

PROCEDURE NAME	Prevention of Bullying and Harassment
DIRECTORATE	Executive – Human Resources



PURPOSE

AlburyCity is a diverse organisation where it is expected that all employees treat each other with dignity and respect, understand that everyone is different and accept that everyone has the right to feel safe and valued in the work environment. Bullying or harassment will not be tolerated in any AlburyCity workplace.

This procedure provides measures for preventing bullying and harassment and how complaints of bullying and harassment are investigated.

Note: A separate procedure covers Equal Employment Opportunity including discrimination in the workplace (DOC16/1244).

SCOPE

This policy applies to all AlburyCity employees, persons on work experience placements and volunteers.

DEFINITIONS

'Workplace bullying' is repeated unreasonable behaviour directed towards an employee or a group of employees that places the person/s in an uncomfortable situation and/or creates a risk to health and safety.

Examples of bullying include intimidation, threats, humiliation, shouting, sarcasm, victimisation, singling-out, malicious pranks, physical, abuse, verbal abuse, emotional abuse, belittling, harassment, ganging-up, isolation, freezing out, ostracism, innuendo, rumour-mongering, disrespect, mocking, victim-blaming, discrimination.

More than one instance of any of these behaviours will be required to establish that bullying has occurred.

'Reasonable managerial action' is a process, decision or action that is undertaken in a reasonable way with respect and courtesy in an assertive manner and is not bullying. Examples include:

- allocating work and setting reasonable goals, standards and deadlines;
- fairly-based decisions on promotion;
- transfer of an employee for operational reasons;
- informal counselling about unsatisfactory performance conducted in a constructive, confidential and unthreatening manner;
- disciplinary action taken in accordance with the AlburyCity Disciplinary Procedure;
- making a complaint under the AlburyCity Grievances and Disputes Procedure provided it is not malicious or vexatious; and
- organisational decisions relating to technological or structural change or redundancy based on transparent processes and a clearly defined operational rationale.

'Harassment' is any form of behaviour that is unwelcome, unsolicited, offensive, intimidating, humiliating or threatening that creates a hostile environment.

Harassment may involve a single offensive incident as construed by the recipient.

When harassment is directed at persons or groups based on one or more protected attributes in discrimination legislation, it is unlawful behaviour. Protected attributes include:

- Gender, sexual orientation, gender identity or inter sex status
- Pregnancy
- Breastfeeding
- Race or ethno-religious background
- Marital or domestic status
- Disability including infectious diseases
- Homosexuality and transgender
- Age
- Carer's responsibilities.

'Sexual Harassment' is unwelcome sexual advances, requests for sexual favours and any other form of unsolicited or unwelcome sexual conduct that a reasonable person would anticipate the possibility that the recipient would be offended, humiliated or intimidated. At the extreme, sexual harassment includes stalking and sexual assault, which are criminal matters that would normally be referred to the police.

Specifically, sexual harassment is illegal under the Sex Discrimination Act 1984 (C'wealth).

REFERENCES

Relevant Legislation:

- Age Discrimination Act (C'wealth) 2004
- Anti-Discrimination Act 1977 (NSW)
- Anti-Discrimination Amendment (Carers' Responsibilities) Act 2000 (NSW)
- Disability Discrimination Act (C'wealth) 1992
- Fair Work Act (C'wealth) 2009.
- Human Rights and Equal Opportunity Commission Act (C'wealth) 1986
- Local Government (State) Award
- Local Government Act 1993 (NSW)
- Privacy Act 1988 (NSW)
- Racial Discrimination Act (C'wealth) 1975
- Sex Discrimination Act (C'wealth) 1984
- WHS Act 2011 (NSW)

Relevant Council Policies and Procedures:

- Code of Conduct
- Disciplinary Procedure.
- Diversity Procedure
- Human Resources Policy
- Internal Investigation Procedure

ACTIVITY

1. Responsibilities

- 1.1. Manex is responsible for ensuring that:
 - Appropriate Human Resource policies and procedures are implemented;
 - AlburyCity meets its legal obligations;
 - Leaders model expected behaviours; and
 - The work environment is monitored and appropriate action is taken when required

- 1.2. The General Manager and Directors are responsible for:
 - Maintaining a positive work environment of open communication and mutual respect within their group,
 - Appointing appropriate staff to investigate allegations of bullying and harassment;
 - Determining disciplinary action where appropriate;
 - Monitoring the work environment and taking appropriate action when required; and
 - Providing advice to staff on this procedure.

- 1.3. Group Leaders/Team Leaders/Supervisors are responsible for:
 - Maintaining a positive work environment of open communication and mutual respect within their work group,
 - Modelling expected behaviours;
 - Monitoring the work environment and taking the appropriate action if required.
 - Administering this procedure, and ensuring prompt action is taken on any allegation/complaint that is lodged;
 - Providing advice to staff on this procedure;
 - Ensuring a staff member is not victimised for lodging a complaint;
 - Ensuring that complaints are appropriately investigated;
 - Maintaining confidentiality when an allegation/complaint is made;
 - Providing all necessary information during an investigation; and
 - Following up and monitoring once issues have been resolved to ensure no further problems occur.

- 1.4. Human Resources Team are responsible for:
 - Reviewing and maintaining this procedure
 - Providing advice to the General Manager, Directors, Group/Team Leaders, all supervisors, and investigators on the application of this procedure;
 - Providing advice to staff on this procedure;
 - Maintaining confidentiality regarding an allegation/complaint;
 - Providing conflict resolution and collaborative, problem solving skills training for the organisation as required;
 - Providing workplace training for all staff on prevention of bullying and harassment, particularly during orientation;
 - Arranging training and providing support for Investigators, and
 - Recording and analysis of issues for Manex.

- 1.5 Employees are responsible for:
- Contributing to the maintenance of a work environment that is free from bullying and harassment;
 - Promptly reporting instances of bullying or harassment and providing the necessary information to support the notification;
 - Maintaining confidentiality regarding a complaint;
 - Informing their Director if they experience or become aware of any victimisation of a colleague for raising a complaint; and
 - Refraining from raising malicious, frivolous or vexatious complaints.
- 1.6 Investigators are responsible for:
- Undertaking a fair, prompt, and confidential investigation of bullying and harassment complaints, in accordance with the AlburyCity Internal Investigation Procedure and having regard to the available information and Council procedures;
 - Ensuring there is awareness of confidentiality and the prohibition of retribution against any person making a complaint; and
 - Keeping appropriate and factual records.

2. Impact of Bullying and Harassment

Bullying and harassment has the potential to lead to serious consequences for employees and Council as a whole including:

- Increased levels of stress
- Reduced morale and job satisfaction
- Lower productivity
- Industrial problems, absenteeism
- Increased staff turnover
- Breakdown in communication and trust
- Potential legal action
- Potential negative public relations for the organisation
- Loss of status as an employer of choice
- Impact on employee's life/home environment.

3. Prevention of Bullying and Harassment

3.1 AlburyCity has undertaken a number of initiatives to ensure the work environment is free from bullying and harassment. These include:

- The development and implementation of this procedure;
- Establishing clear organisational vision, values and guiding principles;
- Rewarding and recognising exemplary behaviour;
- Providing EEO and Code of Conduct training to staff on commencement and at regular intervals;
- Ensuring that management decisions are fair and effectively communicated;
- Discussions of expected standards of behaviour at toolbox and group leadership meetings;
- Modelling of expected standards of behaviour by supervisors;

- Continually monitoring the work environment for signs of harassment and bullying through employee opinion surveys and exit interviews.
- 3.2 AlburyCity is a large organisation and the successful integration of a diverse range of people into the workplace depends on having the above frameworks in place, with the aim of eliminating all forms of bullying and harassment as well as having an effective process for dealing with any cases which may arise.

4. Reporting Issues

- 4.1 In the interests of prompt resolution, employees are encouraged to raise all harassment and bullying issues immediately with their supervisor, a more senior officer or with a member of the Human Resources Team, depending on the level from which the behaviour originates. It is preferred that these issues should be lodged in writing and include full details of the incident/s and identify any witnesses to assist with any subsequent investigation.
- 4.2 In all instances these issues will be treated seriously and consideration of further action depends on the nature of the allegation.
- 4.3 While a single incident does not constitute bullying it is important that these matters be addressed so that there is no escalation to bullying behaviour.
- 4.4 AlburyCity's Employee Assistance Counsellor is available to provide support to employees throughout this process.

5. Investigation of Complaints Against Staff

- 5.1 When a Director, Group/Team Leader or supervisor receives a complaint of staff bullying or harassment where appropriate the following informal process, the AlburyCity Internal Investigation Procedure or referral to an external agency will be considered. The choice between these options will be made in consultation with the relevant Director, the Group Leader Human Resources and in the case of referral to the police; it is preferable that the prior consent of the complainant is obtained.
- 5.2 In some cases a bullying or harassment issue can arise where employees feel hurt or offended by the unintentional behaviour of another person. An informal way of resolving these cases is for an appropriate senior staff member or external facilitator to meet with the employees. The complainant can explain to the person who is behaving in an inappropriate way that their actions are causing offence and should be modified or cease immediately. The offending employee is then aware that their behaviour is not acceptable and they have a chance to address the issue.
- 5.3 If the behaviour continues or the issue remains unresolved, the AlburyCity Internal Investigation Procedure would then be implemented with the support of a member of the Human Resources Team. The more serious cases of bullying or harassment are investigated using the Internal Investigation Procedure from the outset.

5.4 It should be noted that while AlburyCity's aim is to resolve all such issues internally, employees have a right to seek external assistance or refer the issue to the Anti-Discrimination Board, the NSW Ombudsman or in cases of serious sexual harassment, to the police.

6. Investigation outcomes

Following the completion of the investigation the following may be warranted:

- An apology, verbal or written
- Counselling
- Further EEO training
- Disciplinary action.

The process for implementing disciplinary action is contained in the AlburyCity Disciplinary Procedure.

7. Storage of records

7.1 It is important that relevant information on all bullying and harassment issues, no matter how minor are retained on AlburyCity's Electronic Document Management System. This could range from diary entries to more detailed file notes. All information is to be recorded in a factual and non-judgemental manner.

7.2 Once a formal investigation is complete, the Human Resources Group Leader will determine what material is stored on the complainant's and the respondent's personnel file. The Human Resources Team will ensure that all other detailed notes, statements or investigation information is filed confidentially.

8. Frivolous or vexatious complaints

Where the complaint/allegation has been deemed to be frivolous/vexatious and/or the incident did not occur, then an appropriate level of action as specified in Section 6 may be taken in relation to the complainant.

9. Appeals

Either party involved in the complaint may appeal the outcome.

The avenues for appeal will be dependent upon the circumstances of each situation (e.g. at a higher level internally or through an external agency). The Human Resources Team can provide advice on appeals.

10. Investigation of complaints against persons not within the scope of this procedure

Complaints of bullying or sexual harassment perpetrated by person/s who are not covered by the scope of this procedure should be referred to the Police, Anti-Discrimination Board or the NSW Ombudsman.

AUTHORISATION

Status	Committee	Consultative Committee - 4 August 2016
	Manex	6 September 2016
	Council	
Owner	Human Resources	
Compliance	Mandatory	
History	This is procedure was developed in 2011, formerly part of the EEO Procedure. Minor changes made in May 2012 and policy incorporated into procedure in August 2016.	
Register	This procedure is included in the Internal Policy and Procedure Register.	
Last issued	September 2016	Review September 2020
TRIM Reference	DOC16/1693	