

Equal Employment Opportunity Management Plan

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INTRODUCTION

1. Legislative Responsibility

Under the Western Australian Equal Opportunity Act, 1984 (Part IX) it is the responsibility of Local Government Authorities to prepare and implement an equal employment opportunity management plan to achieve the objects of the Act. These objects are:

- a) to eliminate and ensure the absence of discrimination in employment on the ground of sex, marital status, pregnancy, family responsibility or family status, sexual orientation, race, religious or political conviction, impairment or age;
- b) to eliminate and ensure the absence of discrimination in employment against gender reassigned persons on gender history grounds; and
- c) to promote equal employment opportunity for all persons.

2. Discrimination

Discrimination is deemed to have occurred where the "discriminator" treats an "aggrieved person" less favourably than in the same circumstances the discriminator treats or would treat another person in any of the areas covered by the Act, and is defined as:

- a) Direct Discrimination

"Any decision or action which specifically excludes a person or group from benefit or opportunity, or significantly reduces their chances of obtaining it, because a personal characteristic, irrelevant to the situation, is applied as a barrier."

- b) Indirect Discrimination

"Rules, policies and procedures that appear neutral but incorporate attitudes and assumptions which disadvantage a particular group."

- c) Systemic or Structural Discrimination

"The result of interaction of a range of objective practices sanctioned by custom and may be recognised by analysing statistical data."

3. Harassment

Harassment is defined as unwelcome, offensive actions or remarks concerning a person's sex, marital status, pregnancy, race, colour, language, ethnicity, disability, impairment, or religious political conviction.

Harassment is deemed to have occurred, not as a result of a one off or occasional comment or remark, but repeated or continual harassment, as defined.

4. Complaint Machinery

The legislation provides its own machinery for processing complaints which is distinct from the existing legal system. Complaints are referred to the Equal Opportunity Commissioner who attempts to settle by conciliation. If the Commissioner fails to settle the matter it may be referred to the State Administrative Tribunal which may:

- a. Dismiss the Complaint.
- b. Order Respondent to cease conduct or redress any loss.
- c. Order Respondent to pay damages.

A party aggrieved by a decision of the Tribunal may appeal under Section 105 of the State Administrative Tribunal Act 2004.

EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT

POLICY OBJECTIVES

Shire of Narembeen is committed to providing a working environment where every employee is treated equally, fairly and without prejudice.

POLICY SCOPE

This Policy applies to all employees of the Shire of Narembeen.

POLICY DETAIL

Unlawful Discrimination

An employee is directly discriminated against if they are treated less favourably than another person in the same or similar circumstance, because of any one of the grounds of discrimination outlined below. Indirect discrimination can occur where a practice or requirement is imposed upon all employees but where a high proportion of employees with a protected ground cannot comply with, or are affected by, that practice or requirement.

Shire of Narembeen acknowledges its responsibilities and obligations pursuant to the *Equal Opportunity Act 1984 (WA)*, *Racial Discrimination Act 1975 (Cth)*, *Disability Discrimination Act 1992 (Cth)*, *Age Discrimination Act 2004 (Cth)*, *Australian Human Rights Commission Act 1986 (Cth)* and the *Sex Discrimination Act 1984 (Cth)* (except for sections 14 and 28B of that Act).

The following is a non-exhaustive list of the grounds of discrimination for which it is unlawful to discriminate against an individual:

- age;
- family responsibility or status;
- race, colour, or ethnic origin;
- sex including gender identity, sexual orientation, and intersex status;
- physical or mental disability;
- marital status;
- political or religious conviction;
- pregnancy or breastfeeding;
- criminal record;
- gender history;
- impairment;
- national extraction or social origin; and
- trade union activity.

Harassment

The *Equal Opportunity Act 1984 (WA)* provides that it is unlawful to engage in sexual harassment. Sexual harassment can be defined as any unwelcome conduct of a sexual nature, such as an unwelcome sexual advance or an unwelcome request for sexual favours, in circumstances in which

a reasonable person would anticipate that the person harassed would be offended, humiliated, or intimidated. Examples of sexual harassment include, but are not limited to:

- physical contact (touching, rubbing, patting, embracing, brushing up against)
- gestures of a sexual nature
- leering or staring
- offensive telephone calls, emails, text messages or notes
- sexual suggestive jokes or comments
- sexually explicit posts on social networking sites
- tales of sexual exploits
- repeated requests for a date
- unwelcome comments or questions about a person's sex life, appearance, or dress
- displaying sexually graphic material (cartoons, graffiti, messages, emails)

Just because someone does not object to inappropriate behaviour in the workplace at the time, it does not mean that they are consenting to the behaviour.

Bullying

Bullying is defined as repeated and unreasonable behaviour directed towards an employee or a group of employees that creates a risk to health and safety.

Unreasonable behaviour amounts to behaviour that a reasonable person in the circumstances would see as unreasonable including behaviour that is victimising, humiliating, intimidating, or threatening.

Bullying is also unlawful under the *Workplace Safety and Health Act 2021* (WA) and the associated regulations. Examples of bullying include, but are not limited to:

- loud, abusive, or offensive language or comments;
- yelling and screaming;
- unjustified criticism and insults;
- unjustified threats of dismissal or other disciplinary action;
- acts of sabotaging another's work by withholding information which is required to fulfil tasks;
- spreading malicious rumours or misinformation;
- inappropriate comments about an employee's appearance, lifestyle, or family;
- deliberately excluding an employee from workplace meetings or activities;
- hiding documents or equipment or withholding vital information required for effective work performance;
- constantly changing targets or work guidelines;
- overloading an employee with work and impossible deadlines;
- setting tasks that are unreasonably below or beyond an employee's level of skill;
- threats of assault or violence or actual violence;
- teasing and practical jokes; and
- isolating or ignoring an employee on a constant basis.

Where an employee makes a threat of violence or assaults another employee, the police will be called.

There are a variety of ways bullying behaviour can occur in the workplace such as verbally, through email or text message or via social media. Bullying can be directed at an individual employee or a group of employees and can be conducted by one or more employees.

Bullying can occur between employees, downwards from managers or supervisors to employees or upwards from employees to managers or supervisors.

The Shire has the right to take reasonable management action to direct the way in which work is conducted and to give employees lawful and reasonable directions to complete work in a certain manner. Reasonable management action is not workplace bullying. Examples of reasonable management action include, but are not limited to:

- the establishment and regular use of performance management systems;
- the setting of reasonable performance targets and deadlines;
- providing employees with constructive feedback or counselling to assist workers to improve; their work performance or the standard of their behaviour;
- issuing a lawful and reasonable direction to an employee to complete a work task;
- preparing and amending a roster for employees;
- transferring an employee to a different work location for operational reasons;
- implementing organisational change;
- informing an employee about inappropriate behaviour in a confidential manner, and
- taking disciplinary action against an employee.

Where two or more employees have a difference of opinion and disagree on an issue, this is not usually considered to be workplace bullying. However, where conflict escalates and is repeated, it may meet the definition of workplace bullying.

Bullying does not occur where the bullying behaviour is a one-off occurrence and if that behaviour does not create a risk to health or safety.

Roles and Responsibilities

The Shire of Narembeen will endeavour to:

- provide all workplace participants with a workplace free from discrimination, sexual harassment, and bullying;
- provide and maintain safe systems of work;
- provide a fair and effective procedure to investigate and resolve complaints of sexual harassment, discrimination, and bullying;
- treat all employees fairly; and
- take suitable disciplinary action against any employee who is found to have sexually harassed, discriminated, bullied, or victimised another employee.

All employees, contractors and volunteers are required to:

- report any incidents of sexual harassment, discrimination or bullying they may see happening around them to the employee's line manager or other appropriate manager;
- follow all policies and procedures of the Shire of Narembeen;
- ensure they do not victimise any person making a complaint of sexual harassment, discrimination, or bullying; and
- treat all employees fairly and with respect.

Employees should be aware that discrimination, bullying and sexual harassment may expose them individually to legal action.

Support

Refer to the Grievance Policy and Procedure for steps to take if you think you are being discriminated against, sexually harassed, or bullied, or if you suspect another employee is experiencing any of those things.

The Shire of Narembeen engages the services of an external Employee Assistance Provider who can provide employees with confidential counselling. Please see Human Resources for details of the Employee Assistance Provider.

Consequences of Breaching this Policy

Any breach of this policy may result in disciplinary action up to and including termination of employment.

RELATED LEGISLATION

Age Discrimination Act 2004

Australian Human Rights Commission Act 1986

Crime and Misconduct Act 2003

Disability Discrimination Act 1992

Equal Employment Opportunity Act 1984

Fair Work Act 2019

Human Rights and equal Opportunities Commission Act 1986

Racial Discrimination Act 1975

Racial Hatred Act 1995

Sexual Discrimination Act 1984

Workplace Safety and Health Act 2021 (WA)

OTHER RELATED POLICIES/KEY DOCUMENTS

Code of Conduct

Grievance Policy and Procedure

AWARENESS RAISING

1. Objective

To raise the awareness, of the Councillors and Employees of the need and desirability of Equal Employment Opportunity (EEO) practices and to endeavour to ensure compliance with the requirements of the Equal Employment Opportunity Act 1984.

2. Action Plan

Responsible Officer

The Executive Manager Corporate Services (EMCS), as appointed by Chief Executive Officer, will be the EEO Officer responsible for raising awareness of Councillors and Staff to EEO issues. This Officer is also responsible for implementing and raising awareness of Shire's EEO Management Plan, and the ongoing work associated with the implementation of the Plan.

Staff Training

As part of the ongoing commitment to Equal Employment Opportunity, an EEO component, where considered appropriate by the CEO, will be introduced into staff training.

Training courses held by other appropriate organisations will also be attended by Councillors and staff, where this is considered necessary by the Council and the Chief Executive Officer.

Organisation Structure

The attached outlines the organisational structure and schedule of occupations for the Council's workforce. Both the flow chart and the schedule of occupations will be reviewed annually in conjunction with the general review of the EEO Plan.

Advice

As and/or when considered necessary by either the CEO or the EEO Officer, EEO awareness will be raised using any of the following methods:

- preparation of notices for both Councillors and Staff;
- inclusion of EEO issues in staff training;
- inclusion of EEO issues on the agenda for staff meetings (when necessary); and
- accepting feedback from Staff to Management.

Complaints

All complaints will be recorded by the EEO Officer. The complainant will be advised of all avenues to have the complaint heard if dissatisfied with the decision or actions of the EMCS; or any other party to the dispute, in accordance with the complaint machinery as detailed in the introduction to this plan.

PERSONNEL PRACTICES AND POLICIES

From the date of acceptance/implementation of the EEO Management Plan all policies or practices adopted by Council, as recorded in the Council's Minutes, shall be deemed amended in so far as any section that is discriminatory under the Equal Opportunity Act or this Management Plan, will be deleted.

The Operational Policies and Procedures of other Local Government Authorities will be monitored, and where practical and deemed appropriate implemented by this Council and incorporated in this Plan.

Complaints, problems, or queries, in relation to personnel policy and practices, will be considered by the EEO Officer, who will make recommendations to Council.

1. Recruitment

All advertised vacancies, descriptions and titles are to be non-discriminatory, and all recruitment practices are to be fair and shall not contain any discriminatory requirements or conditions.

2. Appointment, Promotion and Transfer

Council is to appoint the most suitable person to the position of Chief Executive Officer.

Such appointment is to be based on Experience, Expertise, Skills and, Qualification, and such other criteria as deemed relevant by Council.

The most suitable person for a Position is to be appointed by the Chief Executive Officer to all other positions in the organisation except the Chief Executive Officer's Position. Such appointments are to be based on qualifications, skills, expertise, experience, aptitude, and such further criteria as is deemed relevant by the Chief Executive Officer. All administrative forms are to be reviewed for relevancy and discriminatory phrasing or requirements deleted. Job Descriptions and Duty Statements are to be drawn up where necessary and reviewed regularly for accuracy.

Qualification requirements for each position are to be reviewed prior to Advertising a Vacant Position for validity, relevance, and non-discrimination. All applicants for any position are to be kept fully informed in writing of the outcome of the selection procedure.

3. Training and Development

The CEO encourages participation by any employee in any relevant course of study or training and reserves the right to apply study requirements or qualification standards to a particular position. The requirements and/or standards shall not be onerous or excessively high and shall be relevant to the position and subject to negotiation with the prospective employee before imposition. The CEO's requirements must be stated briefly in any advertisement for the position and discussed with the prospective employee prior to interview and/or appointment. Relevant training courses should be publicised to all appropriate employees when the course is acceptable in all respects (for example timing, cost) and where possible, multi-skilling is encouraged.

4. Conditions of Service

Benefits and/or entitlements are to be consistent throughout the workforce and without restriction. Adequate and safe facilities such as amenities, toilets, and work areas are to be provided by Council. Inconsistencies in allowances, entitlements, expenses permitted, or rates of pay are not permitted.

5. Exit Interviews

Wherever possible and practicable, staff leaving the employ of the Shire are to be given the opportunity to comment on all aspects of their employment with this Shire, including EEO issues. These comments are to be recorded and reviewed in conjunction with existing policy and practices along with periodical reviews of existing policy and practices.

DEMOGRAPHIC PROFILE OF EMPLOYEES

To enable effective management and to assist in the elimination of discrimination in employment, Personnel Data will be collected from all staff members:

- On appointment to a position with the Shire; and
- Annually in June.

Data required incorporates statistics relevant to discrimination on grounds covered by the Equal Opportunity Act.

Specifically, the data includes will include age, employment status and type, gender, length of employment, occupation, and salary.

1. Responsible Officer

The EEO Officer for this Shire is responsible for the preparation and circulation of the demographic profile to all present and future employees.

Confidentiality of the employee is to be ensured by the EEO Officer and the appropriate storage of completed forms in accordance with Council's Recordkeeping Plan.

2. Review of Data

Aggregated information from the demographic survey, from present employees, is attached as an appendage to this Plan.

Changes to the demographic profile of employees is to be aggregated annually. This information will be monitored by the Chief Executive Officer to determine any trends shown by the demographic profile. The Chief Executive Officer will make recommendations to Council, where appropriate, on the implementation of strategies to overcome deficiencies in EEO, revealed by analysis of the demographic profile.

AGGREGATED DEMOGRAPHIC PROFILE OF EMPLOYEES
as at 30 June 2023

All Employees	Representation	Equity Index
Headcount	32	N/A
FTE	24.2	N/A
Women	43.8%	74
People with disability	0.0%	0
Aboriginal Australians	3.10%	2
People from culturally and linguistically diverse backgrounds	0.0%	2
Youth	0.0%	N/A
Mature employees	62.5%	N/A
Women in tier 1 management	0.0%	N/A
Women in tier 2 management	0.0%	N/A
Women in tier 3 management	N/A	N/A
Indoor Workers	Representation	Equity Index
Headcount	31	N/A
FTE	27.5	N/A
Women	48.4%	79
People with disability	0.0%	N/A
Aboriginal Australians	0.0%	N/A
People from culturally and linguistically diverse backgrounds	9.7%	172
Youth	3.20%	N/A
Mature employees	64.5%	N/A
Women in tier 1 management	100%	N/A
Women in tier 2 management	0.0%	N/A
Women in tier 3 management	0.0%	N/A

Further information as at 30 June 2024

Gender and Salary

Gender Salary (or Annual Equivalent if Part Time)	Female		Male		Total	
	No.	%	No.	%	No.	%
Level 1 < \$59,000	5	33.3	1	6.25	6	19.35
Level 2 \$59,001 - \$67,000	5	33.3	0		5	16.13
Level 3 \$67,001 - \$76,000	4	26.7	11	68.75	15	48.39
Level 4 \$76,001 - \$85,000			2	12.50	2	6.45
Level 5 \$85,001 - \$96,000						
Level 6 \$96,001 - \$115,000						
Level 7 \$115,001 - \$131,000			2	12.50	2	6.45
Level 8 \$131,001 - \$150,000						
Level 9 \$150,001 - \$170,000	1	6.7			1	3.23
Level 10 \$170,001 and above						
Total	15	100%	16	100%	31	100%

Gender and Occupation

Gender Occupation	Female		Male		Total	
	No.	%	No.	%	No.	%
Admin/ Management	9	66.66	2	12.50	11	35.48
Environment	-	-	-	-	-	-
Community/Youth	4	26.7	-	-	4	12.90
Child Care	-	-	-	-	-	-
Medical	-	-	-	-	-	-
Works	-	-	10	62.50	10	32.26
Parks & Gardens	-	-	3	18.75	3	9.68
Cleaner	2	6.7	1	6.25	3	9.68
Total	6	100%	16	100%	31	100%

Gender and Employment Type

Gender Employment	Female		Male		Total	
	No.	%	No.	%	No.	%
Full Time	6	40.00	14	87.5	20	64.52
Part Time	9	60.00	2	12.5	11	35.48
Casual	0	0.00	-	0.00	0	0.00
Total	6	100%	8	100%	31	100%

EEO PLAN REVISION

The Plan is to be reviewed annually, by the EEO Officer unless special issues require earlier changes by Council. Administrative forms and practices, as necessary, will also be reviewed by the EEO Officer.

1. Annual Review

Consideration of reports, complaints and amendments made during the year and assessment of consistency with the Plan as a whole, will be undertaken. Comments and advice will be sought from Councillors, employees, and other local authorities as appropriate.

A complete and updated copy of the Plan is to be supplied to Councillors and staff upon request and must be placed on Council's Shire Website.

2. Report to Director

The Chief Executive Officer shall report annually to the Director of Equal Opportunity in Public Employment under Section 146 (1) of the *EEO Act*.

INTERNAL GRIEVANCE PROCEDURES

1. Objective

To ensure that this Council's work environment is discrimination and harassment free.

2. Grievance Officer

For the purpose of these procedures, the Shire of Narembeen Grievance Officer shall be the Executive Manager Corporate Services.

A Complainant will be advised that if they so wish, their complaint may be referred to the CEO. Upon such a request to the EEO Officer / Grievance Officer, the CEO or other suitably qualified person shall hear the complaint and act upon that complaint in accordance with the responsibilities and procedures detailed below for the Grievance Officer. The Grievance Officer and CEO will, where necessary, be provided with training in the procedures for resolving grievances.

3. Responsibilities of Grievance Officer

Again, due to the size of this Council's workforce, it shall be the responsibility of the EEO Officer and/or the Grievance Officer to be aware of the requirements of these procedures.

4. EEO Office and Grievance Officer

- a) Have a working knowledge of the Equal Opportunity Act and a clear understanding of what constitutes harassment and/or discrimination. Also be familiar with the dispute settlement procedures set out in the relevant Awards;
- b) Set an example of proper standards of conduct in the workplace;
- c) Provide current and future Councillors and staff members with information on what constitutes discriminatory or harassment acts, and inform them that this Shire disapproves such conduct;
- d) Advise all employees that they do not have to tolerate discriminatory acts or harassment within their workplace, and advise them of the grievance procedures;
- e) Assist complainants to choose an appropriate course of action to resolve a complaint and to follow through with the chosen course of action;
- f) Closely monitor any incidents of discrimination or harassment and bring Council's policy regarding proper standards of personal conduct in the workplace to the attention of the employee;
- g) Ensure that the interest and rights of both the complainant and the employee(s), against whom the allegation are being made, are protected; and
- h) Ensure that complete confidentiality is maintained and take no action on a complaint within the complainant's consent.

5. Procedure on Receiving a Complaint

- a) Assure complainant that confidentiality will be maintained, that victimisation of the complainant will not be tolerated, and that further procedures will only be undertaken with the complainant's consent.
- b) Clarify the facts of the complaint in so far as they can be established without further investigation.
- c) Take brief but accurate notes using the complainant's own words where possible. Check all details with the complainant.
- d) Clarify the options available to the Complainant's and the actions, which the complainant or grievance officer could take, for example:
 - (i) the Complainant could make it clear to the other party that their behaviour is unwelcome and request that it cease;
 - (ii) the Complainant could contact their Union or the Equal Opportunity Commission; or
 - (iii) The Grievance Officer could proceed with an investigation of the complaint. This is not to occur without the written consent of the complainant.
- e) If the complainant wishes to proceed with an investigation in the first instance, it is undertaken with Confidentiality. It should be recognised that all persons have the right to a fair hearing conducted in a non-accusative and non-judgmental manner.

6. Steps to be taken to Resolve Complaints

Within 14 days of a written request, by the complainant, that they wish their complaint to be acted upon, the Grievance Officer shall:-

- a) Interview in an impartial manner, the employees against whom the allegations have been made;
- b) State exactly what it is they are accused of doing;
- c) Provide the opportunity for the person/s to respond fully to the allegations;
- d) Interview any witness to the incidents under investigation;
- e) Check the work record of the Complainant to see if any alleged employment disadvantages are evident;
- f) Make it clear to all people involved in the investigation that it is unlawful to victimise another person in relation to a complaint.

7. Resolution of a Grievance:

- a) If the grievance is not substantiated, explain the reasons for this finding to both parties. An example of such a finding may be that there is no evidence to support the complaint or the conduct does not amount to discrimination under the Equal Opportunity Act. The complainant should be told again of their right to take the complaint to their Union or the Equal Opportunity Commission if they are not satisfied.

- b) If the grievance is substantiated, tell both parties of this conclusion and the reasons for it.

Decide on immediate and appropriate steps to prevent the behaviour from reoccurring.

In most cases it should be sufficient to counsel the employee or employees concerned and exercise closer supervision in the work area.

All note, records, statements etc. pertaining to the investigation of any complaint are to remain confidential to the EEO Officer, where appropriate.

Where formal disciplinary action is necessary the steps outlined in the award relevant to the employee should be observed.

Reference: - Dispute Settlement Procedures

- Local Government Industry Award 2010: Part 2 / Clause 8