>A person must not engage in any conduct which offends, humiliates, intimidates, insults or ridicules another person on the basis of an attribute referred to in section 16, of the <i>Anti-Discrimination Act 1988</i>, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated, intimidated, insulted or ridiculed.</p> <p>Section 16 lists the following attributes:</p> <ul style="list-style-type: none"> (a) race; (b) age; (c) sexual orientation; (d) lawful sexual activity; (e) gender; (ea) gender identity; (eb) intersex variations of sex characteristics; (f) marital status;

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	<p>(fa) relationship status;</p> <p>(g) pregnancy;</p> <p>(h) breastfeeding;</p> <p>(i) parental status;</p> <p>(j) family responsibilities;</p> <p>(k) disability;</p> <p>(l) industrial activity;</p> <p>(m) political belief or affiliation;</p> <p>(n) political activity;</p> <p>(o) religious belief or affiliation;</p> <p>(p) religious activity;</p> <p>(q) irrelevant criminal record;</p> <p>(r) irrelevant medical record;</p> <p>(s) association with a person who has, or is believed to have, any of these attributes.</p>
<p>Sexual Harassment</p>	<p>A person must not sexually harass another person.</p> <p>The Respect at Work Amendment Act has defined sexual harassment under the Fair Work Act as:</p> <ul style="list-style-type: none"> • an unwelcome sexual advance • an unwelcome request for sexual favours • other unwelcome conduct of a sexual nature in relation to another person <p>To be sexual harassment, it has to be reasonable to expect there is a possibility that the person being harassed would be offended, humiliated or intimidated by the behaviour.</p> <p>The <i>Anti-Discrimination Act 1998</i> stipulates that sexual harassment has taken place if a person:</p> <ul style="list-style-type: none"> • subjects another person to an unsolicited act of physical contact of a sexual nature; or • makes an unwelcome sexual advance or an unwelcome request for sexual favours to another person; or • makes an unwelcome remark or statement with sexual connotations to another person or about another person in that person's presence; or • makes an unwelcome gesture, action or comment of a sexual nature; or

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	<ul style="list-style-type: none"> • engages in conduct of a sexual nature in relation to another person that is offensive to that person and in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated, insulted or ridiculed. <p>Mutual and welcome attraction of a sexual nature between consenting adults does not constitute sexual harassment.</p> <p>The Fair Work Commission has the jurisdiction to allow an eligible worker who believes they have been sexually harassed at work by one or more individuals to apply for an order to stop sexual harassment. The laws to stop sexual harassment under the Fair Work Act apply to:</p> <ul style="list-style-type: none"> • an employee; • a contractor or subcontractor; • an employee of a contractor or subcontractor; • an employee of a labour hire company who has been assigned to work in a business or undertaking; • an outworker; • an apprentice or trainee; • an intern; • a student gaining work experience; and • some volunteers.
Intimidatory Harassment	<p>Intimidatory harassment occurs when there is deliberate and intentional use of physical or operational power to coerce a person to perform a particular task, subjecting them to a feeling of humiliation or intimidation.</p> <p>The scope of Intimidatory harassment does not include legitimate comment or feedback regarding work performance or behaviour from a supervisor, if given in a reasonable and fair manner.</p> <p>Intimidatory harassment may manifest itself as coercive behaviour, persistent following or stalking, and incessant, unjustified and unnecessary comments regarding a person’s capabilities within the workplace that is inconsistent with reasonable people management.</p>
Prohibition of Victimisation	<p>A person must not victimise another person because that other person:</p> <p>a) made, or intends to make, a complaint under the <i>Anti-Discrimination Act 1998</i>; or</p>

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	<p>b) gave, or intends to give, evidence or information in connection with any proceedings under the <i>Anti-Discrimination Act 1998</i>; or</p> <p>c) alleged, or intends to allege, that any person has committed an act which would amount to a contravention of the <i>Anti-Discrimination Act 1998</i>; or</p> <p>d) refused or intends to refuse to do anything that would amount to a contravention of the <i>Anti-Discrimination Act 1998</i>; or</p> <p>e) has done anything in relation to any person under or by reference to the <i>Anti-Discrimination Act 1998</i>.</p> <p>Victimisation takes place if a person subjects, or threatens to subject, another person or an associate of that other person to any detriment.</p>
Inciting Hatred	<p>A person, by a public act, must not incite hatred towards, serious contempt for, or severe ridicule of, a person or a group of persons on the ground of:</p> <p>a) the race of the person or any member of the group; or</p> <p>b) the religious belief or affiliation or religious activity of the person or any member of the group; or</p> <p>c) any disability of the person or any member of the group; or</p> <p>d) the sexual orientation or lawful sexual activity of the person or any member of the group; or</p> <p>e) the gender identity or intersex variations of sex characteristics of the person or any member of the group.</p>
Disability	<p>Disability means any of the following that presently exists, previously existed but no longer exists, may exist in the future, whether or not arising from an illness, disease or injury or from a condition subsisting at birth:</p> <p>a) a total or partial loss of the person's bodily or mental functions</p> <p>b) total or partial loss of a part of the body;</p> <p>c) the presence in the body of organisms causing or capable of causing disease or illness;</p> <p>d) the malfunction, malformation or disfigurement of a part of a person's body;</p> <p>e) disorder, malformation, malfunction or disfigurement that results in the person learning differently from a person without the disorder, malformation, malfunction or disfigurement;</p> <p>f) a disorder, illness or disease that affects a person's thought processes, perceptions of reality, emotions or judgement or that results in disturbed behaviour;</p>

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	g) reliance on a guide-dog, wheelchair or other remedial or therapeutic device.
Roles and Responsibilities	<p>Councillors will ensure that discrimination does not arise from decisions with respect to their practices and policies and will adhere to policy, their relevant code of conduct and any relevant legislation.</p> <p>The General Manager will:</p> <ul style="list-style-type: none"> • ensure that discrimination does not arise from decisions with respect to policies, practices, training, promotion, remuneration and general conditions of employment. • ensure that the selection and recruitment processes provide for equal opportunity and comply with relevant legislation. • provide adequate resources and procedures to effectively administer reports of alleged discrimination, harassment and bullying. • ensure workers understand Section 104 of the <i>Anti-Discrimination Act 1998</i> to communicate rights and responsibilities to staff and to act on any complaints as quickly as possible. <p>104. Obligation of organisations</p> <p>(1) <i>An organisation is to ensure that–</i></p> <p style="padding-left: 40px;">(a) <i>its members, officers, employees and agents are made aware of the discrimination and prohibited conduct to which this Act relates; and</i></p> <p style="padding-left: 40px;">(b) <i>the terms of an order made under section 89 relating to that organisation are brought to the notice of those of its members, officers, employees and agents whose duties are such that they may engage in conduct of the kind to which the order relates; and</i></p> <p style="padding-left: 40px;">(c) <i>no member, officer, employee or agent of the organisation engages in, repeats or continues such conduct.</i></p> <p>(2) <i>An organisation is to take reasonable steps to ensure that no member, officer, employee or agent of the organisation engages in discrimination or prohibited conduct.</i></p> <p>(3) <i>An organisation that does not comply with this section is liable for any contravention of this Act committed by any of its members, officers, employees and agents.</i></p> <ul style="list-style-type: none"> • ensure all complaints are treated seriously and managed in a safe, timely and equitable manner. • ensure, as far as practicable, that all workers adhere to the policy and Staff Code of Conduct. • ensure reasonable steps to protect the safety and health of workers in any work related context, including but not limited to

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	<p>conferences, work functions or social functions. This includes a duty of care under Health and Safety and Equal Employment Opportunity legislation to provide an environment free from discrimination, harassment and bullying whether or not the function is held in an offsite or onsite location.</p> <ul style="list-style-type: none"> • be proactive by clearly communicating the appropriate standards of behaviour expected during work functions. • ensure resource materials are made available and promote the Councils' nominated Contact Officers to ensure workers have access to information and support they require to prevent harassment, bullying and discrimination in the workplace or to deal with it appropriately if it does occur. • integrate relevant training regarding harassment, bullying and discrimination into all levels of training including inductions, awareness sessions and recruitment practices. • appoint and provide training to Contact Officers. The Officers are to be trained to provide workers with support and confidential information about their options to deal with work-related discrimination, harassment or bullying. <p>Managers, Team Leaders and Supervisors are responsible for:</p> <ul style="list-style-type: none"> • the recruitment, promotion, training, and development of staff based exclusively on merit and performance, and free from any discrimination or bias. • ensuring all Human Resources practices, including recruitment, are applied equitably, consistently and free of bias. • implementing reasonable measures to prevent discrimination, harassment, bullying and victimisation in the workplace. • treating grievances with the utmost seriousness, confidentiality and immediacy in rectifying. • providing confidential guidance, advice and information to workers, including the investigation of grievances, complaints or disputes that have been made by a worker. • treating all workers involved in a complaint or dispute impartially and equitably. <p>Workers are responsible for:</p> <ul style="list-style-type: none"> • understanding, respecting and complying with this policy and the Staff Code of Conduct. • ensuring discrimination, harassment and bullying are not tolerated within the workplace and informing the relevant Manager, Team Leader or Supervisor if such behaviour occurs. • ensuring they do not partake in behaviour that could be considered as discriminatory, harassment or bullying and discourage others from behaving in such ways.

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	<ul style="list-style-type: none"> • attempting to amicably resolve any personal harassment or discrimination issues with the worker/s or Supervisor/s involved in the matter prior to raising it with management, if practical. • supporting anyone who is being subjected to harassment, bullying or discrimination and directing them to where they can obtain advice and assistance. • ensuring that confidentiality is maintained if they are in any way involved in the investigation of a complaint. • report any issues or concerns regarding discrimination, bullying and harassment from members of the public towards fellow staff members or themselves. <p>Contact Officers have a responsibility to:</p> <ul style="list-style-type: none"> • provide workers who have a grievance relating to discrimination, harassment and/or bullying with an opportunity to discuss their grievance informally, in private and confidentially. • provide workers with information relating to discrimination, harassment and bullying. • provide support to the complainant and/or respondent through listening and informing, advising of the complaints procedure, informing them of the Employee Assistance Provider and seeking further information, as deemed necessary. • ensure information collated from the complainant/respondent is compiled in a non-judgemental way. • ensure confidentiality of records of discussion and forwarding information on to relevant parties if a complaint is lodged. • ensure follow up with complainant/respondent is made in regard to outcomes/resolution.
Investigation and Breaches of the Policy	<p>The Councils' have a duty of care to take a pro-active approach to managing disputes regarding discrimination therefore any reports of discrimination or harassment will be treated seriously and investigated promptly, confidentially and impartially:</p> <ul style="list-style-type: none"> • any person, who without authorisation from the General Manager, passes on confidential information, to a third party, regarding an investigation under this policy may face disciplinary action. • as part of the resolution of any dispute regarding discrimination management are to seek, where possible, to resolve the issue in the least adversarial way possible. • it is accepted that in some cases the parties may wish to meet and discuss the dispute in an attempt to resolve the matter. In these circumstances the General Manager will accommodate this in a professional and non-judgemental manner.

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	<ul style="list-style-type: none"> • all complaints received will be treated confidentially and with serious consideration. If a worker is found to have made false accusations or a vexatious complaint for malicious reasons, they will be subjected to disciplinary action, which may include termination of employment. • any worker who engages in discriminatory practices, bullies or harasses, will be subjected to disciplinary action which may include termination of employment. • any actions which are of a criminal nature will be reported immediately to the police, regardless of whether an internal investigation is to eventuate.
Confidentiality	<p>Allegations of discrimination, harassment, bullying or victimisation will be treated confidentially.</p> <p>Any records or evidence produced or made during the investigatory process will be stored securely.</p> <p>Investigatory recordings will not be placed on a worker's personnel file, unless a formal investigation process has identified a breach of this Policy which has resulted in the undertaking of disciplinary action.</p>
Conflict of Interest	<p>It is imperative that the person involved in dealing with a matter relating to harassment, bullying or discrimination under this Policy, not expose them self to a conflict of interest.</p> <p>If a conflict of interest arises, the individual must immediately advise the most senior person dealing with the complaint or the General Manager of the conflict and remove themselves from the process.</p>

4 Associated Documents and References

4.1 Local Government Act 1993 Reference

63. Employees

- (1) *The general manager of a council may –*
- (a) *appoint persons as employees of the council; and*
 - (b) *allocate duties to employees; and*
 - (c) *control and direct employees; and*
 - (d) *suspend or dismiss employees.*
- (2) ***The general manager is to develop human resource practices and procedures in accordance with policies of the council to ensure employees of the council receive fair and equitable treatment without discrimination.***

4.2 Other Legislation Reference

- Anti-Discrimination Act 1998 (State)
- Equal Employment Opportunity Act 1984 (Commonwealth)
- Racial Discrimination Act 1975 (Commonwealth)
- Human Rights and Equal Opportunity Commission Act 1986 (Commonwealth)
- Disability Discrimination Act 1992 (Commonwealth)
- Fair Work Act 2009 (Commonwealth)
- Sex Discrimination Act 1984 (Commonwealth)
- Work Health and Safety Act 2012 (State)
- Public Interest Disclosure Act 2002 (State)

4.3 Strategic Plan Reference

LATROBE

Area	1	Governance
Program	1.4	Employee Development
Objective	1.4	Develop opportunities for skilled, experienced, and motivated staff
Strategy	1.4.3	Develop and review staff policies

KENTISH

Area	1	Governance and Organisational Development
Program	1.4	Employee Development
Objective	1.4	To develop skilled, experienced, motivated and accountable staff,
Strategy	1.4.3	Develop and review staff policies and where necessary, provide staff education and training.

APPROVED BY LATROBE COUNCIL: 9 May 2022 Minute: 17184

APPROVED BY KENTISH COUNCIL: 17 May 2022 Minute: 8.3

EFFECTIVE DATE: 18 May 2022

ADMINISTERED BY: General Manager

This policy will be reviewed periodically to ensure its relevance in terms of community needs and expectations and Council goals, targets, budget and statutory requirements.