

Respectful Behaviours

Policy 33 (C)

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1. Purpose

The Respectful Behaviours Policy is a commitment that all individuals receive fair and consistent treatment in a workplace that is free from harassment, discrimination, bullying and unfair treatment.

We are also committed to, so far as is reasonably practicable, providing a safe and healthy working environment for all employees and encouraging good working relationships between employees, contractors, volunteers, Councillors and the community. This commitment will further assist us in becoming a high performing organisation with a positive organisational culture.

This commitment is based, in part, on the need to ensure that our organisation complies with equal opportunity and occupational health and safety laws. At all times we will work in accordance with our statutory requirements under the relevant Victorian and Commonwealth legislation.

2. Scope

This policy applies to all:

- Hepburn Shire Council employees (permanent, temporary, agency, casual, full and part time);
- Councillors;
- Contractors;
- Hepburn Shire Council Volunteers;
- Work Experience Students and Trainees; and
- Members of Special Committees (section 86), advisory and reference committees.

3. Definitions

The following terms are referred to in this policy.

Term	Definition
Council	Hepburn Shire Council
Employees	Includes permanent and temporary full-time and part-time council employees, and contractors and consultants while engaged by Council.
Manager/Supervisor	Refers to your immediate manager/supervisor and/or an employee with manager status outside your Unit.

Discrimination	Discrimination is the unfavourable treatment of a person due to a protected attribute.
Harassment	Any form of inappropriate or improper behaviour which is perceived by the affected person(s) to be personally offensive, and is not wanted, not asked for and not returned or is likely to cause a hostile or uncomfortable workplace.
Sexual Harassment	Any unwelcome conduct or behaviour of a sexual nature that makes a person feel offended, humiliated or intimidated.
Bullying	WorkSafe Victoria defines bullying as 'persistent and repeated negative behaviour directed at an employee that creates a risk to health and safety'.
Victimisation	Subjecting, or threatening to subject, someone to a detriment because they have asserted their rights through appropriate legislative avenues, refused to participate in an activity as it would be considered discrimination or harassment or made a complaint.

4. Policy

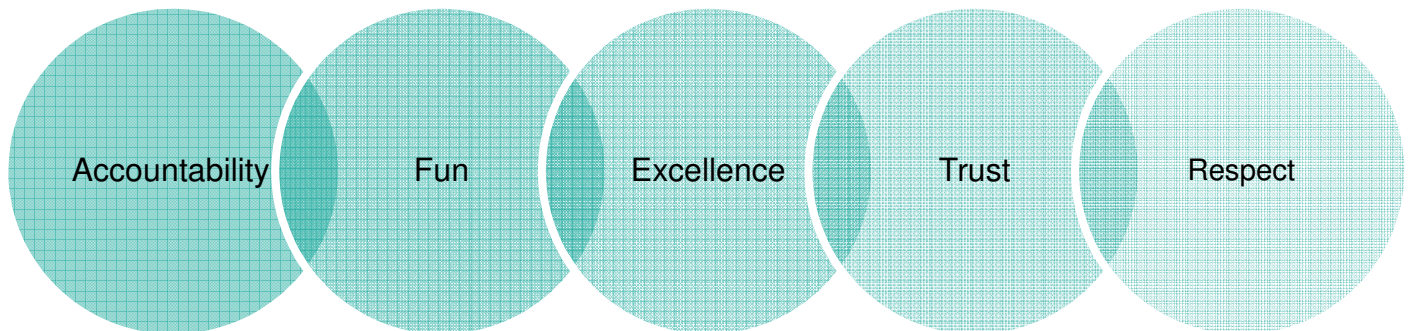
Hepburn Shire Council (Council) aims to provide a vibrant and diverse work environment where employees are able to develop both professionally and personally. Council is committed to providing a workplace free from all forms of discrimination, bullying and harassment.

This policy is a guide only and will not form part of your employment or confer contractual rights on which employees may rely. This policy may be amended from time to time.

Inappropriate behaviour such as discrimination, harassment, sexual harassment, bullying and victimisation is considered misconduct and will not be tolerated. Staff found to have either committed or condoned such behaviour in the workplace will be subject to disciplinary action which may include the termination of employment.

Hepburn Shire Council is committed to Equal Opportunity and diversity in its workplace and providing a workplace for staff which is free from all forms of discrimination, bullying and harassment. Our aim is to ensure fairness and equity in our organisation where the rights of individuals are upheld and everyone is treated with respect, fairness, equity and dignity.

Hepburn Shire Council's Values are:



On the foundation of these shared values we are building a sustainable organisation to provide services to our community, and work to achieve excellent quality outcomes. Our ultimate goal is to respect each other in all aspects of employment, training and service.

Expected Workplace Behaviours

Hepburn Shire Council expects individuals as defined by Section 2 Scope, to:

- Behave in a responsible and professional manner;
- Treat others in the workplace with courtesy and respect;
- Listen and respond appropriately to the views and concerns of others; and
- Be fair and honest in their dealings with others.

This policy applies to behaviours that occur:

- In connection with work even if it occurs outside of normal working hours;
- During work activities, for example when dealing with customers and members of the public;
- At work-related events for example at conferences and work related social functions; and
- Through communications such as email, text messaging and social media where workers interact with colleagues or customers and their actions may affect them either directly or indirectly.

Workplace bullying, discrimination, harassment and victimisation are unacceptable and illegal. Any complaint of discrimination, bullying or harassment will be treated with the upmost seriousness. Appropriate training and procedures will be put in place to ensure the workplace culture reflects Hepburn Shire Council's commitment to upholding the rights of individuals to be treated with respect, fairness, equity and dignity.

Selection of individuals for employment, promotion or advancement, training and staff development will be on the basis of professional merit, in fair and open competition according to the selection criteria, relevant/appropriate qualifications and knowledge relevant to the position.

Practices will be adopted with the aim of ensuring a workplace free from bullying, harassment and discrimination, where each person has reasonable opportunity to progress to the extent of their ability. These practices will be supported by training to raise awareness for staff in general but particularly for staff with supervisory responsibilities.

Gender Equality

Council also supports gender equality in the workplace through its membership of the Communities of Respect and Equality (CoRE) Alliance and actively applies gender equity principles and practices in the way we work.

Bullying

WorkSafe Victoria defines bullying as 'persistent and repeated negative behaviour directed at an employee that creates a risk to health and safety'.

In particular, it may involve behaviour that a reasonable person, having regard for the circumstances, would see as unreasonable because it is victimising, humiliating, intimidating or threatening.

Bullying does not have to be deliberate for conduct to constitute bullying behaviour. Workplace bullying can be carried out in a variety of ways including in person, through email, text messages, internet chat rooms, instant messaging or other social media channels. In some cases workplace bullying may escalate beyond the workplace and occur outside normal working hours.

Workplace bullying can be directed at a single employee or a group of employees and be carried out by one or more people. It can also be directed at or perpetrated by other people at the workplace, for example customers and members of the public.

According to the definition, a single incident of bullying-style behaviour does not constitute workplace bullying, however Hepburn Shire Council has a general duty of care to provide, so far as is reasonably practicable, a safe workplace and safe systems of work and therefore single incidents will not be ignored or condoned.

Bullying will not be tolerated by Hepburn Shire Council

Examples of bullying may include:

- Verbal abuse.
- Personal effects or work equipment being damaged.
- Psychological harassment and intimidation.
- Assigning meaningless tasks unrelated to a job.
- Being unreasonably threatened with dismissal.
- Giving employees impossible assignments.
- Swearing.
- Excluding or isolating employees.
- Deliberately withholding information that is vital for effective work performance.
- Being excessively supervised.
- Practical jokes.
- Deliberately changing work rosters to inconvenience particular employees.

The above list is not exhaustive; other types of behaviour may constitute bullying.

Bullying does not include reasonable management action.

Reasonable Management Action

It is reasonable for managers and supervisors to allocate work and give fair and reasonable feedback on an employee's performance. Reasonable management actions are not considered to be workplace bullying if they are carried out lawfully and in a reasonable manner, taking the particular circumstances into account.

Examples of reasonable management actions can include but are not limited to:

- Setting reasonable performance goals, standards and deadlines;
- Rostering and allocating working hours where the requirements are reasonable;
- Transferring an employee for operational reasons;
- Deciding not to select an employee for promotion where a reasonable process is followed;
- Informing an employee of their unsatisfactory work performance;
- Informing an employee of their unreasonable or inappropriate behaviour in an objective and confidential way;
- Implementing organisational changes or restructuring; and/or
- Taking disciplinary action up to and including suspension or termination of employment.

Workplace Conflict

Differences of opinion and disagreements are generally not considered to be workplace bullying. People can have disagreements in the workplace without engaging in repeated negative behaviour that creates a risk to health and safety. However in some cases, conflict that is not managed may escalate to the point where it meets the definition of workplace bullying.

Equal Opportunity

The Equal Opportunity Act 2010, Victoria's antidiscrimination law, protects people from discrimination and harassment in a wide variety of settings including workplaces, schools and goods and services provision. Similar protections exist under federal anti-discrimination legislation. Equal opportunity is about giving and getting a fair go. It does not assume everyone is the same and it does not mean treating everyone the same.

Discrimination

Discrimination is unfavourable treatment of a person in an area of public life (for example, at work) due to one of their personal attributes protected by law.

Area of Public Life

Under the Equal Opportunity Act 2010 discrimination is against the law when it occurs in an area of public life. These public areas include:

1. Employment (and all work-related matters);
2. Provision of goods or services (whether paid or free);
3. Education;
4. Accommodation;
5. Sport;
6. Disposal of land (selling land by auction or public sale);
7. Clubs and club membership; and
8. Local government.

Personal Attributes Protected By Law

In the areas of public life listed above it is against the law to treat someone unfavourably on the basis of particular personal attributes protected by the law.

Protected Attributes include:

- Disability
- Gender
- Race
- Marital status
- Age
- Parental and Carer status
- Industrial activity
- Pregnancy & breastfeeding
- Lawful sexual activity
- Physical features
- Sexual orientation
- Political belief or activity
- Religious belief
- Employment activity
- Personal association

The anti-discrimination legislation details two types of discrimination:

- Direct discrimination; and
- Indirect discrimination.

Direct Discrimination is when a person treats or proposes to treat a person with a protected personal attribute unfavourably because of that personal attribute. Direct discrimination often happens because people make unfair assumptions about what people with certain personal attributes can and cannot do. Direct discrimination can be intentional and unintentional.

Indirect discrimination is also against the law and refers to situations where treating everyone the same is unfair. This occurs when an unreasonable requirement, condition or practice that purports to treat everyone the same ends up either actually or potentially, disadvantaging someone with a personal attribute protected by the law.

Discrimination will not be tolerated by Hepburn Shire Council

Unfavourable Treatment

For discrimination to be against the law there needs to have been (or proposed to be) some unfavourable treatment. In the area of employment unfavourable treatment may include:

- Bullying or harassment;
- Being denied or refused a benefit that is made available to others;
- Unfair allocation of tasks;
- Unfair rostering; and/or
- Exclusion from essential communications.

The above list is not exhaustive; other types of behaviour may constitute unfavourable treatment.

Harassment

Harassment is any form of inappropriate or improper behaviour which is perceived by the affected person(s) to be personally offensive and is not wanted or asked for and/or is likely to cause a hostile or uncomfortable workplace by:

- Intimidation, abuse or assault;
- Any form of bullying;
- Seriously embarrassing or offending someone;
- Offensive jokes, posters, e-mails, suggestions or derogatory comments about physical appearance or culture; and
- Unsubstantiated allegations.

Harassment may be initiated by an individual or a group of individuals. It may occur whilst at work, outside the workplace at functions connected with work and/or outside work during non-business hours in an employee's personal time.

Sexual Harassment

Sexual harassment is any unwelcome conduct or behaviour of a sexual nature that makes a person feel offended, humiliated or intimidated. Unwelcome conduct means that the person did not invite the conduct. It can be a single incident or repeated behaviour.

Sexual harassment is unlawful under the *Sex Discrimination Act 1984 (Cth)* as well as the Equal Opportunity Act in Victoria. Unless the Hepburn Shire Council has taken all reasonable steps to prevent an employee from committing acts of sexual harassment in connection with their employment, the Hepburn Shire Council will be vicariously liable for that conduct.

Sexual harassment can be physical, verbal or written and it can be obvious or indirect. It can include words or statements which are transmitted by post, phone, fax, text message, video, e-mail, computer servers, screensavers or otherwise displayed in the workplace. The intention of the perpetrator and the gender and/or sexual orientation of the perpetrator or victim are irrelevant.

Sexual harassment does not have to be directed at a particular individual to be unlawful. Behaviour which creates a hostile working environment for other workplace participants can also be unlawful.

Sexual harassment may be initiated by an individual or a group of individuals. It may occur whilst at work, outside the workplace at functions connected with work and/or

outside work during non-business hours in an employee's personal time.

The Human Rights Equal Opportunity Commission and various Equal Opportunity Tribunals have constituted that sexual harassment includes the following:

- Sexual jokes, offensive telephone calls, e-mails, displays of obscene or pornographic photographs, pictures, posters, audio or video tapes, reading matter or subjects;
- Sexual propositions or persistent requests for dates;
- Unwelcome physical contact such as patting, pinching or touching in a sexual way;
- Intrusive remarks, questions or insinuation about a person's sexual or private life;
- Comments about a person's appearance or body;
- Indecent or inappropriate exposure, unfastening of clothing;
- Sexual assault and rape (sexual assault and rape are criminal offences and the victim should report the offence to police);
- Demands that certain sexually suggestive clothing be worn;
- Sexual intercourse under threat of loss of employment.

**Harassment of any type including sexual harassment
will not be tolerated by Hepburn Shire Council**

Victimisation

Victimisation is subjecting or threatening to subject someone to a disadvantage because they have asserted their rights under equal opportunity law, made a complaint, helped someone else make a complaint or refused to do something because it would be considered discrimination, sexual harassment or victimisation.

Victimisation is against the law. An example of victimisation is where an employer terminates a person's employment after they complain of sexual harassment.

Victimisation will not be tolerated by Hepburn Shire Council

5. Responsibilities

Any groups as set out in section two have a legal responsibility to reasonably care for their own health and safety and that of others in the workplace and therefore must not engage in acts which constitute a breach of this policy. In addition, employees are required to follow instructions given by their supervisor/manager relating to the prevention of workplace injuries and illnesses. This applies to measures to prevent workplace bullying, harassment and discrimination which includes monitoring the work environment to ensure acceptable standards of conduct are observed at all times.

Any groups as set out in section two are responsible for promoting this policy by ensuring they:

- Comply with and demonstrate a commitment to the Respectful Behaviours Policy;
- Treat others with respect and courtesy;
- Discuss any issues or concerns you may have about equal treatment with your manager/supervisor;
- Understand how our behaviour and attitudes can impact on others;
- Report incidences of bullying, harassment or discrimination to the appropriate manager or supervisor; and
- Fully participate in any investigation into an incident of bullying, discrimination or harassment and maintain strict levels of confidentiality.

If you observe an incident in which another employee is being bullied, discriminated against or harassed, you have a responsibility to bring it to the attention of your Manager/Supervisor. Further, any staff member found to have condoned and participated in such behaviour in the workplace may be subject to disciplinary action which may include the termination of employment.

If you become the subject of a formal bullying, discrimination or harassment complaint, you are responsible for ensuring that you:

- Cooperate with the investigation and resolution processes;
- Provide a written or verbal response to the complaint if requested; and
- Provide all relevant facts and information to your knowledge to the person conducting the investigation.

Supervisor/Management responsibility

Managers/supervisors have a responsibility to address inappropriate or unfavourable behaviours in the workplace even if a formal complaint has not been made. The manager or supervisor should always be alert to any practices, attitudes or

behaviour/s that disadvantage others or create an atmosphere where inequality, harassment or bullying can occur.

A manager or supervisor should address inappropriate behaviour or comments by:

- Treating these concerns seriously by seeking to understand the perceived unfavourable behaviours;
- Having an informal discussion about values, rules and behaviour directly with the person or indirectly at a staff meeting; and
- Reminding staff about Council's Respectful Behaviours policy and Code of Conduct.

Councillor Responsibility

In addition to this policy and relevant legislation, Councillors also have a responsibility to abide by the Councillor's Code of Conduct and the Councillor Staff Relationships Policy.

The Role of Occupational Health & Safety (OH&S) Representatives

OH&S Representatives can raise issues on behalf of other employees in the workplace. They can also give advice to other staff on how to approach an issue. The OH&S Representative is not responsible for resolving the matter.

The Role of Contact Officers

Contact Officers are available in different Council locations to provide support and information to employees on matters relating to discrimination, harassment and/or bullying. Staff may find these people preferable to speak to, at least initially, with any concerns they may have regarding inappropriate workplace behaviours. A Contact Officer can give you confidential information about the best way to tackle your problem and where you can go if you need more help.

It is not the role of the Contact Officer to investigate or resolve your complaint but to provide initial advice.

The role of the Contact Officer is defined in detail in the Contact Officer Information document available on Council's intranet. The names of Contact Officers are also listed in that document.

6. Confidentiality

Anyone involved in a complaint of bullying, discrimination or harassment or its investigation, must ensure that the circumstances and facts of the complaint are disclosed only to those people who are directly involved in progressing it

investigation and resolution, or have a 'need to know'. In particular, it is important that staff who either make a complaint, or may be witnesses to the circumstances giving rise to the complaint, do not discuss the matter outside the investigation and resolution processes.

7. Complaints Resolution Process

If you feel you are being bullied, harassed or discriminated against and are not comfortable dealing with the problem yourself or your attempts to do so have not been successful, you should raise the issue with your manager/supervisor, Director, Contact Officer, OH&S Representative or another manager or Director at Council. If you are a member of a Union you may also raise any issues with your delegate.

To find out more information including how to make a complaint please see:

- *Responding to Bullying in the Workplace Procedure* for complaints related to bullying in the workplace; or the
- *Staff Grievance Resolution Procedure* for all other complaints.
- Councillors may refer to the *Councillor Code of Conduct: Clause 10 – Dispute Resolution Procedure*.

Responding to a complaint

Discrimination, harassment or bullying of any kind is unacceptable and complaints in relation to bullying, discrimination or harassment will be treated and dealt with seriously, confidentially and as quickly as possible.

Responses to such complaints however will vary depending on factors such as the situation, the number of parties involved and the nature of the people involved in the complaint.

It is important to note however that Hepburn Shire Council may not be able to effectively assist you to deal with a complaint where:

- The complaint has been satisfactorily dealt with or resolved previously (unless another bullying/discriminating/harassing incident has occurred since);
- The complaint is made anonymously without sufficient detail being provided so as to allow investigation or resolution of the matter;
- The complaint is frivolous, vexatious or malicious. For example where false or misleading information is provided, relevant information is withheld, facts are distorted or there is no demonstrated commitment to resolution. (Note: Depending on the circumstances, these types of complaints could lead to disciplinary action up to and including termination against the person making the complaint); and

- The complaint does not constitute bullying, discrimination or harassment as defined by relevant legislation.

8. Breaches of this Policy

Appropriate disciplinary action will be taken against any person or group as defined in section two who is found to have breached this policy in line with the relevant provisions of Council's Enterprise Agreement, employment and other relevant legislation and Council policies and procedures. These measures will depend on the nature and circumstances of each breach and could include:

- Participation in a mediation process which may lead to a verbal or written apology;
- One or more parties agreeing to participate in counselling or training;
- A verbal or written warning; and/or
- Dismissal of the person/s engaging in inappropriate behaviour.

Councillors found to have breached this policy will be treated in accordance with the Councillor Code of Conduct, Councillor Staff Relationship Policy and other relevant Acts and legislation.

9. Implementation

Following adoption by Council all staff are required to complete online training of the Respectful Behaviours Policy. It is the responsibility of the engaging Council officer to ensure volunteers, contractors, committees or any other group engaged by Council are briefed on the Respectful Behaviours Policy.

A copy of the Respectful Behaviours Policy is on the Hepburn Shire Council website and is available to all staff via the intranet.

Further information on bullying can be obtained at www.fairwork.gov.au or www.worksafe.vic.gov.au. Further information on unlawful discrimination and harassment can be found at www.fairwork.gov.au or www.humanrightscommission.vic.gov.au.

10. Review and Monitoring

This policy will be reviewed every four years or sooner if required by legislation or organisational changes.

Version	Change/ Review details	Author / Reviewer	Date of Release	Authorised by
1.0	Revised and amended	Human Resources Manager	April 2012	CEO
2.0	Revised and amended	Human Resources Manager	February 2014	CEO
3.0	Revised and amended/ new template	Manager People and Culture	May 2019	Adopted by Council on 21 May 2019

11. References

- Policy 57 - Employee Code of Conduct
- Policy 37 - Councillor / Staff Relationships
- Policy 4 - Communication and Consultation
- Policy 47 - Councillor Code of Conduct
- EO-101 - Issue Resolution Procedure
- OHS-142 - Workplace Bullying & Violence
- Equal Opportunity Act 2010
- Occupational Health and Safety Act 2004
- Racial and Religious Tolerance Act 2001
- Age Discrimination Act 2004
- Disability Discrimination Act 1992
- Human Rights and Equal Opportunity Commission Act 1986
- Racial Discrimination Act 1975
- Sex Discrimination Act 1984
- Fair Work Act 2009