



Respectful Workplace Behaviour Policy

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Purpose

Central Darling Shire Council (CDSC) is committed to providing a safe, respectful and healthy work environment for all employees through encouraging positive working relationships that are free from all forms of discrimination, harassment and workplace bullying.

All employees are required to treat each other with courtesy, in a friendly and respectful manner.

Application

This Policy applies to all employees, volunteers, work experience placements, contractors, labour hire placements, and any other provider of services on behalf of the CDSC.

Definitions

Discrimination – refers to behaviour and conduct that treats a person unfavourably due to a protected attribute.

Harassment – refers to any form of inappropriate or improper behaviour that 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 – refers to any conduct or behaviour of a sexual nature that is unwelcome and makes a person feel offended, humiliated or intimidated.

Workplace – refers to any location where an employee is carrying out their duties or engaging in work related activities.

Workplace Bullying – refers to persistent and repeated behaviour directed at an employee (or group of employees) that creates a risk to health and safety.

Provisions

Within CDSC, a respectful workplace is one where all employees are treated fairly, differences are acknowledged and valued, communication across all levels is open and courteous, conflict is addressed early, and there is a culture of empowerment and cooperation.

It is a workplace where diversity and inclusion enhance the quality and depth of decision making and improves collaboration and teamwork across all levels of the organisation.

This Policy applies to all behaviour that occurs:

- In connection with work, even if it occurs outside of normal working hours.
- During work activities, for example when dealing with employees from across the organisation, customers and members of the public.
- At work related events for example at conferences and work-related social functions.
- Through communications such as email, phone calls, text messaging and social media where workers interact with other employees or members of the public – whether during work or outside of working hours.

Selection of individuals for employment, promotion or higher duties, learning and development, will be on the basis of professional merit, in fair and open competition in accordance with the organisation's policies and procedures.

Benefits of a Respectful Workplace

The benefits to CDSC of a supportive, positive and respectful workplace culture include:

- Greater capacity to attract and retain the best people and be seen by the community as the preferred employer.
- Greater workplace harmony where every employee is able to raise a concern comfortably.
- A more capable, productive and adaptable workforce that is responsive to community needs and expectations.
- A more culturally aware workforce that reflects and better understands the community that it serves.
- An empowered workforce that encourages employees to be innovative.
- Improved health and wellbeing of all employees.

Respectful Workplace Behaviours

All employees are required as a condition of their employment, to ensure that their behaviour is consistent with the behaviours set out in the CDSC Code of Conduct, including however not limited to:

- Interacting with others in a professional, courteous and polite manner that does not interfere with the health, safety and comfort of others.
- Treating others in the way they wish to be treated.
- Communicating in a clear, calm and professional manner to others, across all levels.
- Being open to and accepting that others have a different experiences, skills, attributes and views on life and work.
- Being willing to assist and support work colleagues to be successful in their work.
- Taking the time to listen to the other persons point of view.
- Being open to try new ways of working.
- Being approachable, considerate and honest when dealing with others.
- Being able to enjoy and have fun in the workplace.

Consistent with respectful workplace behaviours, CDSC expects that when conflict arises in the workplace, all parties will work towards resolving issues in a timely, open and respectful way.

Employee Responsibilities

Employees are responsible for:

- recognising their individual role in contributing to and maintaining a respectful and positive workplace culture.
- taking responsibility for their own actions and behaviour in the workplace, and where the actions of others are disagreeable attempt to resolve issues as early as possible in a respectful and courteous way.
- reporting to an appropriate supervisor/manager any behaviour against another person that they observe in the workplace that may amount to workplace bullying, discrimination, harassment, vilification or victimisation as defined in this Policy.
- seeking advice if they do not understand any aspect of this or any other CDSC Policy.

Supervisors and Managers Responsibilities

Managers and supervisors are responsible for:

- providing a safe work environment that enables employees to carry out their work responsibilities free of negative workplace behaviours.
- adopting proactive strategies to prevent negative workplace behaviours.
- “leading the way” by being good role models of respectful workplace behaviour and conduct.
- continual monitoring of the work environment to ensure that high standards of respectful workplace behaviour are observed (including monitoring of indicators of negative workplace behaviour which may include for example low morale, increased absenteeism, staff turnover and conflict).
- ensuring employees understand their responsibilities under the Respectful Workplace Behaviours Policy.

Managers and/or supervisors are required to take appropriate action in circumstances where they become aware of breaches of this Policy even without a complaint being lodged. This will include taking all appropriate action in accordance with the Workplace Grievances and/or Incidents Procedure.

Child Safety

CDSC has a responsibility to ensure that all young people are safe when engaging with CDSC.

CDSC is committed to implementing and upholding the Child Safe Standards issued through the National Office for Child Safety.

All employees are required to ensure that they adhere to all policies and procedures when interacting with children and young people, both within and outside of work.

Discrimination

Under the *Anti-Discrimination Act 1977 (NSW)* discrimination in employment on the basis of the following characteristics is against the law:

- sex
- pregnancy and breastfeeding
- race
- religion
- age
- marital or domestic status
- gender identity
- disability
- transgender status
- political activity
- union association and/or activity
- family / carer’s responsibilities.

This includes discrimination because a relative, friend or associate has one of these characteristics, with the exception of family/carer’s responsibilities.

Discrimination in employment is also against the law under the following Commonwealth legislation:

- *Racial Discrimination Act 1975*
- *Sex Discrimination Act 1984*
- *Age Discrimination Act 2004*
- *Disability Discrimination Act 1992*

It is also against the law to treat someone unfavourably because you assume they have a protected personal characteristic or may have it at some time in the future.

Discrimination can be direct or indirect. Below is a summary of each:

Direct discrimination

Direct discrimination occurs when a person or group of people, is treated less favourably in the same, or similar circumstances than another person or group of people because of a particular characteristic.

Direct discrimination often occurs because someone has a stereotyped view about what people from particular groups are like. For example:

- denying employment or other work-related opportunities to a person or a group of people because of a prohibited ground of discrimination
- ignoring, isolating or segregating a person or group because of a prohibited ground of discrimination.

Indirect discrimination

Indirect discrimination occurs where a condition or requirement is imposed which, although neutral on its face, has a disproportionate impact that is less favourable on people with a particular characteristic, and the condition or requirement is not reasonable in the circumstances. For example:

- a policy that requires all employees to attend meetings early in the morning or late in the afternoon when it is not necessary or reasonable in all the circumstances and is likely to disadvantage employees with carer's responsibilities.

Indirect discrimination generally results from treating everyone the same rather than considering whether the policy, condition or requirement being applied to everyone is reasonable in all the circumstances.

Examples of when it is not considered unlawful discrimination include:

- implementing recruitment programs targeting for example, Aboriginal and Torres Strait Islanders, women, people with disabilities or people from culturally and linguistically diverse backgrounds.
- not offering employment to an applicant for a job in circumstances where they cannot meet the inherent requirements (essential as opposed to non-essential) parts of a job.
- reasonable accommodation and provision of work aids for employees with disabilities.
- not being able to accommodate the request of an employee with carer's responsibilities for a particular roster because it is not operationally appropriate or possible.

Sexual Harassment and Harassment

Any form of harassment, including sexual harassment, is unlawful under both State and Commonwealth legislation if:

- it is unwelcome, uninvited or unreciprocated; and
- a reasonable person would anticipate that the recipient would be offended, humiliated, intimidated; and
- it is either sexual in nature or targets a person on a discriminatory ground.

It should be noted that harassment that is sexual in nature is defined under State and Commonwealth legislation as Sexual Harassment.

Harassment can occur regardless of whether or not a person intended to harass another person. It does not need to be repeated or continuous; one-off incidents are capable of constituting harassment.

It is important to note that what is acceptable to one person may not be acceptable to others. The test is whether, having regard to all the circumstances, a reasonable person would be offended, humiliated or intimidated.

The following list is not exhaustive, and it is important to note that in all cases, many factors will come into play. Employees should use common sense to determine appropriate action in each circumstance, taking each situation into account on a case-by-case basis.

Harassment on discriminatory grounds includes, however is not limited to:

- material that is sexist, racist, ageist, homophobic and so on, that is placed in someone's workspace or belongings, or on a computer device.
- verbal abuse or comments that put down or stereotype people generally, or an individual, in relation to a protected characteristics.
- jokes based on gender, race, marital status, homosexuality, disability, age, marital status, carer's responsibilities or transgender status.
- offensive communications (including letters, phone calls, emails, text messages).
- ignoring, isolating or segregating a person or group because of their sex, homosexuality, race, transgender status and so on.

Sexual harassment includes, however is not limited to:

- suggestive comments or jokes about a person's physical appearance or sexual characteristics.
- sexual or physical contact, such as slapping, kissing, touching, hugging or massaging.
- sexually explicit pictures, screen savers or posters.
- staring or leering in a sexual manner.
- unnecessary familiarity, such as deliberately brushing up against someone.
- spreading sexual rumours; or intrusive questions about sexual activity or insinuations about a person's private life.
- insults or taunts of a sexual nature.
- displaying or circulating material of a sexual nature including by email, photos, posters or screen savers etc.

It is not sexual harassment when the behaviour is based on mutual attraction, friendship or respect, or where the interaction is consensual, welcome and reciprocated.

However, behaviour can become sexual harassment if the interaction changes from being based on mutual attraction, friendship or respect to non-consensual, unwelcomed and unreciprocated interactions.

Workplace Bullying

Workplace bullying can take many forms. It can be physical, spoken, written, overt or covert. Behaviours that may constitute workplace bullying include, however are not limited to:

- abusive, insulting or offensive language or comments
- aggressive and intimidating conduct
- belittling or humiliating comments
- being subjected to practical jokes
- unjustified criticism
- deliberately excluding or isolating employees
- withholding information that is vital for effective work performance
- 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 to the detriment of the worker
- spreading misinformation or malicious rumours
- changing work arrangements such as rosters and leave to deliberately inconvenience a particular employee or employees.

Workplace bullying can also take the form of action or lack of action.

Workplace bullying can be directed at a single employee or group of employees and be carried out by one or more employees. It can occur:

- sideways (peer to peer) between employee(s).
- downwards from manager(s) to employee(s).
- upwards from employee(s) to supervisor(s) or manager(s).
- contractor(s) to employee(s) or employee(s) to contractor(s).
- elected member(s) to employee(s) or employee(s) to elected member(s).
- community to employee(s) or employee(s) to community.

Managers and supervisors may take reasonable management action to direct and manage the way work is carried out. It is reasonable for managers and supervisors to allocate work and give feedback on an employee's performance. These actions are not considered to be workplace bullying if they are carried out in a reasonable, respectful and lawful manner.

Given the nature of the work being undertaken, robust conversations and directions may form part of general business and should not necessarily be viewed as workplace bullying.

Examples of reasonable management action include, however are not limited to:

- setting reasonable performance goals, standards and deadlines.
- rostering and allocating working hours where the requirements are reasonable.
- transferring a worker for operational reasons.
- deciding not to select a worker for promotion where a reasonable process is followed.
- disciplinary action (including investigations) taken in a reasonable manner.
- informing a worker about unsatisfactory work performance or inappropriate behaviour in a fair, honest, objective and constructive way.
- not selecting an employee for a development opportunity where a reasonable process has been followed.
- implementing organisational changes or restructuring.
- taking disciplinary action, including suspension or termination of employment.

Workplace Conflict

Conflict is a natural part of any human interaction and there is nothing unusual about conflict occurring in the workplace. Employees can have differences and disagreements in the workplace without engaging in repeated, unreasonable behaviour that creates a risk to health and safety.

There are broadly two kinds of workplace conflict. One is where employees' ideas, decisions or actions relating directly to their work are in opposition and the second is where two employees just do not get on. This is often referred to as a 'personality clash'.

Differences of opinion and disagreements are generally not considered to be workplace bullying. However, in some cases conflict that is not adequately managed may escalate to the point where it turns into workplace bullying.

Employees are required to raise any concerns or grievances using the internal Workplace Grievances and/or Incident Procedure.

Victimisation

Victimisation occurs where an employee is subjected to a detriment in retaliation for some action they have taken, or intend to take, or have helped someone else take, in relation to a complaint of harassment, discrimination, workplace bullying, vilification or victimisation. This includes employees who have agreed to be witnesses in relation to a person's complaint.

Victimisation includes, however is not limited to:

- an employee being moved to a less responsible position while their complaint of sexual harassment is being considered.
- an employee being ostracised by other employees because they have or intend on making a complaint of sexual harassment.
- an employee being denied a development opportunity because they have lodged a complaint.

Vilification

Vilification occurs whereby public act, an employee incites hatred towards, serious contempt for, or severe ridicule of a person or groups of persons because of:

- race, colour, nationality, descent, ethno-religious or national country of origin
- homosexuality (lesbian or gay)
- HIV or AIDS status or
- transgender status.

This includes vilification because someone is thought to be homosexual or transgender even if they are not, or thought to have HIV or AIDS, even if they do not.

Vilification includes, however is not limited to:

- material published on the internet, including social networking sites.
- speeches or statements made in public.
- abuse that occurs in public.
- statements or remarks in newspapers, journals or other publications, or on the radio or television or social media.
- gestures made in public.
- wearing symbols, such as badges or clothing with racist slogans, in public.
- putting up posters or stickers in a public place.

Gossip and Confidentiality

All employees are required to avoid gossiping about historical matters involving current or former workers or any allegations of inappropriate workplace behaviour occurring at CDSC. Where an employee considers another employee's behaviour to be inappropriate, the worker is required to raise this with the relevant supervisor or manager.

It is also unacceptable for employees to talk with other employees, clients or suppliers, extended family or friends, or the media about any complaint of discrimination, harassment, sexual harassment or workplace bullying that is the subject of a complaint or investigation other than on a 'need to know' basis.

Breaching the confidentiality of a current complaint or investigation or inappropriately disclosing personal information obtained in the course of a complaint or investigation (for example, as a manager) is a serious breach of this policy and may lead to formal disciplinary action.

Reporting Inappropriate Behaviour

In the interests of maintaining a safe and respectful workplace, it is important that incidents of unacceptable behaviour are managed appropriately to prevent a reoccurrence.

Employees are encouraged wherever possible to raise matters directly with the other person/s involved in the inappropriate behaviour if they feel safe or capable to do so. This is often the most effective and timely way to address issues and resolve any potential misunderstandings.

In circumstances where an employee feels comfortable to do so, they should calmly and professionally inform the other person/s as soon as possible of inappropriate behaviour by:

- raising your concerns informally and in a non-confrontational manner.
- explaining that the behaviour is unwelcome and you would like it to stop.
- explaining that the behaviour is impacting adversely on you.
- focusing on the unwanted behaviour rather than the person.
- not retaliating and maintaining professionalism.

Where an employee is unable, or feels unsafe, to talk directly with the person concerned, they are required to report the behaviour in line with the Workplace Grievances and/or Incident Procedure.

Request for Anonymity

In some cases, it may not be possible for the person raising the grievance to remain anonymous due to the right of other parties to natural justice and to know the nature of the allegation(s) being made against them. Anonymity may also delay an issue from being resolved thereby creating a potential health and safety hazard for other employees.

While the complainant's wishes will be taken into account, they do not determine whether or how the complaint should be investigated. That is the responsibility of the person hearing the grievance. A complainant will be advised in advance if CDSC is unable to maintain confidentiality.

All reports of unacceptable behaviour will be dealt with in a sensitive, impartial, professional and timely manner. Upon reporting an issue you will be provided with copies of any relevant policies and procedures and next steps will be explained to you in detail. At all times employees will be provided with support as their personal health, wellbeing and privacy will be treated as a high priority.

The police will be informed of alleged criminal offences.

Misleading or False Allegations

Inaccurate, misleading, malicious or false accusations have negative consequences for the person(s) concerned, interpersonal relationships and morale of the workplace. Where it is found that a complaint has been made in bad faith to cause distress to one or more persons or as a practical joke disciplinary measures will be taken.

Consequence of Unacceptable Behaviour

Where appropriate, employees alleged to have behaved unacceptably will be subject to a disciplinary process. Serious incidents of unacceptable behaviour will lead to disciplinary action and may include dismissal.

Employees may also be held personally liable for their own behaviour or conduct. This means that when an employee undertakes discrimination, harassment, sexual harassment, workplace bullying, vilification or victimisation the employee may be subject to a penalty or an order from the regulator, the Fair Work Commission or another relevant tribunal or court.

Obtaining Advice

Employees are encouraged to discuss their concerns with their immediate supervisor/manager. Alternatively, employees may contact the Human Resources Officer to seek advice regarding options to address a concern.

Employees may also obtain advice from their union or external agencies such as the Ombudsman, the Anti-Discrimination Board, Australian Human Rights and Equal Opportunity Commission or Safe Work NSW at any time.

Employee Support

Employees are reminded that they may seek support and/or assistance through the confidential Employee Assistance Program (EAP).

Legislation

- *Racial Discrimination Act 1975 (Cth)*
- *Sex Discrimination Act 1984 (Cth)*
- *Age Discrimination Act 2004 (Cth)*
- *Disability Discrimination Act 1992 (Cth)*
- *Children's Guardian Act 2019 (NSW)*
- *Children and Young Persons (Care and Protection) Act 1998 (NSW)*
- *Child Protection (Working with Children) Act 2012 (NSW)*
- *Work Health Safety Act 2011 (NSW)*
- *Anti-Discrimination Act 1977 (NSW)*
- *Local Government (State) Award (NSW)*

Related Documents

- Child Safe Policy
- Employee Assistance Program Procedure
- Employment Screening Procedure
- Flexible Working Arrangements Policy
- Induction Procedure
- Model Code of Conduct for Council Employees
- Recruitment and Selection Policy
- Recruitment and Selection Procedure
- Work Health and Safety Policy
- Workplace Diversity Policy
- Workplace Grievances and/or Incident Procedure

Monitoring and Review

This policy will be monitored and reviewed by the Human Resources Officer to ensure compliance. Once adopted, it remains in force until it is reviewed by the General Manager. It is to be reviewed every two (2) years to ensure that it meets requirements, or sooner if the General Manager determines appropriate.