

POLICY

TITLE:	Equal Opportunity: Anti-Discrimination, Anti-Harassment and Anti-Bullying Policy		
DIRECTORATE:	Corporate Services – Human Resources		
ADOPTED BY:	Council Resolution: OM-23/136		
DATE OF ADOPTION:	27 September 2023	DATE OF REVIEW:	27 September 2025
POLICY NUMBER:	i.e. HR10		
LEGISLATIVE REF:	<p>Local Government Act 2019 (NT)</p> <p>172 Principles of human resource management</p> <p>A council must adopt policies on human resource management and ensure that those policies give effect to the following principles:</p> <p>(c) the council's staff must be treated fairly and consistently and must not be subjected to arbitrary or capricious decisions;</p> <p>(d) there must be suitable processes for dealing with employment-related grievances;</p> <p>(e) working conditions must be safe and healthy;</p> <p>(f) there must be:</p> <p>(i) no unlawful discrimination against a member, or potential member of the council's staff on the ground of sex, sexuality, marital status, pregnancy, race, physical or intellectual impairment, age or any other ground; and</p> <p>(ii) no other form of unreasonable or otherwise unjustifiable discrimination against a member or potential member of the council's staff.</p> <p>173 Employment policies</p> <p>(2) The employment policies</p> <p>(a) must cover:</p> <p>(vi) resolution of employment-related grievances; and</p> <p>(b) may cover other employment-related subjects.</p> <p>(3) The employment policies must be consistent with the principles of human resource management specified in section 172.</p>		

1. INTRODUCTION

1.1. Purpose

The purpose of this policy is to affirm Barkly Regional Council's commitment to providing a safe working environment free of bullying, discrimination, harassment and sexual harassment in accordance with its legislative obligations.

Workplace bullying, harassment, sexual harassment and discrimination is a breach of Council's Work Health and Safety Policy, Code of Conduct, and various legislation.

1.2. Scope

This policy applies to all Barkly Regional Council (*BRC*) Council employees, temporary staff, independent contractors, volunteers and work placement personnel in the workplace on BRC owned or leased property, at BRC organised events or any location or event associated with BRC.

1.3. Policy Objectives

This policy is intended to ensure that there is a shared understanding amongst all the Barkly Regional Council employees, temporary staff, independent contractors, volunteers and work placement personnel of the Council's expectations in regards to acceptable and appropriate behaviour within the workplace.

2. POLICY STATEMENT

2.1 Policy

- 1) Barkly Regional Council (*Council*) is committed to taking reasonable steps to ensure a workplace free of all forms of discrimination and harassment, including sexual harassment and bullying. The Council aims for equality of opportunity for all employees.
- 2) It is the primary responsibility of management to take reasonable measures to provide a working environment free from discrimination, harassment and bullying. It is the responsibility of every employee to not participate in discriminatory or harassing behaviour within the workplace.
- 3) Any complaints or reports of discrimination, harassment or bullying will be treated quickly and seriously. They will be investigated thoroughly, impartially and where possible, confidentially (when investigating some complaints confidentiality is not always possible).
- 4) All Directors and Managers, including Coordinators, Team Leaders and Supervisors must act immediately on any reports of harassment. Principles of natural justice will apply. Employees will not be disadvantaged in their employment conditions or opportunities as a result of lodging a complaint.
- 5) Outlined within this policy is an internal dispute resolution process to assist our employees raise issues of concern.
- 6) Appropriate disciplinary action may be taken against anyone found to have breached this policy.

2.2 Discrimination

- 1) The Northern Territory Anti-Discrimination Act 1992 (NT) prohibits unlawful discrimination in the form of direct and indirect discrimination. Discrimination is also unlawful under federal legislation, including the Age Discrimination Act 2004 (Cth), Sex Discrimination Act 1984 (Cth); Racial Discrimination Act 1975 (Cth); Disability Discrimination Act 1992 (Cth); Human Rights and Equal Opportunity Commission Act 1986 (Cth); and the Fair Work Act 2009 (Cth) which may change from time to time.
- 2) **Direct discrimination** is treating or proposing to treat a person with a protected attribute unfavourably because of that attribute (listed below). The test is whether or not certain treatment was less favourable to the person claiming discrimination, placing emphasis on the consequences of the treatment on the person claiming direct discrimination because of a protected attribute.

- 3) **Indirect discrimination** can occur when there is a requirement or condition or practice that is the same for everyone but disadvantages a person or is likely to disadvantage a person because they have one or more of the following protected attributes and which is not reasonable.
- 4) Protected attributes include:
 - ❖ age
 - ❖ colour
 - ❖ descent or national or ethnic origin
 - ❖ disability/impairment
 - ❖ industrial activity/inactivity
 - ❖ irrelevant criminal conviction
 - ❖ family status
 - ❖ gender identity inc. transgender status
 - ❖ lawful sexual activity or orientation
 - ❖ marital status, including de facto
 - ❖ physical features
 - ❖ political belief or activity
 - ❖ pregnancy/breastfeeding
 - ❖ race
 - ❖ religious belief or activity
 - ❖ sex
 - ❖ status as a parent or carer
 - ❖ personal association with someone of the above attributes
- 5) Workplace discrimination can occur in:
 - recruiting and selecting staff
 - terms, conditions and benefits offered as part of employment
 - who receives training and what sort of training is offered
 - who is considered and selected for transfer, promotion, retrenchment or dismissal or any other unfavourable treatment including harassment.

2.3 Harassment

- 1) A person unlawfully harasses another person if he or she makes that other person (another employee or member of the public) feel offended, humiliated or intimidated because of one of the protected attributes listed above. It may involve inappropriate actions, behaviour, comments or physical contact that is objectionable or causes offence. Harassment is unlawful under the Northern Territory Anti-Discrimination Act 1992 (NT).
- 2) Unlawful harassment may have occurred if the behaviour makes the victim feel:
 - offended and humiliated
 - intimidated or frightened
 - uncomfortable at work
- 3) Examples of unlawful harassment can include behaviour such as:
 - telling insulting jokes about particular protected attributes
 - sending explicit or sexually suggestive emails
 - displaying offensive or pornographic posters or screen savers
 - making derogatory comments or taunts about someone's race or religion or protected attributes
 - asking intrusive questions about someone's personal life, including their sex life.

2.4 Sexual Harassment

- 1) Sexual harassment occurs when a person makes an unwelcome sexual advance, or an unwelcome request for sexual favours to another person, or engages in any other unwelcome conduct of a sexual nature in relation to another person, in circumstances in

which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated. Sexual harassment is unlawful under the Northern Territory Anti-Discrimination Act 1992 (NT) and under federal legislation (Sex Discrimination Act 1984 (Cth)).

- 2) Sexual harassment is unlawful in the workplace, which includes any place a person goes for the purpose of carrying out any function in relation to his/her employment. The workplace can also extend to social functions.
- 3) All complaints of sexual harassment will immediately be report to the Northern Territory Police.
- 4) Some examples of sexual harassment include:
 - persistent, unwelcome demands or even subtle pressures for sexual favours or outings
 - staring or leering at a person or at parts of their body
 - unwelcome patting, pinching, touching or unnecessary familiarity, such as unnecessarily brushing up against a person
 - offensive comments or questions about a person’s physical appearance, dress or private life
 - sexually explicit pictures or posters or screen savers (words and images)
 - sexually explicit telephone calls, letters, faxes, emails or voice mail messages
 - humour such as smutty or suggestive jokes or comments
 - innuendo, including sexually provocative remarks, suggestive or derogatory comments about a person’s physical appearance, inferences of sexual morality, or tales of sexual performance
 - requests for sex
 - insults or taunts based on sex
 - sexually explicit physical contact.
- 5) Some types of sexual harassment can also be offences under the criminal law, such as:
 - physical molestation or assault
 - indecent exposure
 - sexual assault
 - stalking
 - obscene communications (by way of telephone calls, letters, emails etc.).

2.5 Bullying

- 1) Bullying is a significant occupational health and safety issue, as it can cause harm to a person’s health and wellbeing, both physical and psychological. Under the Work Health and Safety (National Uniform Legislation) Act 2011 employers have a primary legal duty to provide a healthy and safe workplace. Employees also have a responsibility to abide by safety standards and to cooperate with their employer’s actions to ensure a healthy and safe workplace is maintained. Serious cases of bullying may also be illegal under the Criminal Code Act 1983 (NT).

What is bullying?	What is not bullying?
Is repeated, unreasonable behaviour directed toward an employee, or group of employees, that creates a risk to health and safety.	Reasonable management action carried out in a reasonable manner

Workplace bullying includes behaviour outside the workplace, including threats, if it relates to work.	
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- ❖ **“Unreasonable behaviour”** means behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten the other person.
 - ❖ **“Behaviour”** includes actions of individuals or a group, and may involve using a system of work as a means of victimising, humiliating, undermining, punishing or threatening.
 - ❖ **“Risk to health and safety”** includes risk to the mental or physical health of the employee.
- 2) Workplace bullying can occur between a worker and a manager or supervisor, or between co-workers. The following types of behaviour, where repeated or occurring as part of a pattern of behaviour could be considered to be workplace bullying:
- physical or verbal abuse (yelling, screaming or offensive language)
 - intimidation
 - excluding or isolating employees
 - psychological harassment
 - assigning meaningless tasks unrelated to the job
 - making malicious, frivolous or vexatious rumors about a person with an intent to cause the person harm
 - undermining work performance by deliberately withholding information vital for effective work performance
- 3) Reasonable management actions are comprised of three elements:
- the behaviour must be management action
 - it must be reasonable for the management action to be taken, and
 - the management action must be carried out in a manner that is reasonable.
- 4) Bullying does not cover situations where it constitutes reasonable management action:
- performance management processes
 - ongoing meetings to address underperformance or behaviours
 - counselling or disciplining a worker for misconduct
 - modifying a worker’s duties including by transferring or deploying the worker
 - investigating alleged misconduct
 - allocation of work in compliance with systems and policies
 - implementation of organisational change or rightsizing

2.6 Victimisation

- 1) Under the Northern Territory Anti-Discrimination Act 1992 (NT), it is unlawful for a person to subject or to threaten to subject another person to any detriment because the other person, or someone associated with the other person, has made an allegation or complaint of discrimination, harassment or bullying on the basis of a protected attribute.

2.7 Resolution of Disputes and Issues of Concern

- 1) It is in the interest of any person or group who believe they have been unlawfully discriminated against, sexually harassed, bullied or victimised to take action to prevent the behaviour from recurring. If you consider you have been discriminated against, bullied or harassed it should be dealt with and should not be ignored as ignoring the behaviour could be taken as tacit consent.
- 2) Barkly Regional Council (BRC) believes that all disputes and issues of concern should be resolved quickly, confidentially (where possible) and wherever possible, at the lowest appropriate level, with ongoing monitoring. A range of informal and formal resolution options are available including:
 - i. Informal:
 - a) Inform the offender that the behaviour is offensive and unacceptable
 - b) Resolve by consent through mediation and conciliation with support by the human resources or an external party.
 - ii. Formal:
 - a) Formal resolution by immediate manager/team leader/human resources
 - b) Initiate BRC Grievance Policy and procedures
 - c) Formal investigation/assessment by either HR or external provider.
 - ❖ All complaints of sexual harassment will immediately be report to the Northern Territory Police.

2.8 External Resources

- 1) Employees who believe they are being bullied in the workplace may apply to the Fair Work Commission (FWC) to have the matter heard via mediation, conference or hearing. In addition to the above listed, you may approach the Anti-Discrimination Commission, NT WorkSafe or the Fair Work Ombudsman for independent advice.

3. RELEVANT POLICIES

Policies to be read in conjunction with this policy are:

- Work, Health, Safety Policy
- HR05 Council Staff Code of Conduct
- CP76 CEO Code of Conduct
- HR12 Grievance Policy
- HR01v2 Recruitment, Selection and Probation Policy
- HR11 Training and Development
- *Information Sheet - Bullying and Harassment*

4. IMPLEMENTATION AND REVIEW

4.1. Implementation

All staff will be trained in this policy and it will be published on the Barkly Regional Council website at <https://www.barkly.nt.gov.au/council-documents/policies>.

4.2. Review

This policy will be reviewed on or before dd month 202Y

5. VARIATIONS, REVOCATIONS AND/OR CHANGES

Barkly Regional Council's reserves the right to revoke and/or amend this policy from time to time as is considered necessary to better manage its business and/or to comply with any legislative

requirements. Employees will be given sufficient notice of any such revocations, amendments, or changes.

6. APPROVAL

This policy is approved ~~or not approved~~. *Select correct action.*

Russell Anderson
A/Chief Executive Officer



Signature

09/10/2023

Dated

END