

ADOPTED	
COUNCIL MEETING MIN NO	138/22
DATE:	18 MAY 2022

VERSION NO	8
REVIEW DATE	MAY 2025
FILE NUMBER	PER400056

1. Aim

- 1.1. Mid-Western Regional Council ('Council') is committed to providing a safe and healthy work environment in which all workers are treated fairly, with dignity and respect. Bullying is a risk to the health and safety of the workplace. It is unacceptable and will not be tolerated by the Council.
- 1.2. This Policy outlines the Council's commitment to a safe workplace and is aimed at ensuring, so far as reasonably practicable, that employees are not subjected to any form of bullying while at work. It also details the legal responsibilities of the Council and its employees in relation to preventing bullying in the workplace.

2. Commencement of Policy

- 2.1. This Policy will commence on 18/5/2022. It replaces all other bullying policies (whether written or not).

3. Scope

- 3.1. This Policy covers all employees of the Council (whether full-time, part-time or casual) and all persons performing work at the direction of, in connection with, or on behalf of the Council (for example contractors, volunteers, subcontractors, agents, consultants and temporary staff) (collectively 'workers').
- 3.2. This Policy extends to all functions and places that are work related, for example, work lunches, conferences, Christmas parties, social media platforms, text messaging, emails and client functions. This Policy does not form part of any employee's contract of employment. Nor does it form part of any contract for service.

4. Legal responsibilities

- 4.1. Everyone at the workplace has a legal responsibility to prevent bullying from occurring.
- 4.2. Under relevant health and safety legislation (the 'Legislation') the Council has the primary duty to eliminate or minimise, as far as reasonably practicable, the risks to health and safety in the workplace. This duty includes the implementation of strategies to prevent workplace bullying. This Policy will assist the Council in complying with its legal responsibilities.
- 4.3. Council will provide employees with regular compulsory training and education around identifying, preventing and responding to workplace bullying and unreasonable behaviour. Council will provide information about Council's stance on workplace bullying and expected workplace behaviours to all new employees through induction processes.
- 4.4. Workers are also required under the Legislation to take reasonable care for their own health and safety, as well as that of others at the Council's workplace. They must also comply with any reasonable instruction given by the Council. Compliance with this Policy will assist workers in meeting their legal responsibilities.

5. What is workplace bullying?

- 5.1. Workplace bullying is repeated, unreasonable behaviour, directed towards a worker or a group of workers that creates a risk to health and safety. It includes both physical and psychological risks and abuse.
- 5.2. 'Repeated behaviour' refers to the persistent nature of the behaviour and can refer to a range or pattern of behaviours over a period of time (for example, verbal abuse, unreasonable criticism, isolation and subsequently being denied opportunities – i.e. a pattern is being established from a series of events).
- 5.3. 'Unreasonable behaviour' means behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten another person.

6. Examples of workplace bullying

6.1. Bullying behaviours can take many different forms, from the obvious (direct) to the more subtle (indirect). The following are some examples of both direct and indirect bullying:

Direct bullying:

- abusive, insulting or offensive language
- spreading misinformation or malicious rumours
- behaviour or language that frightens, humiliates, belittles or degrades, including over criticising, or criticism that is delivered with yelling or screaming
- displaying offensive material
- inappropriate comments about a person's appearance, lifestyle, their family or sexual preferences
- teasing or regularly making someone the brunt of pranks or practical jokes
- interfering with a person's personal property or work equipment, or
- harmful or offensive initiation practices.

Indirect bullying:

- unreasonably overloading a person with work, or not providing enough work
- setting timeframes that are difficult to achieve, or constantly changing them
- setting tasks that are unreasonably below, or above, a person's skill level
- deliberately excluding or isolating a person from normal work activities
- withholding information that is necessary for effective work performance
- deliberately denying access to resources or workplace benefit and entitlements, for example training, leave
- deliberately changing work arrangements, such as rosters and leave, to inconvenience a particular worker or workers.

6.2. The above examples do not represent a complete list of bullying behaviours. They are indicative of the type of behaviours, which may constitute bullying and therefore unacceptable to the Council.

6.3. A single incident of unreasonable behaviour does not usually constitute bullying. However, it should not be ignored as it may have the potential to escalate into bullying behaviour.

6.4. A person's intention is irrelevant when determining if bullying has occurred. Bullying can occur unintentionally, where actions which are not intended to victimise, humiliate, undermine or threaten a person actually have that effect.

6.5. Bullying in the workplace is harmful not only to the target of the behaviour but damages the Council's culture and reputation. It is unacceptable and will not be tolerated.

7. What does NOT constitute workplace bullying?

7.1. Managing staff does not constitute bullying, if it is done in a reasonable manner. Managers have the right, and are obliged to, manage their staff. This includes directing the way in which work is performed, undertaking performance reviews and providing feedback (even if negative) and disciplining and counselling staff. Examples of reasonable management practices include:

- setting reasonable performance goals, standards and deadlines in consultation with workers and after considering their respective skills and experience;
- allocating work fairly;

- fairly rostering and allocating working hours;
- transferring a worker for legitimate and explained operational reasons;
- deciding not to select a worker for promotion, following a fair and documented process;
- informing a worker about unsatisfactory work performance in a constructive way and in accordance with any workplace policies or agreements;
- informing a worker about inappropriate behaviour in an objective and confidential way;
- implementing organisational changes or restructuring; and
- performance management processes.

8. What steps will the Council take to prevent workplace bullying?

8.1. The Council will take all reasonable steps to prevent bullying through a risk management process. This process includes:

- identification of bullying risk factors- these are things and situations which could contribute to bullying such as the way in which staff are managed, or organisational change such as redundancies
- assessing and eliminating the risks, as far as reasonably practicable, or controlling, or minimising, them as far as reasonably practicable; and
- training workers about bullying, how to deal with it and its impact on the workplace.

9. Complaint Procedure

If a worker feels that they have been subjected to any form of unlawful conduct contrary to EEO laws, this Policy or the Council's Code of Conduct, they should not ignore it.

They should, as appropriate, follow one of the steps set out below.

Confront the Issue

- If a worker feels comfortable doing so, they should address the issue with the person concerned. A worker should identify the bullying behaviour, explain that the behaviour is unwelcome and offensive and ask that it stop.

This is not a compulsory step. If a worker does not feel comfortable confronting the person, or the worker confronts the person and the behaviour continues, the worker should report the issue to their manager. If the manager is the alleged perpetrator, then the matter should be reported to a senior manager, to the Executive Manager People and Performance or a representative of the Human Resources team.

If at any time, a worker is unsure about how to handle a situation they should contact the Executive Manager People and Performance or a representative of the Human Resources team for support and guidance.

Report the Issue

- There are two complaint procedures that can be used to resolve bullying complaints: informal and formal (detailed further below). The type of complaint procedure used depends on the nature of the complaint that is made. The aim is to ensure that workers are able to return to a productive and harmonious working environment as soon as possible.

10. Informal Complaint

10.1. There are a broad range of options for addressing the complaint informally. The process used to address the issue will depend on the individual circumstances of the case. The manager, Executive Manager People and Performance or a representative of the Human Resources team will determine which process to follow. The possible options include, but are not limited to, the manager, Executive Manager People and Performance or a representative of the Human Resources team:

- discussing the issue with the person against whom the complaint is made; and/or

- facilitating a meeting between the parties in an attempt to resolve the issue and move forward.

10.2. An informal complaint is more suited to less serious allegations that if founded, would not warrant disciplinary action being taken.

11. Formal Complaint

11.1. A formal complaint involves the worker making a written complaint and a formal investigation being conducted of that complaint. It is appropriate for more serious allegations, or if senior management are involved. Formal investigations may be conducted by the Council or by an external investigator appointed by the Council.

11.2. An investigation generally involves collecting information about the complaint and then making a finding based on the available information as to whether or not the alleged behaviour occurred. Once a finding is made, the Council or the external investigator will make recommendations about what actions should be taken to resolve the complaint and any appropriate disciplinary action.

11.3. If Council considers it appropriate for the safe and efficient conduct of an investigation, workers may be required not to report for work during the period of an investigation. The Council may also provide alternative duties or work during the investigation period. Generally, workers will be paid their normal pay during any such period. *Refer to clause 37, Disciplinary Procedures, of the Local Government (State) Award 2020.*

12. Dealing with bullying complaints

12.1. In handling bullying complaints, the Council will adopt the following principles:

- Take all complaints seriously.
- Act promptly.
- Not victimise any person who makes a complaint, any person accused of bullying, or any witnesses.
- Support all parties.
- Be impartial.
- Communicate the investigation or complaint process to all parties involved, including estimated length of time for resolution.
- Maintain confidentiality - the Council will endeavour to maintain confidentiality as far as reasonably practicable. However, it may be necessary to speak with other workers in order to determine what happened, to legal representatives or the Council's senior managers. It will also be necessary to speak to those against whom the complaint has been made in order to afford fairness. All workers involved in the complaint must also maintain confidentiality, including the worker who lodges the complaint. Spreading rumours or gossip may expose the worker responsible to a defamation claim.
- Act appropriately - if a complaint is made and it appears that bullying has occurred, the Council will endeavour to take appropriate action in relation to the complaint.
- Keep records – documentation is essential. A record of all meetings and interviews stating who was present and agreed outcomes should always be maintained.

13. Possible outcomes

13.1. The possible outcomes of an investigation will depend on the nature of the complaint. Where an investigation results in a finding that a person has engaged in bullying behaviour, that person will be disciplined. The type and severity of disciplinary action will depend on the nature of the complaint and other relevant factors. Where the investigation results in a finding that the person complained against has engaged in serious misconduct, this may result in instant dismissal. Any disciplinary action is a confidential matter between the affected worker and the Council.

13.2. The Council may take a range of disciplinary action. Examples include, but are not limited to:

- Providing training to assist in addressing the problems underpinning the complaint
- Monitoring to ensure that there are no further problems
- Implementing a new Policy
- Mentoring and support from a senior manager
- Requiring an apology or an undertaking that certain behaviour stop
- Changing work arrangements
- Transferring to another work area
- Issuing a written warning (this can be a first or final warning depending on the circumstances)
- Dismissal.

14. Management and Supervisor's role

14.1. Managers and supervisors have a key role in the prevention of workplace bullying. Managers and supervisors must:

- ensure that they do not bully workers, other managers or supervisors, clients or customers;
- ensure that they do not aid, abet or encourage other persons to engage in bullying behaviour;
- ensure all staff who report to them are aware and understand this Policy and their responsibility to comply with it;
- ensure that all staff who report to them understand that any bullying in any form is unacceptable and will not be tolerated by the Council;
- act promptly and appropriately if they observe bullying behaviours;
- ensure that all staff who report to them understand that they should report any bullying behaviour;
- ensure all staff who report to them are aware and understand the complaint procedures; and
- act promptly if a complaint is made. If this is not possible, or is inappropriate, inform the Executive Manager People & Performance or a representative of the Human Resources team as soon as possible.

15. Workers role

15.1. All workers must:

- understand and comply with this Policy;
- ensure they do not engage in any conduct which may constitute bullying towards other workers, customers/clients or others with whom they come into contact through work;
- ensure they do not aid, abet or encourage other persons to engage in bullying behaviour;
- follow the Council's complaint procedure if they experience bullying;
- report any bullying they see occurring to others in the workplace in accordance with this Policy; and
- maintain confidentiality if they are involved in the incident complained of.

16. Breach of this Policy

16.1. The Council takes very seriously its commitment to providing a safe and healthy work environment, free from bullying. All workers are required to comply with this Policy.

16.2. If an employee breaches this Policy, they may be subject to disciplinary action. In serious cases, this may include termination of employment. Agents and contractors (including temporary contractors) who are found to have breached this Policy may have their contracts with the Council terminated or not renewed.

16.3. If a person makes a false complaint, or a complaint in bad faith (e.g. making up a complaint to get

someone else in trouble, or making a complaint where there is no foundation for the complaint), that person may be disciplined and may be exposed to a defamation claim.

17. More information

17.1. If a worker is unsure about any matter covered by this Policy, or requires more information about workplace bullying they should seek the assistance of their manager, the Executive Manager People and Performance or a representative of the Human Resources team. They may also wish to seek external advice from the relevant regulatory authority, such as Safe Work.

Variations

The Council reserves the right to vary, replace or terminate this Policy from time to time.

References & Legislation

- Workplace Health & Safety Act 2011 (NSW)
- Local Government (State) Award 2020
- Local Government act 1993

Relevant Council documents

- Anti-Discrimination and Equal Employment Opportunity Policy
- Code of Conduct
- Workplace Environment Statement
- Social Media Acceptable Use Procedure