



ADMINISTRATIVE POLICY

Fair Treatment

Policy Number:	PO026		
Strategic Plan Objective:	Goal 5 - Responsible Governance		
Policy Owner:	Chief Executive Officer	Record Number:	16/13909 v3
Responsible Officer:	Manager People, Culture and Safety	Minute Reference:	CMT: 14/11/2019
Date Adopted:	14/11/2019	Next Review Date:	14/11/2023

1. POLICY OBJECTIVES

The Yorke Peninsula Council (Council) promotes the recognition, acceptance and right of all people to be treated with fairness, equity and justice. The Council does not condone or tolerate unfair treatment and is committed to ensuring that the workplace is free from harassment, bullying and inappropriate behaviour. In line with legislative requirements, this policy will:

- Inform all employees of their rights and obligations;
- Ensure employees recognise the behaviours that may constitute unlawful unfair treatment and are educated in the prevention of such behaviours;
- Ensure as far as reasonably practicable that persons who report instances of unlawful and unfair treatment to Council are protected from victimisation or reprisals; and
- Addresses the consequences of breaches of this policy, which are to be dealt with fairly, promptly, impartially and confidentially.

2. SCOPE

This policy sets out behavioural standards and compliance with anti-discrimination and equal opportunity laws required by all employees in their interactions with other employees and members of the public whilst undertaking their duties. This Policy should be read in conjunction with Councils Employee Code of Conduct Policy (PO014).

Complaints of bullying, harassment or discriminatory behaviour by or against employees are dealt with under this Policy and will be subject to disciplinary action. This policy does not deal with complaints made by members of the general public.

Any employee found to make a false or malicious complaint, will be subject to disciplinary action in line with Councils Support, Disciplinary and Performance Management Policy (PO146).

3. DEFINITIONS

Definitions are provided in Attachment 1.

4. POLICY STATEMENT

- 4.1 Council has the responsibility and commitment to provide a safe working environment that is free from inappropriate behaviour and seeks to ensure that reasonable steps are taken to minimise any form of bullying, harassment or discrimination and that any such complaints are dealt with fairly, promptly, impartially and confidentially.
- 4.2 Council encourages people affected by unfair treatment to talk directly with the person engaging in unfair treatment to explain to them how it impacts on them and to ask that they stop. Council also recognises that this is not practicable in all situations.
- 4.3 This policy should be read in conjunction with the Conflict Resolution procedures contained within respective Enterprise Agreements.
- 4.4 Employees are encouraged to contact a Council Employee Contact Officer where appropriate. Details of Employee Contact Officers within Council can be found on any workplace Work Health Safety Noticeboard or via Council Contacts for Your Welfare form (IS240 - Attachment 2).
- 4.5 Council will attempt to resolve complaints internally in the first instance by an investigator.
- 4.6 For workplace bullying allegations of a serious or complex nature, the investigator will be a suitably skilled, neutral person from within the workplace or an external investigator.
- 4.7 This policy does not prevent complaints of unfair treatment being made directly to an appropriate external body. If formal notification is received that a grievance is subject to a formal external enquiry or legal action, the internal resolution process will be suspended until the external action is completed.
- 4.8 Employees are expected to assist in creating a fair treatment environment by:
 - a) Speaking up and making it clear when behaviour is unacceptable;
 - b) Assisting to support people who are affected by breaches of this policy;
 - c) Encouraging those affected by inappropriate behaviour to take action;
 - d) Promoting the Employee Values and Employee Code of Conduct Policy; and
 - e) Support and promote the principles of this policy.

5. PROHIBITED BEHAVIOURS

Council actively fosters a climate where courtesy, fairness and equality are applied at all times. Employees are specifically **prohibited** from engaging in the following behaviours whilst undertaking their duties regardless of the location:

- Harassment, bullying or vilification;
- Racial vilification or racist behaviour;
- Sexual harassment;
- Discrimination on the basis of personal characteristics such as age, relationship status, pregnancy, race, colour, sex, sexual orientation, gender identity, marital or domestic partnership status, intersex status, religious appearance or dress, family or carer's responsibilities or spouse or partner's identity;
- Discrimination on the grounds of a disability or medical condition;
- Discrimination on the grounds of religion, criminal record (where irrelevant), political opinion or trade union activity; or
- Victimisation of anyone who makes a complaint under this policy.

6. RAISING GRIEVANCES AND/OR CONCERNS

- 6.1 There are a number of options available to employees when dealing with grievances and/or concerns and these include:
- Self-Help;
 - Council Employee Contact Officers;
 - Raising an informal grievance and/or concern; or
 - Lodging a formal grievance and/or concern.
- 6.2 Whilst it is encouraged to try and resolve grievances and/or concerns through internal processes, employees have the right to contact an external agency for advice or help at any time. These agencies include Equal Opportunity Commission, Federal Human Rights Commission, Office of the Employee Ombudsman, SafeWork SA or the relevant union.
- 6.3 Anyone raising a grievance and/or concern, or assisting someone else to resolve a grievance and/or concern, is protected through this policy from being victimised for their actions.
- 6.4 All grievances and/or concerns raised informally or formally will be dealt with promptly, seriously, confidentially and constructively by your relevant Manager/Supervisor.
- 6.5 Employees may have the right to raise any breaches of this policy through Council's PO171 Public Interest Disclosure Policy.

7. RESOLUTION OF GREIVANCES AND/OR CONCERNS

- 7.1 All grievances received (both informal and formal) will be handled and/or investigated using the conflict resolution process outlined in the relevant Enterprise Agreement.
- 7.2 Employee Contact Officers are available to assist employees in understanding the options available to them in addressing their grievance and/or concern. Information provided to Employee Contact Officers remains confidential unless the content breaches the law (e.g. self-harm, harm to others or any other illegal activity).
- 7.3 In resolving any grievance and/or concern, it is recommended that the employee raise their concerns with the person concerned. This is also known as "self-help" and is always encouraged as the best option for all parties.
- 7.4 Where the "self-help" option is not appropriate or the employee does not feel that they have had their concerns resolved, they may wish to talk to their Manager/Supervisor. Through discussions with their Manager/Supervisor, the employee can raise a grievance and/or concern in an informal manner. Grievances and/or concerns raised through this method will be addressed in an appropriate manner.
- 7.5 When speaking to a Manager/Supervisor, it is important to note that once they are aware of your grievance and/or concern, they have a duty of care to investigate and implement a suitable corrective action.
- 7.6 Should the employee feel that their grievance and/or concern has not been addressed appropriately by their Manager/Supervisor, they may speak to the Manager People, Culture and Safety or HR Advisor for further assistance.
- 7.7 Employees have a right to lodge a formal complaint in relation to a grievance and/or concern they have at any time. All formal complaints are to be forwarded to the Manager People, Culture and Safety or HR Advisor, who will assign either an internal or external party to conduct a formal investigation

8. OUTCOME OF GRIEVANCES AND/OR CONCERNS

8.1 Substantiated Claims

Where the grievance and/or concern is substantiated, Council will take appropriate disciplinary action which may include:

- requesting an apology;
- offering professional counselling;
- providing training or coaching;
- formal warning;
- transfer a worker or workers to another work area; or
- demotion, dismissal or other actions in line with the Support, Disciplinary or Performance Management Policy (PO146).

It is likely that a combination of strategies may be appropriate to prevent reoccurrence. SAPOL (SA Police) will be contacted where there is a grievance and/or concern that is governed by criminal law.

8.2 Unsubstantiated Claims

If an investigation finds insufficient evidence exists surrounding the allegations, no disciplinary action will be taken. However, the Manager/Supervisor will monitor the situation and consider what assistance may be provided to resolve outstanding issues. This may involve mediation, counselling, employee education, training or changing work arrangements etc.

8.3 Vexatious, False or Malicious Complaints

If a complaint is found to have been vexatious, false or malicious, Council may discipline the complainant. Untrue allegations could lead to individuals choosing to pursue legal action for defamation. The level of discipline will depend on:

- the severity and frequency of the discrimination or harassment;
- the weight of evidence;
- whether the behaviour was intentional or malicious;
- existence of any prior incidents or official warnings; and/or
- whether there are any mitigating circumstances.

9. VICTIMISATION

Employees are encouraged to raise their grievances and/or concerns as outlined in this policy, without the fear of being victimised. Where employees feel they are being victimised due to raising a grievance and/or concern, they are encouraged to raise the matter with their Manager/Supervisor, Director or Manager People, Culture and Safety.

Grievances and/or concerns raised through this method will be handled in accordance with this policy.

10. EMPLOYEE CONTACT OFFICERS

Employee Contact Officers will act as a point of contact for employees experiencing difficulties in the workplace. The role of Employee Contact Officers is to provide information to employees with concerns or complaints of discrimination, harassment or bullying in the workplace. If requested by the employee, Employee Contact Officers may support the employee if they wish to make a formal

complaint. The Employee Contact Officer does not have a role in investigating, arbitrating or resolving the complaint between the parties, but rather, to inform the person with the grievance of the available options.

Training, information and guidelines will be provided to Employee Contact Officers who will maintain confidentiality and only take further action on specific complaints with specific permission of the person raising the matter, unless there is a threat of self-harm, harm of others or other criminal offences being (or about to be) committed. The confidentiality component does not apply to people who hold a supervisory position due to the duty of care they provide to ensure a safe work environment for all employees.

11. WHAT WILL PEOPLE, CULTURE AND SAFETY STAFF DO?

The Manager People, Culture and Safety or the HR Advisor will:

- obtain comprehensive information from the employee about their complaint and how it could be resolved;
- where appropriate, encourage the relevant employee to access assistance through the Employee Assistance Programme Procedure (PR153);
- appoint an appropriate officer to undertake an investigation as determined by the Chief Executive Officer;
- explain how the process works (including what will be done to protect the employee from victimisation if that is a concern). In addition, refer the employee to people who can assist with support or representation, if required;
- speak to witnesses confidentially as necessary;
- determine whether there is sufficient information as to whether the matter(s) alleged in the complaint can be substantiated;
- based on information/evidence obtained, make a determination about the appropriate action to be taken;
- once a decision is made on a resolution of the issue, advise all parties of the action to be taken, which may include the following:
 - attempting to mediate between parties involved with a view of achieving a mutually satisfactory agreement about how the complaint should be resolved;
 - informing relevant parties about the consequences if the complaint was proved one way or the other; and
 - informing relevant parties of the right to appeal.
- monitor the situation;
- provide professional advice on this policy;
- coordinate and provide support to Employee Contact Officers where required; and
- provide appropriate education and training for employees and management on this policy and any other relevant education and training as appropriate.

12. RIGHTS AND RESPONSIBILITIES

14.1 Employees have the right to work in an environment:

- that is supportive and free from discrimination, sexual harassment and workplace bullying;
- where selection and recruitment decisions are made on merit;

- where they will not be discriminated against, sexually harassed or victimised at work;
- where they will be protected by Council from inappropriate behaviours;
- where they will have their concerns listened to and addressed in a constructive manner;
- where individuals have responsibility not to discriminate against, sexually harass or victimise other employees or members of the public; and
- where individuals have responsibility to be familiar with the conflict resolution process contained within respective Enterprise Agreements.
- Public Interest Disclosure Policy (PO171) where deemed appropriate.

14.2 Managers/Supervisors have the responsibility to:

- manage and monitor work performance in a supportive and constructive manner;
- give legitimate and constructive comment on performance or work related behaviour;
- be a role model of the appropriate behaviours expected;
- take all reasonable steps to prevent inappropriate behaviour;
- respond promptly, appropriately and effectively to any complaints received;
- communicate this policy to employees and ensure it is adhered to; and
- ensure that the workplace and the goods and services offered are free from discrimination, sexual harassment, victimisation and workplace bullying.

13. CONFIDENTIALITY AND DOCUMENTATION

Only people directly involved in a complaint, or its resolution, may access information about the complaint and associated resolution process.

Each party involved in resolving a complaint will be advised about the importance of confidentiality.

The Employee Contact Officer will make a confidential file note summarising any discussions and include any agreed actions. This file note will be kept in a secure location.

Where there has been disciplinary action as part of the complaint resolution process, any correspondence relating to this action is to be kept in the relevant employee's personnel file.

14. COMPLAINTS

Complaints can be made in writing to the Manager People, Culture and Safety. All complaints will be managed in accordance with Council's Complaints Policy (PO147) or in the case where the policy only applies internally and not to the public, in line with the conflict resolution process contained within the respective Enterprise Agreement.

15. REVIEW

In line with Councils Document Management Policy (PO019) this procedure shall be reviewed every four (4) years or more frequently if changes to Councils requirements or legislation occurs.

16. TRAINING

Council is committed to supporting employees in complying with this Policy with awareness of this policy being provided in line with the requirements of the Training Needs Analysis.

17. RELATED COUNCIL POLICIES AND DOCUMENTS

Complaints Policy (PO147)
Council Contacts for Your Welfare (IS240)
Council's Training Needs Analysis
Employee Assistance Programme Procedure (PR153)
Employee Code of Conduct Policy (PO014)
Public Interest Disclosure Policy (PO171)
Support, Disciplinary and Performance Management Policy (PO146)
Yorke Peninsula Council Enterprise Agreements (Local Government Employees and Municipal Officers)

18. REFERENCES AND LEGISLATION

Age Discrimination Act 2004 (Cth)
Australian Human Rights Commission Act 1986 (Cth)
Disability Discrimination Act 1992 (Cth)
Equal Opportunity Act 1984 (SA)
Fair Work Act 1994 (SA)
Local Government Act 1999 (SA)
Code of Practice – Guide Prevention and Responding to Workplace Bullying
Privacy Act 1988
Public Interest Disclosure Act 2018 (SA)
Racial Discrimination Act 1975 (Cth)
Racial Vilification Act 1996 (SA)
Sex Discrimination Act 1984 (Cth)
Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Bill Act 2013 (Cth);
Work Health and Safety Act 2012 (SA)
Work Health and Safety Regulations 2012 (SA)
Return to Work Act 2014 (SA)
Workplace Gender Equality Act 2012

19. USEFUL WEBSITES

South Australian Equal Opportunity Commission - <https://eoc.sa.gov.au/>
Australian Human Rights Commission - <https://www.humanrights.gov.au/>
South Australian Ombudsman - <https://www.ombudsman.sa.gov.au/>
SafeWork SA - <https://www.safework.sa.gov.au/>
Independent Commissioner Against Corruption (ICAC) Public Interest Disclosure
<https://icac.sa.gov.au/public-interest-disclosures>

20. COUNCIL DELEGATION

Details of Delegation:	Chief Executive Officer
Delegate:	Nil

21. VERSION HISTORY

Archived Policy Name	Policy Number	Date Adopted
Equal Employment Opportunities	PO026	07/04/2003
Sexual Harassment Policy and Procedure	PO076	07/04/2003
Workplace Bullying	PO0119	14/09/2005
Fair Treatment Policy (merged PO026, PO076 and PO119)	PO026	20/03/2014
Fair Treatment Policy	PO026	24/08/2016
Fair Treatment Policy	PO026	14/11/2019

Attachment 1 - Definitions

Bullying	Repeated and unreasonable behaviour directed towards an employee or a group of employees that creates a risk to health and safety.
Bullying Behaviour	Can be: <ul style="list-style-type: none"> • Abusive, insulting or offensive language or comments • Unjustified criticism or complaints • Continuously and deliberately excluding someone from workplace activities • Setting unreasonable timelines or constantly changing deadlines • Setting tasks that are unreasonably below or beyond a person's skill level • Denying access to information, supervision, consultation or resources such that it has a detriment to the employee • Spreading misinformation or malicious rumours • Changing work arrangements, such as rosters and leave, to deliberately inconvenience a particular employee or employees • Excessive scrutiny at work
Employee Contact Officer	Designated Council employees who are available to assist employees in understanding the options available to them in addressing their grievance and/or concern. Information provided to Employee Contact Officers remains confidential unless the content breaches the law (e.g. self-harm, harm to others or any other illegal activity).
Discrimination	Occurs when a person treats, or proposes to treat, someone unfavourably because of a personal characteristic.
Employee	Any person who is employed by Council but also includes any contractors, volunteers and consultants undertaking work for, or on behalf of Council.
External body	Such as the Equal Opportunity Commission (SA), Office of Public Integrity, SafeWork SA etc.
Fair treatment	<ul style="list-style-type: none"> • treating people as individuals with different skills and abilities, without making judgement based on stereotypes, or on characteristics (such as sex, age, race, sexuality, disability, pregnancy or marital status) that are irrelevant to a person's capacity to do the job; • ensuring a work environment that allows for all employees to work to their full potential, and that is free from all forms of discrimination and harassment, including sexual harassment; and • ensuring that work decisions are based on the merit principles. That is, the applicant who best meets the needs of the job is selected, and the employee who best meets the needs of the job is retained.
Harassment	Repeated, unwelcomed and unsolicited, uninvited, offensive behaviour or comments aimed at a person or group that makes that person feel offended, humiliated or threatened.
Manager/Supervisor	A person directly responsible for supervising another employee(s) and administering Council activities irrespective of their actual title (e.g. Director, Manager, Supervisor, Coordinator, Leading Worker etc.) to whom an employee directly reports.
Procedural fairness (also referred to as Natural Justice)	Fair and proper process appropriate to the circumstances, where decisions are made without bias and are supported by evidence and communicated with reasons and involves: <ul style="list-style-type: none"> • right to a fair hearing; • right to attend hearings with a support person; • opportunity for all parties involved to openly present their case; • the subject of the complaint having full knowledge of the nature and substance of all allegations; • the person making the complaint having full knowledge of the nature and substance of all allegations; • the person making the complaint or appeal not determining the complaint or appeal; • the right to an independent, unbiased decision maker; and • a final decision that is based solely on the relevant evidence.
Repeated behaviour	Persistent nature of the behaviour and can involve a range of behaviours over time.
Unreasonable behaviour	Behaviour that a reasonable person, having regard for the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.
Victimisation	Subjecting a person to some form of detriment because that person under this Policy: <ul style="list-style-type: none"> • has lodged a complaint; • is associated with a person who has lodged a complaint; • has had a complaint made against them; or • is associated with a person who has had a complaint made against them.
Vilification	Occurs when a person speaks or writes in an insulting, abusive or defamatory way about or to a person or group. Vilification is commonly associated with the incitement of hatred towards a person due to their race, religion, or beliefs.


Attachment 2 – Sample IS240 Council Contacts For Your Welfare

YORKE PENINSULA COUNCIL

Find To

PRINCIPAL OFFICE:
8 Elizabeth Street, Maitland

ALL CORRESPONDENCE TO:
PO Box 57, MAITLAND, SA 5573
Telephone (08) 8832 0000
Email: admin@yorke.sa.gov.au
Website: www.yorke.sa.gov.au



Agriculturally rich - Naturally beautiful

Council Contacts For Your Welfare	IS240 Responsible Officer: Safety Support Officer Issue Date: 29/10/2019 Next Review Date: 29/10/2023
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General Contact Officers	Officer	Location	Telephone (external)	Telephone (Internal)
Senior Safety Advisor	Tim Haylock	Maitland Office	8832 0015	20015
High Risk Advisor	Ryan Galpin	Maitland Office	8832 0043	20043
Safety Support Officer	Julia Poole	Maitland Office	8832 0009	20009
PPE, First Aid and Corrective Actions	Beck Launer	Maitland Office	8832 0066	20066
Income Protection Insurance Claims	Carina Congdon	Maitland Office	8832 0023	20023
	Anne-Marie Scaife	Minlaton Office	8853 3822	33822
Return to Work – Claims and Reimbursements; Payroll/ Leave/ Superannuation	Anne-Marie Scaife	Minlaton Office	8853 3822	33822
Return to Work (Rehabilitation), Human Resources and Employment Relations	Bobbi Pertini	Maitland Office	8832 0022	20022
	Carina Congdon	Maitland Office	8832 0023	20023
Training	Bobbi Pertini	Maitland Office	8832 0022	20022

Work Health Safety Representatives				
	Shona Emery	Yorke town Office	8852 0201	20201
	Tanya Walsh	Minlaton Town Hall	8853 3834	33834
	Ashlee Chadwick	Maitland Office	8853 3816	33816
	Carina Congdon	Maitland Office	8832 0023	20023
	Malcolm Errington	Maitland Depot	0407187843	20032
	Mick Whitelaw	Minlaton Depot	0407490292	
	Les Lund	Warooka Depot	0427604803	20241
	Ian Mordaunt	Yorke town Depot	0429999791	20232

Employee Contact Officers (Fair Treatment - Discrimination and Harassment)				
<i>The role of an Employee Contact Officer is to provide information to employees who may have concerns or complaints in the workplace. If requested by the employee, Employee Contact Officers may support the employee if they wish to make a formal complaint. The Employee Contact Officer does not have a role in investigating, arbitrating or resolving the complaint between the parties, but rather, to inform the person with the complaint on what options are available.</i>				
Bullying/ Sexual Harassment/ Equal Employment Opportunity	Ian Mordaunt	Yorke town Depot	8852 0232	20232
	Mary Herrmann	Maitland Office	8832 0011	20011

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